

## As Passed by the House

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 158

Representatives Dever, Howse

**Cosponsors: Representatives Amstutz, Anielski, Antonio, Bishoff, Boyd, Brown, Butler, Conditt, Derickson, DeVitis, Dovilla, Ginter, Hambley, Hayes, Huffman, Lepore-Hagan, Maag, McClain, Patmon, Patterson, Phillips, Ramos, Reineke, Retherford, Romanchuk, Ryan, Schuring, Sears, Slesnick, Sweeney, Sykes, Zeltwanger, Gonzales, Barnes, Johnson, T., Kuhns, LaTourette, Antani, Ashford, Baker, Blessing, Boyce, Brenner, Burkley, Celebrezze, Cera, Clyde, Craig, Cupp, Driehaus, Grossman, Hackett, Hagan, Hall, Henne, Hill, Johnson, G., Koehler, Kunze, Landis, Leland, Manning, McColley, O'Brien, M., O'Brien, S., Pelanda, Perales, Reece, Rezabek, Rogers, Ruhl, Schaffer, Sheehy, Slaby, Smith, K., Smith, R., Sprague, Strahorn, Terhar**

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### A BILL

To amend sections 1.02, 121.22, 121.37, 135.801,	1
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5709.73, 5709.78, 5711.07, 5747.03, 5815.28, and 54  
5815.35 of the Revised Code to replace 55  
provisions containing the term "mental 56  
retardation" and its derivatives with 57  
corresponding provisions containing the term 58  
"intellectual disability" and its derivatives and 59  
to specify that an intellectual disability is a 60  
form of developmental disability. 61

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

**Section 1.** That sections 1.02, 121.22, 121.37, 135.801, 62  
145.01, 145.012, 145.298, 145.332, 149.431, 152.04, 173.25, 63  
173.27, 173.38, 173.381, 305.07, 307.02, 313.12, 325.07, 711.23, 64  
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5705.091, 5705.19, 5705.222, 5709.40, 5709.73, 5709.78, 5711.07, 101  
5747.03, 5815.28, and 5815.35 of the Revised Code be amended to 102  
read as follows: 103

**Sec. 1.02.** As used in the Revised Code, unless the context 104  
otherwise requires: 105

(A) "Whoever" includes all persons, natural and 106  
artificial; partners; principals, agents, and employees; and all 107

officials, public or private.	108
(B) "Another," when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.	109 110 111
(C) "Of unsound mind" includes all forms of <del>mental-retardation or derangement</del> <u>or intellectual disability</u> .	112 113
(D) "Bond" includes an undertaking.	114
(E) "Undertaking" includes a bond.	115
(F) "And" may be read "or," and "or" may be read "and" if the sense requires it.	116 117
(G) "Registered mail" includes certified mail and "certified mail" includes registered mail.	118 119
<b>Sec. 121.22.</b> (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.	120 121 122 123 124
(B) As used in this section:	125
(1) "Public body" means any of the following:	126
(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;	127 128 129 130 131 132 133
(b) Any committee or subcommittee of a body described in	134

division (B) (1) (a) of this section;	135
(c) A court of jurisdiction of a sanitary district	136
organized wholly for the purpose of providing a water supply for	137
domestic, municipal, and public use when meeting for the purpose	138
of the appointment, removal, or reappointment of a member of the	139
board of directors of such a district pursuant to section	140
6115.10 of the Revised Code, if applicable, or for any other	141
matter related to such a district other than litigation	142
involving the district. As used in division (B) (1) (c) of this	143
section, "court of jurisdiction" has the same meaning as "court"	144
in section 6115.01 of the Revised Code.	145
(2) "Meeting" means any prearranged discussion of the	146
public business of the public body by a majority of its members.	147
(3) "Regulated individual" means either of the following:	148
(a) A student in a state or local public educational	149
institution;	150
(b) A person who is, voluntarily or involuntarily, an	151
inmate, patient, or resident of a state or local institution	152
because of criminal behavior, mental illness <del> or retardation</del> , <u>an</u>	153
<u>intellectual disability</u> , disease, disability, age, or other	154
condition requiring custodial care.	155
(4) "Public office" has the same meaning as in section	156
149.011 of the Revised Code.	157
(C) All meetings of any public body are declared to be	158
public meetings open to the public at all times. A member of a	159
public body shall be present in person at a meeting open to the	160
public to be considered present or to vote at the meeting and	161
for purposes of determining whether a quorum is present at the	162
meeting.	163

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.	164 165 166 167 168
(D) This section does not apply to any of the following:	169
(1) A grand jury;	170
(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;	171 172 173
(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;	174 175 176
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	177 178
(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code, meetings related to a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	179 180 181 182 183 184
(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	185 186 187 188
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised	189 190 191

Code;	192
(8) The state board of pharmacy when determining whether	193
to suspend a license without a prior hearing pursuant to	194
division (D) of section 4729.16 of the Revised Code;	195
(9) The state chiropractic board when determining whether	196
to suspend a license without a hearing pursuant to section	197
4734.37 of the Revised Code;	198
(10) The executive committee of the emergency response	199
commission when determining whether to issue an enforcement	200
order or request that a civil action, civil penalty action, or	201
criminal action be brought to enforce Chapter 3750. of the	202
Revised Code;	203
(11) The board of directors of the nonprofit corporation	204
formed under section 187.01 of the Revised Code or any committee	205
thereof, and the board of directors of any subsidiary of that	206
corporation or a committee thereof;	207
(12) An audit conference conducted by the audit staff of	208
the department of job and family services with officials of the	209
public office that is the subject of that audit under section	210
5101.37 of the Revised Code;	211
(13) The occupational therapy section of the occupational	212
therapy, physical therapy, and athletic trainers board when	213
determining whether to suspend a license or limited permit	214
without a hearing pursuant to division (D) of section 4755.11 of	215
the Revised Code;	216
(14) The physical therapy section of the occupational	217
therapy, physical therapy, and athletic trainers board when	218
determining whether to suspend a license without a hearing	219
pursuant to division (E) of section 4755.47 of the Revised Code;	220

(15) The athletic trainers section of the occupational 221  
therapy, physical therapy, and athletic trainers board when 222  
determining whether to suspend a license without a hearing 223  
pursuant to division (D) of section 4755.64 of the Revised Code. 224

(E) The controlling board, the tax credit authority, or 225  
the minority development financing advisory board, when meeting 226  
to consider granting assistance pursuant to Chapter 122. or 166. 227  
of the Revised Code, in order to protect the interest of the 228  
applicant or the possible investment of public funds, by 229  
unanimous vote of all board or authority members present, may 230  
close the meeting during consideration of the following 231  
information confidentially received by the authority or board 232  
from the applicant: 233

(1) Marketing plans; 234

(2) Specific business strategy; 235

(3) Production techniques and trade secrets; 236

(4) Financial projections; 237

(5) Personal financial statements of the applicant or 238  
members of the applicant's immediate family, including, but not 239  
limited to, tax records or other similar information not open to 240  
public inspection. 241

The vote by the authority or board to accept or reject the 242  
application, as well as all proceedings of the authority or 243  
board not subject to this division, shall be open to the public 244  
and governed by this section. 245

(F) Every public body, by rule, shall establish a 246  
reasonable method whereby any person may determine the time and 247  
place of all regularly scheduled meetings and the time, place, 248

and purpose of all special meetings. A public body shall not 249  
hold a special meeting unless it gives at least twenty-four 250  
hours' advance notice to the news media that have requested 251  
notification, except in the event of an emergency requiring 252  
immediate official action. In the event of an emergency, the 253  
member or members calling the meeting shall notify the news 254  
media that have requested notification immediately of the time, 255  
place, and purpose of the meeting. 256

The rule shall provide that any person, upon request and 257  
payment of a reasonable fee, may obtain reasonable advance 258  
notification of all meetings at which any specific type of 259  
public business is to be discussed. Provisions for advance 260  
notification may include, but are not limited to, mailing the 261  
agenda of meetings to all subscribers on a mailing list or 262  
mailing notices in self-addressed, stamped envelopes provided by 263  
the person. 264

(G) Except as provided in divisions (G)(8) and (J) of this 265  
section, the members of a public body may hold an executive 266  
session only after a majority of a quorum of the public body 267  
determines, by a roll call vote, to hold an executive session 268  
and only at a regular or special meeting for the sole purpose of 269  
the consideration of any of the following matters: 270

(1) To consider the appointment, employment, dismissal, 271  
discipline, promotion, demotion, or compensation of a public 272  
employee or official, or the investigation of charges or 273  
complaints against a public employee, official, licensee, or 274  
regulated individual, unless the public employee, official, 275  
licensee, or regulated individual requests a public hearing. 276  
Except as otherwise provided by law, no public body shall hold 277  
an executive session for the discipline of an elected official 278

for conduct related to the performance of the elected official's 279  
official duties or for the elected official's removal from 280  
office. If a public body holds an executive session pursuant to 281  
division (G) (1) of this section, the motion and vote to hold 282  
that executive session shall state which one or more of the 283  
approved purposes listed in division (G) (1) of this section are 284  
the purposes for which the executive session is to be held, but 285  
need not include the name of any person to be considered at the 286  
meeting. 287

(2) To consider the purchase of property for public 288  
purposes, or for the sale of property at competitive bidding, if 289  
premature disclosure of information would give an unfair 290  
competitive or bargaining advantage to a person whose personal, 291  
private interest is adverse to the general public interest. No 292  
member of a public body shall use division (G) (2) of this 293  
section as a subterfuge for providing covert information to 294  
prospective buyers or sellers. A purchase or sale of public 295  
property is void if the seller or buyer of the public property 296  
has received covert information from a member of a public body 297  
that has not been disclosed to the general public in sufficient 298  
time for other prospective buyers and sellers to prepare and 299  
submit offers. 300

If the minutes of the public body show that all meetings 301  
and deliberations of the public body have been conducted in 302  
compliance with this section, any instrument executed by the 303  
public body purporting to convey, lease, or otherwise dispose of 304  
any right, title, or interest in any public property shall be 305  
conclusively presumed to have been executed in compliance with 306  
this section insofar as title or other interest of any bona fide 307  
purchasers, lessees, or transferees of the property is 308  
concerned. 309

(3) Conferences with an attorney for the public body	310
concerning disputes involving the public body that are the	311
subject of pending or imminent court action;	312
(4) Preparing for, conducting, or reviewing negotiations	313
or bargaining sessions with public employees concerning their	314
compensation or other terms and conditions of their employment;	315
(5) Matters required to be kept confidential by federal	316
law or regulations or state statutes;	317
(6) Details relative to the security arrangements and	318
emergency response protocols for a public body or a public	319
office, if disclosure of the matters discussed could reasonably	320
be expected to jeopardize the security of the public body or	321
public office;	322
(7) In the case of a county hospital operated pursuant to	323
Chapter 339. of the Revised Code, a joint township hospital	324
operated pursuant to Chapter 513. of the Revised Code, or a	325
municipal hospital operated pursuant to Chapter 749. of the	326
Revised Code, to consider trade secrets, as defined in section	327
1333.61 of the Revised Code;	328
(8) To consider confidential information related to the	329
marketing plans, specific business strategy, production	330
techniques, trade secrets, or personal financial statements of	331
an applicant for economic development assistance, or to	332
negotiations with other political subdivisions respecting	333
requests for economic development assistance, provided that both	334
of the following conditions apply:	335
(a) The information is directly related to a request for	336
economic development assistance that is to be provided or	337
administered under any provision of Chapter 715., 725., 1724.,	338

or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 339  
5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 340  
5709.81 of the Revised Code, or that involves public 341  
infrastructure improvements or the extension of utility services 342  
that are directly related to an economic development project. 343

(b) A unanimous quorum of the public body determines, by a 344  
roll call vote, that the executive session is necessary to 345  
protect the interests of the applicant or the possible 346  
investment or expenditure of public funds to be made in 347  
connection with the economic development project. 348

If a public body holds an executive session to consider 349  
any of the matters listed in divisions (G) (2) to (8) of this 350  
section, the motion and vote to hold that executive session 351  
shall state which one or more of the approved matters listed in 352  
those divisions are to be considered at the executive session. 353

A public body specified in division (B) (1) (c) of this 354  
section shall not hold an executive session when meeting for the 355  
purposes specified in that division. 356

(H) A resolution, rule, or formal action of any kind is 357  
invalid unless adopted in an open meeting of the public body. A 358  
resolution, rule, or formal action adopted in an open meeting 359  
that results from deliberations in a meeting not open to the 360  
public is invalid unless the deliberations were for a purpose 361  
specifically authorized in division (G) or (J) of this section 362  
and conducted at an executive session held in compliance with 363  
this section. A resolution, rule, or formal action adopted in an 364  
open meeting is invalid if the public body that adopted the 365  
resolution, rule, or formal action violated division (F) of this 366  
section. 367

(I) (1) Any person may bring an action to enforce this 368  
section. An action under division (I) (1) of this section shall 369  
be brought within two years after the date of the alleged 370  
violation or threatened violation. Upon proof of a violation or 371  
threatened violation of this section in an action brought by any 372  
person, the court of common pleas shall issue an injunction to 373  
compel the members of the public body to comply with its 374  
provisions. 375

(2) (a) If the court of common pleas issues an injunction 376  
pursuant to division (I) (1) of this section, the court shall 377  
order the public body that it enjoins to pay a civil forfeiture 378  
of five hundred dollars to the party that sought the injunction 379  
and shall award to that party all court costs and, subject to 380  
reduction as described in division (I) (2) of this section, 381  
reasonable attorney's fees. The court, in its discretion, may 382  
reduce an award of attorney's fees to the party that sought the 383  
injunction or not award attorney's fees to that party if the 384  
court determines both of the following: 385

(i) That, based on the ordinary application of statutory 386  
law and case law as it existed at the time of violation or 387  
threatened violation that was the basis of the injunction, a 388  
well-informed public body reasonably would believe that the 389  
public body was not violating or threatening to violate this 390  
section; 391

(ii) That a well-informed public body reasonably would 392  
believe that the conduct or threatened conduct that was the 393  
basis of the injunction would serve the public policy that 394  
underlies the authority that is asserted as permitting that 395  
conduct or threatened conduct. 396

(b) If the court of common pleas does not issue an 397

injunction pursuant to division (I)(1) of this section and the 398  
court determines at that time that the bringing of the action 399  
was frivolous conduct, as defined in division (A) of section 400  
2323.51 of the Revised Code, the court shall award to the public 401  
body all court costs and reasonable attorney's fees, as 402  
determined by the court. 403

(3) Irreparable harm and prejudice to the party that 404  
sought the injunction shall be conclusively and irrebuttably 405  
presumed upon proof of a violation or threatened violation of 406  
this section. 407

(4) A member of a public body who knowingly violates an 408  
injunction issued pursuant to division (I)(1) of this section 409  
may be removed from office by an action brought in the court of 410  
common pleas for that purpose by the prosecuting attorney or the 411  
attorney general. 412

(J)(1) Pursuant to division (C) of section 5901.09 of the 413  
Revised Code, a veterans service commission shall hold an 414  
executive session for one or more of the following purposes 415  
unless an applicant requests a public hearing: 416

(a) Interviewing an applicant for financial assistance 417  
under sections 5901.01 to 5901.15 of the Revised Code; 418

(b) Discussing applications, statements, and other 419  
documents described in division (B) of section 5901.09 of the 420  
Revised Code; 421

(c) Reviewing matters relating to an applicant's request 422  
for financial assistance under sections 5901.01 to 5901.15 of 423  
the Revised Code. 424

(2) A veterans service commission shall not exclude an 425  
applicant for, recipient of, or former recipient of financial 426

assistance under sections 5901.01 to 5901.15 of the Revised 427  
Code, and shall not exclude representatives selected by the 428  
applicant, recipient, or former recipient, from a meeting that 429  
the commission conducts as an executive session that pertains to 430  
the applicant's, recipient's, or former recipient's application 431  
for financial assistance. 432

(3) A veterans service commission shall vote on the grant 433  
or denial of financial assistance under sections 5901.01 to 434  
5901.15 of the Revised Code only in an open meeting of the 435  
commission. The minutes of the meeting shall indicate the name, 436  
address, and occupation of the applicant, whether the assistance 437  
was granted or denied, the amount of the assistance if 438  
assistance is granted, and the votes for and against the 439  
granting of assistance. 440

**Sec. 121.37.** (A) (1) There is hereby created the Ohio 441  
family and children first cabinet council. The council shall be 442  
composed of the superintendent of public instruction, the 443  
executive director of the opportunities for Ohioans with 444  
disabilities agency, the medicaid director, and the directors of 445  
youth services, job and family services, mental health and 446  
addiction services, health, developmental disabilities, aging, 447  
rehabilitation and correction, and budget and management. The 448  
chairperson of the council shall be the governor or the 449  
governor's designee and shall establish procedures for the 450  
council's internal control and management. 451

The purpose of the cabinet council is to help families 452  
seeking government services. This section shall not be 453  
interpreted or applied to usurp the role of parents, but solely 454  
to streamline and coordinate existing government services for 455  
families seeking assistance for their children. 456

(2) In seeking to fulfill its purpose, the council may do	457
any of the following:	458
(a) Advise and make recommendations to the governor and	459
general assembly regarding the provision of services to	460
children;	461
(b) Advise and assess local governments on the	462
coordination of service delivery to children;	463
(c) Hold meetings at such times and places as may be	464
prescribed by the council's procedures and maintain records of	465
the meetings, except that records identifying individual	466
children are confidential and shall be disclosed only as	467
provided by law;	468
(d) Develop programs and projects, including pilot	469
projects, to encourage coordinated efforts at the state and	470
local level to improve the state's social service delivery	471
system;	472
(e) Enter into contracts with and administer grants to	473
county family and children first councils, as well as other	474
county or multicounty organizations to plan and coordinate	475
service delivery between state agencies and local service	476
providers for families and children;	477
(f) Enter into contracts with and apply for grants from	478
federal agencies or private organizations;	479
(g) Enter into interagency agreements to encourage	480
coordinated efforts at the state and local level to improve the	481
state's social service delivery system. The agreements may	482
include provisions regarding the receipt, transfer, and	483
expenditure of funds;	484

(h) Identify public and private funding sources for	485
services provided to alleged or adjudicated unruly children and	486
children who are at risk of being alleged or adjudicated unruly	487
children, including regulations governing access to and use of	488
the services;	489
(i) Collect information provided by local communities	490
regarding successful programs for prevention, intervention, and	491
treatment of unruly behavior, including evaluations of the	492
programs;	493
(j) Identify and disseminate publications regarding	494
alleged or adjudicated unruly children and children who are at	495
risk of being alleged or adjudicated unruly children and	496
regarding programs serving those types of children;	497
(k) Maintain an inventory of strategic planning	498
facilitators for use by government or nonprofit entities that	499
serve alleged or adjudicated unruly children or children who are	500
at risk of being alleged or adjudicated unruly children.	501
(3) The cabinet council shall provide for the following:	502
(a) Reviews of service and treatment plans for children	503
for which such reviews are requested;	504
(b) Assistance as the council determines to be necessary	505
to meet the needs of children referred by county family and	506
children first councils;	507
(c) Monitoring and supervision of a statewide,	508
comprehensive, coordinated, multi-disciplinary, interagency	509
system for infants and toddlers with developmental disabilities	510
or delays and their families, as established pursuant to federal	511
grants received and administered by the department of health for	512
early intervention services under the "Individuals with	513

Disabilities Education Act of 2004," 118 Stat. 2744, 20 U.S.C.A.	514
1400, as amended.	515
(4) The cabinet council shall develop and implement the	516
following:	517
(a) An interagency process to select the indicators that	518
will be used to measure progress toward increasing child well-	519
being in the state and to update the indicators on an annual	520
basis. The indicators shall focus on expectant parents and	521
newborns thriving; infants and toddlers thriving; children being	522
ready for school; children and youth succeeding in school; youth	523
choosing healthy behaviors; and youth successfully transitioning	524
into adulthood.	525
(b) An interagency system to offer guidance and monitor	526
progress toward increasing child well-being in the state and in	527
each county;	528
(c) An annual plan that identifies state-level agency	529
efforts taken to ensure progress towards increasing child well-	530
being in the state.	531
On an annual basis, the cabinet council shall submit to	532
the governor and the general assembly a report on the status of	533
efforts to increase child well-being in the state. This report	534
shall be made available to any other person on request.	535
(B) (1) Each board of county commissioners shall establish	536
a county family and children first council. The board may invite	537
any local public or private agency or group that funds,	538
advocates, or provides services to children and families to have	539
a representative become a permanent or temporary member of its	540
county council. Each county council must include the following	541
individuals:	542

(a) At least three individuals who are not employed by an agency represented on the council and whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.

(b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.

(c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.

(d) The director of the county department of job and family services;

(e) The executive director of the public children services agency;

(f) The superintendent of the county board of developmental disabilities or, if the superintendent serves as superintendent of more than one county board of developmental disabilities, the superintendent's designee;

(g) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing

in the county, as determined by the department of education, 572  
which shall notify each board of county commissioners of its 573  
determination at least biennially; 574

(h) A school superintendent representing all other school 575  
districts with territory in the county, as designated at a 576  
biennial meeting of the superintendents of those districts; 577

(i) A representative of the municipal corporation with the 578  
largest population in the county; 579

(j) The president of the board of county commissioners or 580  
an individual designated by the board; 581

(k) A representative of the regional office of the 582  
department of youth services; 583

(l) A representative of the county's head start agencies, 584  
as defined in section 3301.32 of the Revised Code; 585

(m) A representative of the county's early intervention 586  
collaborative established pursuant to the federal early 587  
intervention program operated under the "Individuals with 588  
Disabilities Education Act of 2004"; 589

(n) A representative of a local nonprofit entity that 590  
funds, advocates, or provides services to children and families. 591

Notwithstanding any other provision of law, the public 592  
members of a county council are not prohibited from serving on 593  
the council and making decisions regarding the duties of the 594  
council, including those involving the funding of joint projects 595  
and those outlined in the county's service coordination 596  
mechanism implemented pursuant to division (C) of this section. 597

The cabinet council shall establish a state appeals 598  
process to resolve disputes among the members of a county 599

council concerning whether reasonable responsibilities as 600  
members are being shared. The appeals process may be accessed 601  
only by a majority vote of the council members who are required 602  
to serve on the council. Upon appeal, the cabinet council may 603  
order that state funds for services to children and families be 604  
redirected to a county's board of county commissioners. 605

The county's juvenile court judge senior in service or 606  
another judge of the juvenile court designated by the 607  
administrative judge or, where there is no administrative judge, 608  
by the judge senior in service shall serve as the judicial 609  
advisor to the county family and children first council. The 610  
judge may advise the county council on the court's utilization 611  
of resources, services, or programs provided by the entities 612  
represented by the members of the county council and how those 613  
resources, services, or programs assist the court in its 614  
administration of justice. Service of a judge as a judicial 615  
advisor pursuant to this section is a judicial function. 616

(2) The purpose of the county council is to streamline and 617  
coordinate existing government services for families seeking 618  
services for their children. In seeking to fulfill its purpose, 619  
a county council shall provide for the following: 620

(a) Referrals to the cabinet council of those children for 621  
whom the county council cannot provide adequate services; 622

(b) Development and implementation of a process that 623  
annually evaluates and prioritizes services, fills service gaps 624  
where possible, and invents new approaches to achieve better 625  
results for families and children; 626

(c) Participation in the development of a countywide, 627  
comprehensive, coordinated, multi-disciplinary, interagency 628

system for infants and toddlers with developmental disabilities 629  
or delays and their families, as established pursuant to federal 630  
grants received and administered by the department of health for 631  
early intervention services under the "Individuals with 632  
Disabilities Education Act of 2004"; 633

(d) Maintenance of an accountability system to monitor the 634  
county council's progress in achieving results for families and 635  
children; 636

(e) Establishment of a mechanism to ensure ongoing input 637  
from a broad representation of families who are receiving 638  
services within the county system. 639

(3) A county council shall develop and implement the 640  
following: 641

(a) An interagency process to establish local indicators 642  
and monitor the county's progress toward increasing child well- 643  
being in the county; 644

(b) An interagency process to identify local priorities to 645  
increase child well-being. The local priorities shall focus on 646  
expectant parents and newborns thriving; infants and toddlers 647  
thriving; children being ready for school; children and youth 648  
succeeding in school; youth choosing healthy behaviors; and 649  
youth successfully transitioning into adulthood and take into 650  
account the indicators established by the cabinet council under 651  
division (A) (4) (a) of this section. 652

(c) An annual plan that identifies the county's 653  
interagency efforts to increase child well-being in the county. 654

On an annual basis, the county council shall submit a 655  
report on the status of efforts by the county to increase child 656  
well-being in the county to the county's board of county 657

commissioners and the cabinet council. This report shall be made 658  
available to any other person on request. 659

(4) (a) Except as provided in division (B) (4) (b) of this 660  
section, a county council shall comply with the policies, 661  
procedures, and activities prescribed by the rules or 662  
interagency agreements of a state department participating on 663  
the cabinet council whenever the county council performs a 664  
function subject to those rules or agreements. 665

(b) On application of a county council, the cabinet 666  
council may grant an exemption from any rules or interagency 667  
agreements of a state department participating on the council if 668  
an exemption is necessary for the council to implement an 669  
alternative program or approach for service delivery to families 670  
and children. The application shall describe the proposed 671  
program or approach and specify the rules or interagency 672  
agreements from which an exemption is necessary. The cabinet 673  
council shall approve or disapprove the application in 674  
accordance with standards and procedures it shall adopt. If an 675  
application is approved, the exemption is effective only while 676  
the program or approach is being implemented, including a 677  
reasonable period during which the program or approach is being 678  
evaluated for effectiveness. 679

(5) (a) Each county council shall designate an 680  
administrative agent for the council from among the following 681  
public entities: the board of alcohol, drug addiction, and 682  
mental health services, including a board of alcohol and drug 683  
addiction or a community mental health board if the county is 684  
served by separate boards; the board of county commissioners; 685  
any board of health of the county's city and general health 686  
districts; the county department of job and family services; the 687

county agency responsible for the administration of children 688  
services pursuant to section 5153.15 of the Revised Code; the 689  
county board of developmental disabilities; any of the county's 690  
boards of education or governing boards of educational service 691  
centers; or the county's juvenile court. Any of the foregoing 692  
public entities, other than the board of county commissioners, 693  
may decline to serve as the council's administrative agent. 694

A county council's administrative agent shall serve as the 695  
council's appointing authority for any employees of the council. 696  
The council shall file an annual budget with its administrative 697  
agent, with copies filed with the county auditor and with the 698  
board of county commissioners, unless the board is serving as 699  
the council's administrative agent. The council's administrative 700  
agent shall ensure that all expenditures are handled in 701  
accordance with policies, procedures, and activities prescribed 702  
by state departments in rules or interagency agreements that are 703  
applicable to the council's functions. 704

The administrative agent of a county council shall send 705  
notice of a member's absence if a member listed in division (B) 706  
(1) of this section has been absent from either three 707  
consecutive meetings of the county council or a county council 708  
subcommittee, or from one-quarter of such meetings in a calendar 709  
year, whichever is less. The notice shall be sent to the board 710  
of county commissioners that establishes the county council and, 711  
for the members listed in divisions (B) (1) (b), (c), (e), and (1) 712  
of this section, to the governing board overseeing the 713  
respective entity; for the member listed in division (B) (1) (f) 714  
of this section, to the county board of developmental 715  
disabilities that employs the superintendent; for a member 716  
listed in division (B) (1) (g) or (h) of this section, to the 717  
school board that employs the superintendent; for the member 718

listed in division (B) (1) (i) of this section, to the mayor of 719  
the municipal corporation; for the member listed in division (B) 720  
(1) (k) of this section, to the director of youth services; and 721  
for the member listed in division (B) (1) (n) of this section, to 722  
that member's board of trustees. 723

The administrative agent for a county council may do any 724  
of the following on behalf of the council: 725

(i) Enter into agreements or administer contracts with 726  
public or private entities to fulfill specific council business. 727  
Such agreements and contracts are exempt from the competitive 728  
bidding requirements of section 307.86 of the Revised Code if 729  
they have been approved by the county council and they are for 730  
the purchase of family and child welfare or child protection 731  
services or other social or job and family services for families 732  
and children. The approval of the county council is not required 733  
to exempt agreements or contracts entered into under section 734  
5139.34, 5139.41, or 5139.43 of the Revised Code from the 735  
competitive bidding requirements of section 307.86 of the 736  
Revised Code. 737

(ii) As determined by the council, provide financial 738  
stipends, reimbursements, or both, to family representatives for 739  
expenses related to council activity; 740

(iii) Receive by gift, grant, devise, or bequest any 741  
moneys, lands, or other property for the purposes for which the 742  
council is established. The agent shall hold, apply, and dispose 743  
of the moneys, lands, or other property according to the terms 744  
of the gift, grant, devise, or bequest. Any interest or earnings 745  
shall be treated in the same manner and are subject to the same 746  
terms as the gift, grant, devise, or bequest from which it 747  
accrues. 748

(b) (i) If the county council designates the board of 749  
county commissioners as its administrative agent, the board may, 750  
by resolution, delegate any of its powers and duties as 751  
administrative agent to an executive committee the board 752  
establishes from the membership of the county council. The board 753  
shall name to the executive committee at least the individuals 754  
described in divisions (B) (1) (b) to (h) of this section and may 755  
appoint the president of the board or another individual as the 756  
chair of the executive committee. The executive committee must 757  
include at least one family county council representative who 758  
does not have a family member employed by an agency represented 759  
on the council. 760

(ii) The executive committee may, with the approval of the 761  
board, hire an executive director to assist the county council 762  
in administering its powers and duties. The executive director 763  
shall serve in the unclassified civil service at the pleasure of 764  
the executive committee. The executive director may, with the 765  
approval of the executive committee, hire other employees as 766  
necessary to properly conduct the county council's business. 767

(iii) The board may require the executive committee to 768  
submit an annual budget to the board for approval and may amend 769  
or repeal the resolution that delegated to the executive 770  
committee its authority as the county council's administrative 771  
agent. 772

(6) Two or more county councils may enter into an 773  
agreement to administer their county councils jointly by 774  
creating a regional family and children first council. A 775  
regional council possesses the same duties and authority 776  
possessed by a county council, except that the duties and 777  
authority apply regionally rather than to individual counties. 778

Prior to entering into an agreement to create a regional 779  
council, the members of each county council to be part of the 780  
regional council shall meet to determine whether all or part of 781  
the members of each county council will serve as members of the 782  
regional council. 783

(7) A board of county commissioners may approve a 784  
resolution by a majority vote of the board's members that 785  
requires the county council to submit a statement to the board 786  
each time the council proposes to enter into an agreement, adopt 787  
a plan, or make a decision, other than a decision pursuant to 788  
section 121.38 of the Revised Code, that requires the 789  
expenditure of funds for two or more families. The statement 790  
shall describe the proposed agreement, plan, or decision. 791

Not later than fifteen days after the board receives the 792  
statement, it shall, by resolution approved by a majority of its 793  
members, approve or disapprove the agreement, plan, or decision. 794  
Failure of the board to pass a resolution during that time 795  
period shall be considered approval of the agreement, plan, or 796  
decision. 797

An agreement, plan, or decision for which a statement is 798  
required to be submitted to the board shall be implemented only 799  
if it is approved by the board. 800

(C) Each county shall develop a county service 801  
coordination mechanism. The county service coordination 802  
mechanism shall serve as the guiding document for coordination 803  
of services in the county. For children who also receive 804  
services under the help me grow program, the service 805  
coordination mechanism shall be consistent with rules adopted by 806  
the department of health under section 3701.61 of the Revised 807  
Code. All family service coordination plans shall be developed 808

in accordance with the county service coordination mechanism. 809  
The mechanism shall be developed and approved with the 810  
participation of the county entities representing child welfare; 811  
~~mental retardation and~~ developmental disabilities; alcohol, drug 812  
addiction, and mental health services; health; juvenile judges; 813  
education; the county family and children first council; and the 814  
county early intervention collaborative established pursuant to 815  
the federal early intervention program operated under the 816  
"Individuals with Disabilities Education Act of 2004." The 817  
county shall establish an implementation schedule for the 818  
mechanism. The cabinet council may monitor the implementation 819  
and administration of each county's service coordination 820  
mechanism. 821

Each mechanism shall include all of the following: 822

(1) A procedure for an agency, including a juvenile court, 823  
or a family voluntarily seeking service coordination, to refer 824  
the child and family to the county council for service 825  
coordination in accordance with the mechanism; 826

(2) A procedure ensuring that a family and all appropriate 827  
staff from involved agencies, including a representative from 828  
the appropriate school district, are notified of and invited to 829  
participate in all family service coordination plan meetings; 830

(3) A procedure that permits a family to initiate a 831  
meeting to develop or review the family's service coordination 832  
plan and allows the family to invite a family advocate, mentor, 833  
or support person of the family's choice to participate in any 834  
such meeting; 835

(4) A procedure for ensuring that a family service 836  
coordination plan meeting is conducted for each child who 837

receives service coordination under the mechanism and for whom 838  
an emergency out-of-home placement has been made or for whom a 839  
nonemergency out-of-home placement is being considered. The 840  
meeting shall be conducted within ten days of an emergency out- 841  
of-home placement. The meeting shall be conducted before a 842  
nonemergency out-of-home placement. The family service 843  
coordination plan shall outline how the county council members 844  
will jointly pay for services, where applicable, and provide 845  
services in the least restrictive environment. 846

(5) A procedure for monitoring the progress and tracking 847  
the outcomes of each service coordination plan requested in the 848  
county including monitoring and tracking children in out-of-home 849  
placements to assure continued progress, appropriateness of 850  
placement, and continuity of care after discharge from placement 851  
with appropriate arrangements for housing, treatment, and 852  
education; 853

(6) A procedure for protecting the confidentiality of all 854  
personal family information disclosed during service 855  
coordination meetings or contained in the comprehensive family 856  
service coordination plan; 857

(7) A procedure for assessing the needs and strengths of 858  
any child or family that has been referred to the council for 859  
service coordination, including a child whose parent or 860  
custodian is voluntarily seeking services, and for ensuring that 861  
parents and custodians are afforded the opportunity to 862  
participate; 863

(8) A procedure for development of a family service 864  
coordination plan described in division (D) of this section; 865

(9) A local dispute resolution process to serve as the 866

process that must be used first to resolve disputes among the 867  
agencies represented on the county council concerning the 868  
provision of services to children, including children who are 869  
abused, neglected, dependent, unruly, alleged unruly, or 870  
delinquent children and under the jurisdiction of the juvenile 871  
court and children whose parents or custodians are voluntarily 872  
seeking services. The local dispute resolution process shall 873  
comply with sections 121.38, 121.381, and 121.382 of the Revised 874  
Code. The local dispute resolution process shall be used to 875  
resolve disputes between a child's parents or custodians and the 876  
county council regarding service coordination. The county 877  
council shall inform the parents or custodians of their right to 878  
use the dispute resolution process. Parents or custodians shall 879  
use existing local agency grievance procedures to address 880  
disputes not involving service coordination. The dispute 881  
resolution process is in addition to and does not replace other 882  
rights or procedures that parents or custodians may have under 883  
other sections of the Revised Code. 884

The cabinet council shall adopt rules in accordance with 885  
Chapter 119. of the Revised Code establishing an administrative 886  
review process to address problems that arise concerning the 887  
operation of a local dispute resolution process. 888

Nothing in division (C) (4) of this section shall be 889  
interpreted as overriding or affecting decisions of a juvenile 890  
court regarding an out-of-home placement, long-term placement, 891  
or emergency out-of-home placement. 892

(D) Each county shall develop a family service 893  
coordination plan that does all of the following: 894

(1) Designates service responsibilities among the various 895  
state and local agencies that provide services to children and 896

their families, including children who are abused, neglected, 897  
dependent, unruly, or delinquent children and under the 898  
jurisdiction of the juvenile court and children whose parents or 899  
custodians are voluntarily seeking services; 900

(2) Designates an individual, approved by the family, to 901  
track the progress of the family service coordination plan, 902  
schedule reviews as necessary, and facilitate the family service 903  
coordination plan meeting process; 904

(3) Ensures that assistance and services to be provided 905  
are responsive to the strengths and needs of the family, as well 906  
as the family's culture, race, and ethnic group, by allowing the 907  
family to offer information and suggestions and participate in 908  
decisions. Identified assistance and services shall be provided 909  
in the least restrictive environment possible. 910

(4) Includes a process for dealing with a child who is 911  
alleged to be an unruly child. The process shall include methods 912  
to divert the child from the juvenile court system; 913

(5) Includes timelines for completion of goals specified 914  
in the plan with regular reviews scheduled to monitor progress 915  
toward those goals; 916

(6) Includes a plan for dealing with short-term crisis 917  
situations and safety concerns. 918

(E) (1) The process provided for under division (D) (4) of 919  
this section may include, but is not limited to, the following: 920

(a) Designation of the person or agency to conduct the 921  
assessment of the child and the child's family as described in 922  
division (C) (7) of this section and designation of the 923  
instrument or instruments to be used to conduct the assessment; 924

(b) An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian of the child;	925
	926
	927
(c) Involvement of local law enforcement agencies and officials.	928
	929
(2) The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following:	930
	931
	932
(a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system;	933
	934
	935
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	938
(b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;	939
	940
	941
	942
(c) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian;	943
	944
	945
	946
(d) A program to provide a mentor to the child or the parents, guardian, or custodian;	947
	948
(e) A program to provide parenting education to the parents, guardian, or custodian;	949
	950
(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or	951
	952

suspended or expelled from school; 953

(g) Other appropriate measures, including, but not limited 954  
to, any alternative methods to divert a child from the juvenile 955  
court system that are identified by the Ohio family and children 956  
first cabinet council. 957

(F) Each county may review and revise the service 958  
coordination process described in division (D) of this section 959  
based on the availability of funds under Title IV-A of the 960  
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, 961  
as amended, or to the extent resources are available from any 962  
other federal, state, or local funds. 963

**Sec. 135.801.** (A) As used in sections 135.801 to 135.803 964  
of the Revised Code, "eligible lending institution," "eligible 965  
organization," "investing authority," "residential facility," 966  
and "residential facility linked deposit program" have the same 967  
meanings as in section 5126.51 of the Revised Code. 968

(B) The board of county commissioners may adopt a 969  
resolution implementing a residential facility linked deposit 970  
program under sections 5126.51 to 5126.62 of the Revised Code if 971  
it finds each of the following: 972

(1) The county board of developmental disabilities has 973  
adopted a resolution under section 5126.49 of the Revised Code. 974

(2) There is a shortage of residential facilities in the 975  
county for individuals with ~~mental retardation or~~ developmental 976  
disabilities. 977

(3) Eligible organizations, otherwise willing and able to 978  
develop residential facilities in the county, have been unable 979  
to do so because of high interest rates. 980

(4) Placement of residential facility linked deposits will 981  
assist in financing the development of residential facilities in 982  
the county that otherwise would not be developed because of high 983  
interest rates. 984

(5) Public moneys of the county are available for purposes 985  
of the residential facility linked deposit program. 986

(6) At least one eligible lending institution has an 987  
office located within the territorial limits of the county into 988  
which the board may deposit the public moneys of the county. 989

**Sec. 145.01.** As used in this chapter: 990

(A) "Public employee" means: 991

(1) Any person holding an office, not elective, under the 992  
state or any county, township, municipal corporation, park 993  
district, conservancy district, sanitary district, health 994  
district, metropolitan housing authority, state retirement 995  
board, Ohio history connection, public library, county law 996  
library, union cemetery, joint hospital, institutional 997  
commissary, state university, or board, bureau, commission, 998  
council, committee, authority, or administrative body as the 999  
same are, or have been, created by action of the general 1000  
assembly or by the legislative authority of any of the units of 1001  
local government named in division (A) (1) of this section, or 1002  
employed and paid in whole or in part by the state or any of the 1003  
authorities named in division (A) (1) of this section in any 1004  
capacity not covered by section 742.01, 3307.01, 3309.01, or 1005  
5505.01 of the Revised Code. 1006

(2) A person who is a member of the public employees 1007  
retirement system and who continues to perform the same or 1008  
similar duties under the direction of a contractor who has 1009

contracted to take over what before the date of the contract was 1010  
a publicly operated function. The governmental unit with which 1011  
the contract has been made shall be deemed the employer for the 1012  
purposes of administering this chapter. 1013

(3) Any person who is an employee of a public employer, 1014  
notwithstanding that the person's compensation for that 1015  
employment is derived from funds of a person or entity other 1016  
than the employer. Credit for such service shall be included as 1017  
total service credit, provided that the employee makes the 1018  
payments required by this chapter, and the employer makes the 1019  
payments required by sections 145.48 and 145.51 of the Revised 1020  
Code. 1021

(4) A person who elects in accordance with section 145.015 1022  
of the Revised Code to remain a contributing member of the 1023  
public employees retirement system. 1024

(5) A person who is an employee of the legal rights 1025  
service on September 30, 2012, and continues to be employed by 1026  
the nonprofit entity established under Section 319.20 of Am. 1027  
Sub. H.B. 153 of the 129th general assembly. The nonprofit 1028  
entity is the employer for the purpose of this chapter. 1029

In all cases of doubt, the public employees retirement 1030  
board shall determine under section 145.036, 145.037, or 145.038 1031  
of the Revised Code whether any person is a public employee, and 1032  
its decision is final. 1033

(B) "Member" means any public employee, other than a 1034  
public employee excluded or exempted from membership in the 1035  
retirement system by section 145.03, 145.031, 145.032, 145.033, 1036  
145.034, 145.035, or 145.38 of the Revised Code. "Member" 1037  
includes a PERS retirant who becomes a member under division (C) 1038

of section 145.38 of the Revised Code. "Member" also includes a 1039  
disability benefit recipient. 1040

(C) "Head of the department" means the elective or 1041  
appointive head of the several executive, judicial, and 1042  
administrative departments, institutions, boards, and 1043  
commissions of the state and local government as the same are 1044  
created and defined by the laws of this state or, in case of a 1045  
charter government, by that charter. 1046

(D) "Employer" or "public employer" means the state or any 1047  
county, township, municipal corporation, park district, 1048  
conservancy district, sanitary district, health district, 1049  
metropolitan housing authority, state retirement board, Ohio 1050  
history connection, public library, county law library, union 1051  
cemetery, joint hospital, institutional commissary, state 1052  
medical university, state university, or board, bureau, 1053  
commission, council, committee, authority, or administrative 1054  
body as the same are, or have been, created by action of the 1055  
general assembly or by the legislative authority of any of the 1056  
units of local government named in this division not covered by 1057  
section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised 1058  
Code. In addition, "employer" means the employer of any public 1059  
employee. 1060

(E) "Prior military service" also means all service 1061  
credited for active duty with the armed forces of the United 1062  
States as provided in section 145.30 of the Revised Code. 1063

(F) "Contributor" means any person who has an account in 1064  
the employees' savings fund created by section 145.23 of the 1065  
Revised Code. When used in the sections listed in division (B) 1066  
of section 145.82 of the Revised Code, "contributor" includes 1067  
any person participating in a PERS defined contribution plan. 1068

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retirant, qualify for or are receiving some right or benefit under this chapter.

(H) (1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such

employee members, a corresponding payment shall be paid into the 1100  
employers' accumulation fund by that municipal corporation as 1101  
the employer of the employees. 1102

(3) Where a member also is a member of the state teachers 1103  
retirement system or the school employees retirement system, or 1104  
both, except in cases of retirement on a combined basis pursuant 1105  
to section 145.37 of the Revised Code or as provided in section 1106  
145.383 of the Revised Code, service credit for any period shall 1107  
be credited on the basis of the ratio that contributions to the 1108  
public employees retirement system bear to total contributions 1109  
in all state retirement systems. 1110

(4) Not more than one year of credit may be given for any 1111  
period of twelve months. 1112

(5) "Ohio service credit" means credit for service that 1113  
was rendered to the state or any of its political subdivisions 1114  
or any employer. 1115

(I) "Regular interest" means interest at any rates for the 1116  
respective funds and accounts as the public employees retirement 1117  
board may determine from time to time. 1118

(J) "Accumulated contributions" means the sum of all 1119  
amounts credited to a contributor's individual account in the 1120  
employees' savings fund together with any interest credited to 1121  
the contributor's account under section 145.471 or 145.472 of 1122  
the Revised Code. 1123

(K) (1) "Final average salary" means the greater of the 1124  
following: 1125

(a) The sum of the member's earnable salaries for the 1126  
appropriate number of calendar years of contributing service, 1127  
determined under section 145.017 of the Revised Code, in which 1128

the member's earnable salary was highest, divided by the same 1129  
number of calendar years or, if the member has fewer than the 1130  
appropriate number of calendar years of contributing service, 1131  
the total of the member's earnable salary for all years of 1132  
contributing service divided by the number of calendar years of 1133  
the member's contributing service; 1134

(b) The sum of a member's earnable salaries for the 1135  
appropriate number of consecutive months, determined under 1136  
section 145.017 of the Revised Code, that were the member's last 1137  
months of service, up to and including the last month, divided 1138  
by the appropriate number of years or, if the time between the 1139  
first and final months of service is less than the appropriate 1140  
number of consecutive months, the total of the member's earnable 1141  
salary for all months of contributing service divided by the 1142  
number of years between the first and final months of 1143  
contributing service, including any fraction of a year, except 1144  
that the member's final average salary shall not exceed the 1145  
member's highest earnable salary for any twelve consecutive 1146  
months. 1147

(2) If contributions were made in only one calendar year, 1148  
"final average salary" means the member's total earnable salary. 1149

(L) "Annuity" means payments for life derived from 1150  
contributions made by a contributor and paid from the annuity 1151  
and pension reserve fund as provided in this chapter. All 1152  
annuities shall be paid in twelve equal monthly installments. 1153

(M) "Annuity reserve" means the present value, computed 1154  
upon the basis of the mortality and other tables adopted by the 1155  
board, of all payments to be made on account of any annuity, or 1156  
benefit in lieu of any annuity, granted to a retirant as 1157  
provided in this chapter. 1158

- (N) (1) "Disability retirement" means retirement as 1159  
provided in section 145.36 of the Revised Code. 1160
- (2) "Disability allowance" means an allowance paid on 1161  
account of disability under section 145.361 of the Revised Code. 1162
- (3) "Disability benefit" means a benefit paid as 1163  
disability retirement under section 145.36 of the Revised Code, 1164  
as a disability allowance under section 145.361 of the Revised 1165  
Code, or as a disability benefit under section 145.37 of the 1166  
Revised Code. 1167
- (4) "Disability benefit recipient" means a member who is 1168  
receiving a disability benefit. 1169
- (O) "Age and service retirement" means retirement as 1170  
provided in sections 145.32, 145.33, 145.331, 145.332, 145.37, 1171  
and 145.46 and former section 145.34 of the Revised Code. 1172
- (P) "Pensions" means annual payments for life derived from 1173  
contributions made by the employer that at the time of 1174  
retirement are credited into the annuity and pension reserve 1175  
fund from the employers' accumulation fund and paid from the 1176  
annuity and pension reserve fund as provided in this chapter. 1177  
All pensions shall be paid in twelve equal monthly installments. 1178
- (Q) "Retirement allowance" means the pension plus that 1179  
portion of the benefit derived from contributions made by the 1180  
member. 1181
- (R) (1) Except as otherwise provided in division (R) of 1182  
this section, "earnable salary" means all salary, wages, and 1183  
other earnings paid to a contributor by reason of employment in 1184  
a position covered by the retirement system. The salary, wages, 1185  
and other earnings shall be determined prior to determination of 1186  
the amount required to be contributed to the employees' savings 1187

fund under section 145.47 of the Revised Code and without regard 1188  
to whether any of the salary, wages, or other earnings are 1189  
treated as deferred income for federal income tax purposes. 1190  
"Earnable salary" includes the following: 1191

(a) Payments made by the employer in lieu of salary, 1192  
wages, or other earnings for sick leave, personal leave, or 1193  
vacation used by the contributor; 1194

(b) Payments made by the employer for the conversion of 1195  
sick leave, personal leave, and vacation leave accrued, but not 1196  
used if the payment is made during the year in which the leave 1197  
is accrued, except that payments made pursuant to section 1198  
124.383 or 124.386 of the Revised Code are not earnable salary; 1199

(c) Allowances paid by the employer for maintenance, 1200  
consisting of housing, laundry, and meals, as certified to the 1201  
retirement board by the employer or the head of the department 1202  
that employs the contributor; 1203

(d) Fees and commissions paid under section 507.09 of the 1204  
Revised Code; 1205

(e) Payments that are made under a disability leave 1206  
program sponsored by the employer and for which the employer is 1207  
required by section 145.296 of the Revised Code to make periodic 1208  
employer and employee contributions; 1209

(f) Amounts included pursuant to former division (K) (3) 1210  
and former division (Y) of this section and section 145.2916 of 1211  
the Revised Code. 1212

(2) "Earnable salary" does not include any of the 1213  
following: 1214

(a) Fees and commissions, other than those paid under 1215

section 507.09 of the Revised Code, paid as sole compensation 1216  
for personal services and fees and commissions for special 1217  
services over and above services for which the contributor 1218  
receives a salary; 1219

(b) Amounts paid by the employer to provide life 1220  
insurance, sickness, accident, endowment, health, medical, 1221  
hospital, dental, or surgical coverage, or other insurance for 1222  
the contributor or the contributor's family, or amounts paid by 1223  
the employer to the contributor in lieu of providing the 1224  
insurance; 1225

(c) Incidental benefits, including lodging, food, laundry, 1226  
parking, or services furnished by the employer, or use of the 1227  
employer's property or equipment, or amounts paid by the 1228  
employer to the contributor in lieu of providing the incidental 1229  
benefits; 1230

(d) Reimbursement for job-related expenses authorized by 1231  
the employer, including moving and travel expenses and expenses 1232  
related to professional development; 1233

(e) Payments for accrued but unused sick leave, personal 1234  
leave, or vacation that are made at any time other than in the 1235  
year in which the sick leave, personal leave, or vacation was 1236  
accrued; 1237

(f) Payments made to or on behalf of a contributor that 1238  
are in excess of the annual compensation that may be taken into 1239  
account by the retirement system under division (a)(17) of 1240  
section 401 of the "Internal Revenue Code of 1986," 100 Stat. 1241  
2085, 26 U.S.C.A. 401(a)(17), as amended; 1242

(g) Payments made under division (B), (C), or (E) of 1243  
section 5923.05 of the Revised Code, Section 4 of Substitute 1244

Senate Bill No. 3 of the 119th general assembly, Section 3 of 1245  
Amended Substitute Senate Bill No. 164 of the 124th general 1246  
assembly, or Amended Substitute House Bill No. 405 of the 124th 1247  
general assembly; 1248

(h) Anything of value received by the contributor that is 1249  
based on or attributable to retirement or an agreement to 1250  
retire, except that payments made on or before January 1, 1989, 1251  
that are based on or attributable to an agreement to retire 1252  
shall be included in earnable salary if both of the following 1253  
apply: 1254

(i) The payments are made in accordance with contract 1255  
provisions that were in effect prior to January 1, 1986; 1256

(ii) The employer pays the retirement system an amount 1257  
specified by the retirement board equal to the additional 1258  
liability resulting from the payments. 1259

(i) The portion of any amount included in section 145.2916 1260  
of the Revised Code that represents employer contributions. 1261

(3) The retirement board shall determine by rule whether 1262  
any compensation not enumerated in division (R) of this section 1263  
is earnable salary, and its decision shall be final. 1264

(S) "Pension reserve" means the present value, computed 1265  
upon the basis of the mortality and other tables adopted by the 1266  
board, of all payments to be made on account of any retirement 1267  
allowance or benefit in lieu of any retirement allowance, 1268  
granted to a member or beneficiary under this chapter. 1269

(T) "Contributing service" means both of the following: 1270

(1) All service credited to a member of the system since 1271  
January 1, 1935, for which contributions are made as required by 1272

sections 145.47, 145.48, and 145.483 of the Revised Code. In any 1273  
year subsequent to 1934, credit for any service shall be allowed 1274  
in accordance with section 145.016 of the Revised Code. 1275

(2) Service credit received by election of the member 1276  
under section 145.814 of the Revised Code. 1277

(U) "State retirement board" means the public employees 1278  
retirement board, the school employees retirement board, or the 1279  
state teachers retirement board. 1280

(V) "Retirant" means any former member who retires and is 1281  
receiving a monthly allowance as provided in sections 145.32, 1282  
145.33, 145.331, 145.332, and 145.46 and former section 145.34 1283  
of the Revised Code. 1284

(W) "Employer contribution" means the amount paid by an 1285  
employer as determined under section 145.48 of the Revised Code. 1286

(X) "Public service terminates" means the last day for 1287  
which a public employee is compensated for services performed 1288  
for an employer or the date of the employee's death, whichever 1289  
occurs first. 1290

(Y) "Five years of service credit," for the exclusive 1291  
purpose of satisfying the service credit requirements and of 1292  
determining eligibility under section 145.33 or 145.332 of the 1293  
Revised Code, means employment covered under this chapter or 1294  
under a former retirement plan operated, recognized, or endorsed 1295  
by the employer prior to coverage under this chapter or under a 1296  
combination of the coverage. 1297

(Z) "Deputy sheriff" means any person who is commissioned 1298  
and employed as a full-time peace officer by the sheriff of any 1299  
county, and has been so employed since on or before December 31, 1300  
1965; any person who is or has been commissioned and employed as 1301

a peace officer by the sheriff of any county since January 1, 1302  
1966, and who has received a certificate attesting to the 1303  
person's satisfactory completion of the peace officer training 1304  
school as required by section 109.77 of the Revised Code; or any 1305  
person deputized by the sheriff of any county and employed 1306  
pursuant to section 2301.12 of the Revised Code as a criminal 1307  
bailiff or court constable who has received a certificate 1308  
attesting to the person's satisfactory completion of the peace 1309  
officer training school as required by section 109.77 of the 1310  
Revised Code. 1311

(AA) "Township constable or police officer in a township 1312  
police department or district" means any person who is 1313  
commissioned and employed as a full-time peace officer pursuant 1314  
to Chapter 505. or 509. of the Revised Code, who has received a 1315  
certificate attesting to the person's satisfactory completion of 1316  
the peace officer training school as required by section 109.77 1317  
of the Revised Code. 1318

(BB) "Drug agent" means any person who is either of the 1319  
following: 1320

(1) Employed full time as a narcotics agent by a county 1321  
narcotics agency created pursuant to section 307.15 of the 1322  
Revised Code and has received a certificate attesting to the 1323  
satisfactory completion of the peace officer training school as 1324  
required by section 109.77 of the Revised Code; 1325

(2) Employed full time as an undercover drug agent as 1326  
defined in section 109.79 of the Revised Code and is in 1327  
compliance with section 109.77 of the Revised Code. 1328

(CC) "Department of public safety enforcement agent" means 1329  
a full-time employee of the department of public safety who is 1330

designated under section 5502.14 of the Revised Code as an 1331  
enforcement agent and who is in compliance with section 109.77 1332  
of the Revised Code. 1333

(DD) "Natural resources law enforcement staff officer" 1334  
means a full-time employee of the department of natural 1335  
resources who is designated a natural resources law enforcement 1336  
staff officer under section 1501.013 of the Revised Code and is 1337  
in compliance with section 109.77 of the Revised Code. 1338

(EE) "Park officer" means a full-time employee of the 1339  
department of natural resources who is designated a park officer 1340  
under section 1541.10 of the Revised Code and is in compliance 1341  
with section 109.77 of the Revised Code. 1342

(FF) "Forest officer" means a full-time employee of the 1343  
department of natural resources who is designated a forest 1344  
officer under section 1503.29 of the Revised Code and is in 1345  
compliance with section 109.77 of the Revised Code. 1346

(GG) "Preserve officer" means a full-time employee of the 1347  
department of natural resources who is designated a preserve 1348  
officer under section 1517.10 of the Revised Code and is in 1349  
compliance with section 109.77 of the Revised Code. 1350

(HH) "Wildlife officer" means a full-time employee of the 1351  
department of natural resources who is designated a wildlife 1352  
officer under section 1531.13 of the Revised Code and is in 1353  
compliance with section 109.77 of the Revised Code. 1354

(II) "State watercraft officer" means a full-time employee 1355  
of the department of natural resources who is designated a state 1356  
watercraft officer under section 1547.521 of the Revised Code 1357  
and is in compliance with section 109.77 of the Revised Code. 1358

(JJ) "Park district police officer" means a full-time 1359

employee of a park district who is designated pursuant to 1360  
section 511.232 or 1545.13 of the Revised Code and is in 1361  
compliance with section 109.77 of the Revised Code. 1362

(KK) "Conservancy district officer" means a full-time 1363  
employee of a conservancy district who is designated pursuant to 1364  
section 6101.75 of the Revised Code and is in compliance with 1365  
section 109.77 of the Revised Code. 1366

(LL) "Municipal police officer" means a member of the 1367  
organized police department of a municipal corporation who is 1368  
employed full time, is in compliance with section 109.77 of the 1369  
Revised Code, and is not a member of the Ohio police and fire 1370  
pension fund. 1371

(MM) "Veterans' home police officer" means any person who 1372  
is employed at a veterans' home as a police officer pursuant to 1373  
section 5907.02 of the Revised Code and is in compliance with 1374  
section 109.77 of the Revised Code. 1375

(NN) "Special police officer for a mental health 1376  
institution" means any person who is designated as such pursuant 1377  
to section 5119.08 of the Revised Code and is in compliance with 1378  
section 109.77 of the Revised Code. 1379

(OO) "Special police officer for an institution for ~~the~~ 1380  
~~developmentally disabled persons with developmental~~ 1381  
disabilities" means any person who is designated as such 1382  
pursuant to section 5123.13 of the Revised Code and is in 1383  
compliance with section 109.77 of the Revised Code. 1384

(PP) "State university law enforcement officer" means any 1385  
person who is employed full time as a state university law 1386  
enforcement officer pursuant to section 3345.04 of the Revised 1387  
Code and who is in compliance with section 109.77 of the Revised 1388

Code. 1389

(QQ) "House sergeant at arms" means any person appointed 1390  
by the speaker of the house of representatives under division 1391  
(B) (1) of section 101.311 of the Revised Code who has arrest 1392  
authority under division (E) (1) of that section. 1393

(RR) "Assistant house sergeant at arms" means any person 1394  
appointed by the house sergeant at arms under division (C) (1) of 1395  
section 101.311 of the Revised Code. 1396

(SS) "Regional transit authority police officer" means a 1397  
person who is employed full time as a regional transit authority 1398  
police officer under division (Y) of section 306.35 of the 1399  
Revised Code and is in compliance with section 109.77 of the 1400  
Revised Code. 1401

(TT) "State highway patrol police officer" means a special 1402  
police officer employed full time and designated by the 1403  
superintendent of the state highway patrol pursuant to section 1404  
5503.09 of the Revised Code or a person serving full time as a 1405  
special police officer pursuant to that section on a permanent 1406  
basis on October 21, 1997, who is in compliance with section 1407  
109.77 of the Revised Code. 1408

(UU) "Municipal public safety director" means a person who 1409  
serves full time as the public safety director of a municipal 1410  
corporation with the duty of directing the activities of the 1411  
municipal corporation's police department and fire department. 1412

(VV) Notwithstanding section 2901.01 of the Revised Code, 1413  
"PERS law enforcement officer" means a sheriff or any of the 1414  
following whose primary duties are to preserve the peace, 1415  
protect life and property, and enforce the laws of this state: a 1416  
deputy sheriff, township constable or police officer in a 1417

township police department or district, drug agent, department 1418  
of public safety enforcement agent, natural resources law 1419  
enforcement staff officer, park officer, forest officer, 1420  
preserve officer, wildlife officer, state watercraft officer, 1421  
park district police officer, conservancy district officer, 1422  
veterans' home police officer, special police officer for a 1423  
mental health institution, special police officer for an 1424  
institution for ~~the developmentally disabled persons with~~ 1425  
developmental disabilities, state university law enforcement 1426  
officer, municipal police officer, house sergeant at arms, 1427  
assistant house sergeant at arms, regional transit authority 1428  
police officer, or state highway patrol police officer. "PERS 1429  
law enforcement officer" also includes a person serving as a 1430  
municipal public safety director at any time during the period 1431  
from September 29, 2005, to March 24, 2009, if the duties of 1432  
that service were to preserve the peace, protect life and 1433  
property, and enforce the laws of this state. 1434

(WW) "Hamilton county municipal court bailiff" means a 1435  
person appointed by the clerk of courts of the Hamilton county 1436  
municipal court under division (A) (3) of section 1901.32 of the 1437  
Revised Code who is employed full time as a bailiff or deputy 1438  
bailiff, who has received a certificate attesting to the 1439  
person's satisfactory completion of the peace officer basic 1440  
training described in division (D) (1) of section 109.77 of the 1441  
Revised Code. 1442

(XX) "PERS public safety officer" means a Hamilton county 1443  
municipal court bailiff, or any of the following whose primary 1444  
duties are other than to preserve the peace, protect life and 1445  
property, and enforce the laws of this state: a deputy sheriff, 1446  
township constable or police officer in a township police 1447  
department or district, drug agent, department of public safety 1448

enforcement agent, natural resources law enforcement staff 1449  
officer, park officer, forest officer, preserve officer, 1450  
wildlife officer, state watercraft officer, park district police 1451  
officer, conservancy district officer, veterans' home police 1452  
officer, special police officer for a mental health institution, 1453  
special police officer for an institution for ~~the~~ 1454  
~~developmentally disabled~~ persons with developmental disabilities, 1455  
state university law enforcement officer, municipal police 1456  
officer, house sergeant at arms, assistant house sergeant at 1457  
arms, regional transit authority police officer, or state 1458  
highway patrol police officer. "PERS public safety officer" also 1459  
includes a person serving as a municipal public safety director 1460  
at any time during the period from September 29, 2005, to March 1461  
24, 2009, if the duties of that service were other than to 1462  
preserve the peace, protect life and property, and enforce the 1463  
laws of this state. 1464

(YY) "Fiduciary" means a person who does any of the 1465  
following: 1466

(1) Exercises any discretionary authority or control with 1467  
respect to the management of the system or with respect to the 1468  
management or disposition of its assets; 1469

(2) Renders investment advice for a fee, direct or 1470  
indirect, with respect to money or property of the system; 1471

(3) Has any discretionary authority or responsibility in 1472  
the administration of the system. 1473

(ZZ) "Actuary" means an individual who satisfies all of 1474  
the following requirements: 1475

(1) Is a member of the American academy of actuaries; 1476

(2) Is an associate or fellow of the society of actuaries; 1477

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.	1478 1479
(AAA) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code.	1480 1481
(BBB) "PERS defined contribution plans" means the plan or plans established under section 145.81 of the Revised Code.	1482 1483
<b>Sec. 145.012.</b> (A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:	1484 1485 1486
(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;	1487 1488 1489 1490 1491
(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;	1492 1493 1494
(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;	1495 1496 1497
(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;	1498 1499 1500 1501
(5) Who is employed as an election worker and paid less than six hundred dollars per calendar year for that service;	1502 1503
(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training	1504 1505

course approved under former section 3303.07 or section 4765.55 1506  
of the Revised Code or conducted under section 3737.33 of the 1507  
Revised Code except for the following: 1508

(a) Any firefighter who has elected under section 145.013 1509  
of the Revised Code to remain a contributing member of the 1510  
public employees retirement system; 1511

(b) Any firefighter who was eligible to transfer from the 1512  
public employees retirement system to the Ohio police and fire 1513  
pension fund under section 742.51 or 742.515 of the Revised Code 1514  
and did not elect to transfer; 1515

(c) Any firefighter who has elected under section 742.516 1516  
of the Revised Code to transfer from the Ohio police and fire 1517  
pension fund to the public employees retirement system. 1518

(7) Who is a member of the board of health of a city or 1519  
general health district, which pursuant to sections 3709.051 and 1520  
3709.07 of the Revised Code includes a combined health district, 1521  
and whose compensation for attendance at meetings of the board 1522  
is set forth in division (B) of section 3709.02 or division (B) 1523  
of section 3709.05 of the Revised Code, as appropriate; 1524

(8) Who participates in an alternative retirement plan 1525  
established under Chapter 3305. of the Revised Code; 1526

(9) Who is a member of the board of directors of a 1527  
sanitary district established under Chapter 6115. of the Revised 1528  
Code; 1529

(10) Who is a member of the unemployment compensation 1530  
advisory council; 1531

(11) Who is an employee, officer, or governor-appointed 1532  
member of the board of directors of the nonprofit corporation 1533

formed under section 187.01 of the Revised Code; 1534

(12) Who is employed by the nonprofit entity established 1535  
to provide advocacy services and a client assistance program for 1536  
people with disabilities under Section 319.20 of Am. Sub. H.B. 1537  
153 of the 129th general assembly and whose employment begins on 1538  
or after October 1, 2012. 1539

(B) No inmate of a correctional institution operated by 1540  
the department of rehabilitation and correction, no patient in a 1541  
hospital for the mentally ill or criminally insane operated by 1542  
the department of mental health and addiction services, no 1543  
resident in an institution for ~~the mentally retarded persons~~ 1544  
with intellectual disabilities operated by the department of 1545  
developmental disabilities, no resident admitted as a patient of 1546  
a veterans' home operated under Chapter 5907. of the Revised 1547  
Code, and no resident of a county home shall be considered as a 1548  
public employee for the purpose of establishing membership or 1549  
calculating service credit or benefits under this chapter. 1550  
Nothing in this division shall be construed to affect any 1551  
service credit attained by any person who was a public employee 1552  
before becoming an inmate, patient, or resident at any 1553  
institution listed in this division, or the payment of any 1554  
benefit for which such a person or such a person's beneficiaries 1555  
otherwise would be eligible. 1556

**Sec. 145.298.** (A) As used in this section: 1557

(1) "State employing unit" means an employing unit 1558  
described in division (A) (2) of section 145.297 of the Revised 1559  
Code, except that it does not mean an employing unit with fifty 1560  
or fewer employees. 1561

(2) "State institution" means a state correctional 1562

facility, a state institution for the mentally ill, or a state 1563  
institution for the care, treatment, and training of ~~the~~ 1564  
~~mentally retarded~~ persons with intellectual disabilities. 1565

(B) (1) Prior to July 17, 2009, in the event of a proposal 1566  
to close a state institution or lay off, within a six-month 1567  
period, a number of persons employed at an institution that 1568  
equals or exceeds the lesser of fifty or ten per cent of the 1569  
persons employed at the institution, the employing unit 1570  
responsible for the institution's operation shall establish a 1571  
retirement incentive plan for persons employed at the 1572  
institution. 1573

(2) On and after July 17, 2009, in the event of a proposal 1574  
to close a state institution or lay off, within a six-month 1575  
period, a number of persons employed at an institution that 1576  
equals or exceeds the lesser of three hundred fifty or forty per 1577  
cent of the persons employed at the institution, the employing 1578  
unit responsible for the institution's operation shall establish 1579  
a retirement incentive plan for persons employed at the 1580  
institution. 1581

(C) (1) Prior to July 17, 2009, in the event of a proposal, 1582  
other than the proposals described in division (B) of this 1583  
section, to lay off, within a six-month period, a number of 1584  
employees of a state employing unit that equals or exceeds the 1585  
lesser of fifty or ten per cent of the employing unit's 1586  
employees, the employing unit shall establish a retirement 1587  
incentive plan for employees of the employing unit. 1588

(2) On and after July 17, 2009, in the event of a 1589  
proposal, other than the proposals described in division (B) of 1590  
this section, to lay off, within a six-month period, a number of 1591  
employees of a state employing unit that equals or exceeds the 1592

lesser of three hundred fifty or forty per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

(D) (1) A retirement incentive plan established under this section shall be consistent with the requirements of section 145.297 of the Revised Code, except that the plan shall go into effect at the time the layoffs or proposed closings are announced and shall remain in effect until the date of the layoffs or closings.

(2) If the employing unit already has a retirement incentive plan in effect, the plan shall remain in effect at least until the date of the layoffs or closings. The employing unit may revise the existing plan to provide greater benefits, but if it revises the plan, it shall give written notice of the changes to all employees who have elected to participate in the original plan, and it shall provide the greater benefits to all employees who participate in the plan, whether their elections to participate were made before or after the date of the revision.

**Sec. 145.332.** Eligibility of members of the public employees retirement system, other than those subject to section 145.32 of the Revised Code, for age and service retirement shall be determined under this section.

(A) A member of the public employees retirement system is eligible for age and service retirement under this division if, not later than five years after ~~the effective date of this section~~ January 7, 2013, the member meets one of the following requirements:

(1) Has attained age forty-eight and has at least twenty-

five years of total service credit as a PERS law enforcement officer; 1622  
1623

(2) Has attained age fifty-two and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit; 1624  
1625  
1626  
1627  
1628

(3) Has attained age sixty-two and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer. 1629  
1630  
1631

(B) (1) A member who would be eligible to retire not later than ten years after ~~the effective date of this amendment~~ January 7, 2013, if the requirements of section 145.33 of the Revised Code as they existed immediately prior to ~~the effective date of this amendment~~ January 7, 2013, were still in effect is eligible to retire under this division if the member meets one of the following requirements: 1632  
1633  
1634  
1635  
1636  
1637  
1638

(a) Has attained age fifty and has at least twenty-five years of total service credit as a PERS law enforcement officer; 1639  
1640

(b) Has attained age fifty-four and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit; 1641  
1642  
1643  
1644  
1645

(c) Has attained age sixty-four and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer. 1646  
1647  
1648

(2) A member who on ~~the effective date of this amendment~~ January 7, 2013, has twenty or more years of total service 1649  
1650

credit is eligible for age and service retirement under this 1651  
division on meeting one of the requirements of division (B) (1) 1652  
of this section, regardless of when the member meets the 1653  
requirement unless, ~~between the effective date of this section~~ 1654  
January 7, 2013, and the date the member meets the requirement, 1655  
the member receives a refund of accumulated contributions under 1656  
section 145.40 of the Revised Code. 1657

(C) A member who is not eligible for age and service 1658  
retirement under division (A) or (B) of this section is eligible 1659  
under this division if the member meets one of the following 1660  
requirements: 1661

(1) Has attained age fifty-two and has at least twenty- 1662  
five years of total service credit as a PERS law enforcement 1663  
officer; 1664

(2) Has attained age fifty-six and has at least twenty- 1665  
five years of total service credit as a PERS public safety 1666  
officer or has service as a PERS public safety officer and 1667  
service as a PERS law enforcement officer that when combined 1668  
equal at least twenty-five years of total service credit; 1669

(3) Has attained age sixty-four and has at least fifteen 1670  
years of total service credit as a PERS law enforcement officer 1671  
or PERS public safety officer. 1672

(D) Service credit purchased or obtained under this 1673  
chapter shall be used in determining whether a member has the 1674  
number of years of total service credit required under division 1675  
(A) or (B) of this section only if the member was a member on 1676  
~~the effective date of this section~~ January 7, 2013, or obtains 1677  
credit under section 145.483 of the Revised Code that would have 1678  
made the member a member on that date and one of the following 1679

applies: 1680

(1) Except in the case of service credit that has been or 1681  
will be purchased or obtained under section 145.295 or 145.37 of 1682  
the Revised Code or is for service covered by the Cincinnati 1683  
retirement system: 1684

(a) For division (A) of this section, the service credit 1685  
purchase is completed or the service credit is obtained not 1686  
later than five years after ~~the effective date of this section~~ 1687  
January 7, 2013; 1688

(b) For division (B) of this section, the service credit 1689  
purchase is completed or the service credit is obtained not 1690  
later than ten years after ~~the effective date of this section~~ 1691  
January 7, 2013. 1692

(2) In the case of service credit that has been or will be 1693  
purchased or obtained under section 145.295 or 145.37 of the 1694  
Revised Code or is for service covered by the Cincinnati 1695  
retirement system: 1696

(a) For division (A) of this section, the service for 1697  
which the credit has been or will be purchased or obtained 1698  
occurs not later than five years after ~~the effective date of~~ 1699  
~~this section~~ January 7, 2013; 1700

(b) For division (B) of this section, the service for 1701  
which the credit has been or will be purchased or obtained 1702  
occurs not later than ten years after ~~the effective date of this~~ 1703  
~~section~~ January 7, 2013. 1704

(E) (1) A member with at least twenty-five years of total 1705  
service credit who would be eligible to retire under division 1706  
(B) (1) (a) of this section had the member attained age fifty and 1707  
who voluntarily resigns or is discharged for any reason except 1708

death, dishonesty, cowardice, intemperate habits, or conviction 1709  
of a felony, on or after attaining age forty-eight, but before 1710  
attaining age fifty, may elect to receive a reduced benefit. The 1711  
benefit shall be the actuarial equivalent of the allowance 1712  
calculated under division (F) of this section adjusted for age. 1713

(2) A member with at least twenty-five years of total 1714  
service credit who would be eligible to retire under division 1715  
(C) (1) of this section had the member attained age fifty-two and 1716  
who voluntarily resigns or is discharged for any reason except 1717  
death, dishonesty, cowardice, intemperate habits, or conviction 1718  
of a felony, on or after attaining age forty-eight, but before 1719  
attaining age fifty-two, may elect to receive a reduced benefit. 1720  
The benefit shall be the actuarial equivalent of the allowance 1721  
calculated under division (F) of this section adjusted for age. 1722

(3) A member with at least twenty-five years of total 1723  
service credit who would be eligible to retire under division 1724  
(A) (2) of this section had the member attained age fifty-two and 1725  
who voluntarily resigns or is discharged for any reason except 1726  
death, dishonesty, cowardice, intemperate habits, or conviction 1727  
of a felony, on or after attaining age forty-eight, but before 1728  
attaining age fifty-two, may elect to receive a reduced benefit. 1729

(a) If eligibility to make the election under division (E) 1730  
(3) of this section occurs not later than five years after ~~the~~ 1731  
~~effective date of this section~~ January 7, 2013, the benefit 1732  
shall be calculated in accordance with the following schedule: 1733

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	1735
	division (F) of this section	1736
49	80% of the benefit payable under	1737

	division (F) of this section	1738
50	86% of the benefit payable under division (F) of this section	1739 1740
51	93% of the benefit payable under division (F) of this section	1741 1742
	(b) If eligibility to make the election occurs after the date determined under division (E) (3) (a) of this section, the benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.	1743 1744 1745 1746
	(4) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B) (1) (b) of this section had the member attained age fifty-four and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-four, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.	1747 1748 1749 1750 1751 1752 1753 1754 1755 1756
	(5) A member with at least twenty-five years of total service credit who would be eligible to retire under division (C) (2) of this section had the member attained age fifty-six and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age fifty-two, but before attaining age fifty-six, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.	1757 1758 1759 1760 1761 1762 1763 1764 1765
	(6) If a member elects to receive a reduced benefit under	1766

division (E) (1), (2), (3), (4), or (5) of this section, the 1767  
reduced benefit shall be based on the member's age on the 1768  
member's most recent birthday. Once a member elects to receive a 1769  
reduced benefit and has received a payment, the member may not 1770  
change that election. 1771

(F) A benefit paid under division (A), (B), or (C) of this 1772  
section shall consist of an annual single lifetime allowance 1773  
equal to the sum of two and one-half per cent of the member's 1774  
final average salary multiplied by the first twenty-five years 1775  
of the member's total service credit plus two and one-tenth per 1776  
cent of the member's final average salary multiplied by the 1777  
number of years of the member's total service credit in excess 1778  
of twenty-five years. 1779

(G) A member with at least fifteen years of total service 1780  
credit as a PERS law enforcement officer or PERS public safety 1781  
officer who voluntarily resigns or is discharged for any reason 1782  
except death, dishonesty, cowardice, intemperate habits, or 1783  
conviction of a felony may apply for an age and service 1784  
retirement benefit, which shall consist of an annual single 1785  
lifetime allowance equal to one and one-half per cent of the 1786  
member's final average salary multiplied by the number of years 1787  
of the member's total service credit. 1788

(1) If the member will attain age fifty-two not later than 1789  
ten years after ~~the effective date of this section~~ January 7, 1790  
2013, the retirement allowance shall commence on the first day 1791  
of the calendar month following the month in which application 1792  
is filed with the board on or after the member's attainment of 1793  
age fifty-two. 1794

(2) If the member will not attain age fifty-two on or 1795  
before the date determined under division (G) (1) of this 1796

section, the retirement allowance shall commence on the first 1797  
day of the calendar month following the month in which 1798  
application is filed with the board on or after the member's 1799  
attainment of age fifty-six. 1800

(H) A benefit paid under this section shall not exceed the 1801  
lesser of ninety per cent of the member's final average salary 1802  
or the limit established by section 415 of the "Internal Revenue 1803  
Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended. 1804

(I) A member with service credit as a PERS law enforcement 1805  
officer or PERS public safety officer and other service credit 1806  
under this chapter may elect one of the following: 1807

(1) To have all the member's service credit under this 1808  
chapter, including credit for service as a PERS law enforcement 1809  
officer or PERS public safety officer, used in calculating a 1810  
retirement allowance under section 145.33 of the Revised Code if 1811  
the member qualifies for an allowance under that section; 1812

(2) If the member qualifies for an allowance under 1813  
division (A) (1), (B) (1), (C) (1), or (E) (1) or (2) of this 1814  
section, to receive all of the following: 1815

(a) A benefit under division (A) (1), (B) (1), (C) (1), or 1816  
(E) (1) or (2) of this section for the member's service credit as 1817  
a PERS law enforcement officer; 1818

(b) A single life annuity having a reserve equal to the 1819  
amount of the member's accumulated contributions for all service 1820  
other than PERS law enforcement service; 1821

(c) A pension equal to the annuity provided under division 1822  
(I) (2) (b) of this section, excluding amounts of the member's 1823  
accumulated contributions deposited under former division (Y) of 1824  
section 145.01 or former sections 145.02, 145.29, 145.292, and 1825

145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 1826  
145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the 1827  
Revised Code for the purchase of service credit. 1828

(3) If the member qualifies for an allowance under 1829  
division (A) (2), (B) (2), (C) (2), or (E) (3), (4), or (5) of this 1830  
section, to receive all of the following: 1831

(a) A benefit under division (A) (2), (B) (2), (C) (2), or 1832  
(E) (3), (4), or (5) of this section for the member's service 1833  
credit as a PERS law enforcement officer or PERS public safety 1834  
officer; 1835

(b) A single life annuity having a reserve equal to the 1836  
amount of the member's accumulated contributions for all service 1837  
other than PERS law enforcement service or PERS public safety 1838  
officer service; 1839

(c) A pension equal to the annuity provided under division 1840  
(I) (3) (b) of this section, excluding amounts of the member's 1841  
accumulated contributions deposited under former division (Y) of 1842  
section 145.01 or former sections 145.02, 145.29, 145.292, and 1843  
145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 1844  
145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the 1845  
Revised Code for the purchase of service credit. 1846

(J) For the purposes of this section, "total service 1847  
credit" includes credit for military service to the extent 1848  
permitted by division (K) of this section and credit for service 1849  
as a police officer or state highway patrol trooper to the 1850  
extent permitted by division (L) of this section. 1851

(K) Notwithstanding sections 145.01 and 145.30 of the 1852  
Revised Code, not more than four years of military service 1853  
credit granted or purchased under section 145.30 of the Revised 1854

Code and five years of military service credit purchased under 1855  
section 145.301 or 145.302 of the Revised Code shall be used in 1856  
calculating service as a PERS law enforcement officer or PERS 1857  
public safety officer or the total service credit of that 1858  
person. 1859

(L) (1) Only credit for the member's service as a PERS law 1860  
enforcement officer, PERS public safety officer, or service 1861  
credit obtained as a police officer or state highway patrol 1862  
trooper shall be used in computing the benefit of a member who 1863  
qualifies for a benefit under this section for the following: 1864

(a) Any person who originally is commissioned and employed 1865  
as a deputy sheriff by the sheriff of any county, or who 1866  
originally is elected sheriff, on or after January 1, 1975; 1867

(b) Any deputy sheriff who originally is employed as a 1868  
criminal bailiff or court constable on or after April 16, 1993; 1869

(c) Any person who originally is appointed as a township 1870  
constable or police officer in a township police department or 1871  
district on or after January 1, 1981; 1872

(d) Any person who originally is employed as a county 1873  
narcotics agent on or after September 26, 1984; 1874

(e) Any person who originally is employed as an undercover 1875  
drug agent as defined in section 109.79 of the Revised Code, 1876  
department of public safety enforcement agent who prior to June 1877  
30, 1999, was a liquor control investigator, park officer, 1878  
forest officer, wildlife officer, state watercraft officer, park 1879  
district police officer, conservancy district officer, veterans' 1880  
home police officer, special police officer for a mental health 1881  
institution, special police officer for an institution for ~~the~~ 1882  
~~developmentally disabled~~ persons with developmental disabilities, 1883

or municipal police officer on or after December 15, 1988; 1884

(f) Any person who originally is employed as a state 1885  
university law enforcement officer on or after November 6, 1996; 1886

(g) Any person who is originally employed as a state 1887  
university law enforcement officer by the university of Akron on 1888  
or after September 16, 1998; 1889

(h) Any person who originally is employed as a preserve 1890  
officer on or after March 18, 1999; 1891

(i) Any person who originally is employed as a natural 1892  
resources law enforcement staff officer on or after March 18, 1893  
1999; 1894

(j) Any person who is originally employed as a department 1895  
of public safety enforcement agent on or after June 30, 1999; 1896

(k) Any person who is originally employed as a house 1897  
sergeant at arms or assistant house sergeant at arms on or after 1898  
September 5, 2001; 1899

(l) Any person who is originally appointed as a regional 1900  
transit authority police officer or state highway patrol police 1901  
officer on or after February 1, 2002; 1902

(m) Any person who is originally employed as a municipal 1903  
public safety director on or after September 29, 2005, but not 1904  
later than March 24, 2009. 1905

(2) Only credit for a member's service as a PERS public 1906  
safety officer or service credit obtained as a PERS law 1907  
enforcement officer, police officer, or state highway patrol 1908  
trooper shall be used in computing the benefit of a member who 1909  
qualifies for a benefit under division (B) (1) (b) or (c), (B) (2), 1910  
(C) (1) (b) or (c), or (C) (2) of this section for any person who 1911

originally is employed as a Hamilton county municipal court 1912  
bailiff on or after November 6, 1996. 1913

(M) For purposes of this section, service prior to June 1914  
30, 1999, as a food stamp trafficking agent under former section 1915  
5502.14 of the Revised Code shall be considered service as a law 1916  
enforcement officer. 1917

(N) Retirement allowances determined under this section 1918  
shall be paid as provided in section 145.46 of the Revised Code. 1919

(O) A member seeking to retire under this section shall 1920  
file an application with the public employees retirement board. 1921

Service retirement shall be effective as provided in 1922  
division (E) of section 145.32 of the Revised Code. 1923

(P) If fewer than one per cent of the retirement system's 1924  
members are contributing as public safety officers, the board, 1925  
pursuant to a rule it adopts, may treat service as a public 1926  
safety officer as service as a law enforcement officer. 1927

**Sec. 149.431.** (A) Except as provided in sections 9.833 and 1928  
2744.081 of the Revised Code, any governmental entity or agency 1929  
and any nonprofit corporation or association, except a 1930  
corporation organized pursuant to Chapter 1719. of the Revised 1931  
Code prior to January 1, 1980 or organized pursuant to Chapter 1932  
3941. of the Revised Code, that enters into a contract or other 1933  
agreement with the federal government, a unit of state 1934  
government, or a political subdivision or taxing unit of this 1935  
state for the provision of services shall keep accurate and 1936  
complete financial records of any moneys expended in relation to 1937  
the performance of the services pursuant to such contract or 1938  
agreement according to generally accepted accounting principles. 1939  
Such contract or agreement and such financial records shall be 1940

deemed to be public records as defined in division (A) (1) of 1941  
section 149.43 of the Revised Code and are subject to the 1942  
requirements of division (B) of that section, except that: 1943

(1) Any information directly or indirectly identifying a 1944  
present or former individual patient or client or such an 1945  
individual patient's or client's diagnosis, prognosis, or 1946  
medical treatment, treatment for a mental or emotional disorder, 1947  
treatment for ~~mental retardation or~~ a developmental disability, 1948  
treatment for drug abuse or alcoholism, or counseling for 1949  
personal or social problems is not a public record; 1950

(2) If disclosure of the contract or agreement or 1951  
financial records is requested at a time when confidential 1952  
professional services are being provided to a patient or client 1953  
whose confidentiality might be violated if disclosure were made 1954  
at that time, disclosure may be deferred if reasonable times are 1955  
established when the contract or agreement or financial records 1956  
will be disclosed. 1957

(3) Any nonprofit corporation or association that receives 1958  
both public and private funds in fulfillment of any such 1959  
contract or other agreement is not required to keep as public 1960  
records the financial records of any private funds expended in 1961  
relation to the performance of services pursuant to the contract 1962  
or agreement. 1963

(B) Any nonprofit corporation or association that receives 1964  
more than fifty per cent of its gross receipts excluding moneys 1965  
received pursuant to Title XVIII of the "Social Security Act," 1966  
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in a calendar 1967  
year in fulfillment of a contract or other agreement for 1968  
services with a governmental entity shall maintain information 1969  
setting forth the compensation of any individual serving the 1970

nonprofit corporation or association in an executive or 1971  
administrative capacity. Such information shall be deemed to be 1972  
public records as defined in division (A) (1) of section 149.43 1973  
of the Revised Code and is subject to the requirements of 1974  
division (B) of that section. 1975

Nothing in this section shall be construed to otherwise 1976  
limit the provisions of section 149.43 of the Revised Code. 1977

**Sec. 152.04.** The Ohio building authority may purchase, 1978  
construct, reconstruct, equip, furnish, improve, alter, enlarge, 1979  
maintain, repair, and operate buildings, facilities, and other 1980  
properties on one or more sites within the state for use and 1981  
occupancy by persons who meet all the following conditions: 1982

(A) Are eligible to receive old age, survivors', or 1983  
disability insurance payments under Title II of the "Social 1984  
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 401, or under any 1985  
laws which may hereafter amend or supersede such chapters or 1986  
title; 1987

(B) Have been, after September 27, 1963, discharged by the 1988  
head of a hospital pursuant to section 5122.21 of the Revised 1989  
Code or by the head of an institution pursuant to section 1990  
5123.79 of the Revised Code; 1991

(C) Are determined by the authority not to need the care 1992  
and treatment provided in a hospital or other institution; 1993

(D) Are determined by the authority to be unable, as a 1994  
result of mental illness, ~~mental retardation~~, or developmental 1995  
disability, to provide complete care for themselves or obtain 1996  
and hold employment sufficient to provide the costs of living. 1997

The authority may also provide living facilities for 1998  
administrative, professional, and other personnel and their 1999

families necessary to maintain or operate the facilities and to 2000  
carry out the purposes of the authority. 2001

**Sec. 173.25.** The office of the state long-term care 2002  
ombudsman program shall, in carrying out the provisions and 2003  
purposes of sections 173.14 to 173.26 of the Revised Code, 2004  
advise, consult, and cooperate with any agency, program, or 2005  
other entity related to the purposes of the office. Any agency, 2006  
program, or other entity related to the purposes of the office 2007  
shall advise, consult, and cooperate with the office. 2008

The office shall attempt to establish effective 2009  
coordination with government-sponsored programs that provide 2010  
legal services to the elderly and with protective and advocacy 2011  
programs for individuals with developmental disabilities, ~~mental~~ 2012  
~~retardation,~~ or mental illness. 2013

**Sec. 173.27.** (A) As used in this section: 2014

(1) "Applicant" means a person who is under final 2015  
consideration for employment by a responsible party in a full- 2016  
time, part-time, or temporary position that involves providing 2017  
ombudsman services to residents and recipients. "Applicant" 2018  
includes a person who is under final consideration for 2019  
employment as the state long-term care ombudsman or the head of 2020  
a regional long-term care ombudsman program. "Applicant" does 2021  
not include a person seeking to provide ombudsman services to 2022  
residents and recipients as a volunteer without receiving or 2023  
expecting to receive any form of remuneration other than 2024  
reimbursement for actual expenses. 2025

(2) "Criminal records check" has the same meaning as in 2026  
section 109.572 of the Revised Code. 2027

(3) "Disqualifying offense" means any of the offenses 2028

listed or described in divisions (A) (3) (a) to (e) of section 2029  
109.572 of the Revised Code. 2030

(4) "Employee" means a person employed by a responsible 2031  
party in a full-time, part-time, or temporary position that 2032  
involves providing ombudsman services to residents and 2033  
recipients. "Employee" includes the person employed as the state 2034  
long-term care ombudsman and a person employed as the head of a 2035  
regional long-term care ombudsman program. "Employee" does not 2036  
include a person who provides ombudsman services to residents 2037  
and recipients as a volunteer without receiving or expecting to 2038  
receive any form of remuneration other than reimbursement for 2039  
actual expenses. 2040

(5) "Responsible party" means the following: 2041

(a) In the case of an applicant who is under final 2042  
consideration for employment as the state long-term care 2043  
ombudsman or the person employed as the state long-term care 2044  
ombudsman, the director of aging; 2045

(b) In the case of any other applicant who is under final 2046  
consideration for employment with the state long-term care 2047  
ombudsman program or any other employee of the state long-term 2048  
care ombudsman program, the state long-term care ombudsman; 2049

(c) In the case of an applicant who is under final 2050  
consideration for employment with a regional long-term care 2051  
ombudsman program (including as the head of the regional 2052  
program) or an employee of a regional long-term care ombudsman 2053  
program (including the head of a regional program), the regional 2054  
long-term care ombudsman program. 2055

(B) A responsible party may not employ an applicant or 2056  
continue to employ an employee in a position that involves 2057

providing ombudsman services to residents and recipients if any 2058  
of the following apply: 2059

(1) A review of the databases listed in division (D) of 2060  
this section reveals any of the following: 2061

(a) That the applicant or employee is included in one or 2062  
more of the databases listed in divisions (D) (1) to (5) of this 2063  
section; 2064

(b) That there is in the state nurse aide registry 2065  
established under section 3721.32 of the Revised Code a 2066  
statement detailing findings by the director of health that the 2067  
applicant or employee neglected or abused a long-term care 2068  
facility or residential care facility resident or 2069  
misappropriated property of such a resident; 2070

(c) That the applicant or employee is included in one or 2071  
more of the databases, if any, specified in rules adopted under 2072  
this section and the rules prohibit the responsible party from 2073  
employing an applicant or continuing to employ an employee 2074  
included in such a database in a position that involves 2075  
providing ombudsman services to residents and recipients. 2076

(2) After the applicant or employee is provided, pursuant 2077  
to division (E) (2) (a) of this section, a copy of the form 2078  
prescribed pursuant to division (C) (1) of section 109.572 of the 2079  
Revised Code and the standard impression sheet prescribed 2080  
pursuant to division (C) (2) of that section, the applicant or 2081  
employee fails to complete the form or provide the applicant's 2082  
or employee's fingerprint impressions on the standard impression 2083  
sheet. 2084

(3) Unless the applicant or employee meets standards 2085  
specified in rules adopted under this section, the applicant or 2086

employee is found by a criminal records check required by this 2087  
section to have been convicted of, pleaded guilty to, or been 2088  
found eligible for intervention in lieu of conviction for a 2089  
disqualifying offense. 2090

(C) A responsible party or a responsible party's designee 2091  
shall inform each applicant of both of the following at the time 2092  
of the applicant's initial application for employment in a 2093  
position that involves providing ombudsman services to residents 2094  
and recipients: 2095

(1) That a review of the databases listed in division (D) 2096  
of this section will be conducted to determine whether the 2097  
responsible party is prohibited by division (B) (1) of this 2098  
section from employing the applicant in the position; 2099

(2) That, unless the database review reveals that the 2100  
applicant may not be employed in the position, a criminal 2101  
records check of the applicant will be conducted and the 2102  
applicant is required to provide a set of the applicant's 2103  
fingerprint impressions as part of the criminal records check. 2104

(D) As a condition of any applicant's being employed by a 2105  
responsible party in a position that involves providing 2106  
ombudsman services to residents and recipients, the responsible 2107  
party or designee shall conduct a database review of the 2108  
applicant in accordance with rules adopted under this section. 2109  
If rules adopted under this section so require, the responsible 2110  
party or designee shall conduct a database review of an employee 2111  
in accordance with the rules as a condition of the responsible 2112  
party continuing to employ the employee in a position that 2113  
involves providing ombudsman services to residents and 2114  
recipients. A database review shall determine whether the 2115  
applicant or employee is included in any of the following: 2116

- (1) The excluded parties list system that is maintained by 2117  
the United States general services administration pursuant to 2118  
subpart 9.4 of the federal acquisition regulation and available 2119  
at the federal web site known as the system for award 2120  
management; 2121
- (2) The list of excluded individuals and entities 2122  
maintained by the office of inspector general in the United 2123  
States department of health and human services pursuant to 2124  
section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 2125  
42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social 2126  
Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as 2127  
amended; 2128
- (3) The registry of ~~MR/DD~~ developmental disabilities 2129  
employees established under section 5123.52 of the Revised Code; 2130
- (4) The internet-based sex offender and child-victim 2131  
offender database established under division (A)(11) of section 2132  
2950.13 of the Revised Code; 2133
- (5) The internet-based database of inmates established 2134  
under section 5120.66 of the Revised Code; 2135
- (6) The state nurse aide registry established under 2136  
section 3721.32 of the Revised Code; 2137
- (7) Any other database, if any, specified in rules adopted 2138  
under this section. 2139
- (E)(1) As a condition of any applicant's being employed by 2140  
a responsible party in a position that involves providing 2141  
ombudsman services to residents and recipients, the responsible 2142  
party or designee shall request that the superintendent of the 2143  
bureau of criminal identification and investigation conduct a 2144  
criminal records check of the applicant. If rules adopted under 2145

this section so require, the responsible party or designee shall 2146  
request that the superintendent conduct a criminal records check 2147  
of an employee at times specified in the rules as a condition of 2148  
the responsible party continuing to employ the employee in a 2149  
position that involves providing ombudsman services to residents 2150  
and recipients. However, the responsible party or designee is 2151  
not required to request the criminal records check of the 2152  
applicant or employee if the responsible party is prohibited by 2153  
division (B) (1) of this section from employing the applicant or 2154  
continuing to employ the employee in a position that involves 2155  
providing ombudsman services to residents and recipients. If an 2156  
applicant or employee for whom a criminal records check request 2157  
is required by this section does not present proof of having 2158  
been a resident of this state for the five-year period 2159  
immediately prior to the date the criminal records check is 2160  
requested or provide evidence that within that five-year period 2161  
the superintendent has requested information about the applicant 2162  
or employee from the federal bureau of investigation in a 2163  
criminal records check, the responsible party or designee shall 2164  
request that the superintendent obtain information from the 2165  
federal bureau of investigation as part of the criminal records 2166  
check. Even if an applicant or employee for whom a criminal 2167  
records check request is required by this section presents proof 2168  
of having been a resident of this state for the five-year 2169  
period, the responsible party or designee may request that the 2170  
superintendent include information from the federal bureau of 2171  
investigation in the criminal records check. 2172

(2) A responsible party or designee shall do all of the 2173  
following: 2174

(a) Provide to each applicant and employee for whom a 2175  
criminal records check request is required by this section a 2176

copy of the form prescribed pursuant to division (C) (1) of 2177  
section 109.572 of the Revised Code and a standard impression 2178  
sheet prescribed pursuant to division (C) (2) of that section; 2179

(b) Obtain the completed form and standard impression 2180  
sheet from the applicant or employee; 2181

(c) Forward the completed form and standard impression 2182  
sheet to the superintendent. 2183

(3) A responsible party shall pay to the bureau of 2184  
criminal identification and investigation the fee prescribed 2185  
pursuant to division (C) (3) of section 109.572 of the Revised 2186  
Code for each criminal records check the responsible party or 2187  
the responsible party's designee requests under this section. 2188  
The responsible party may charge an applicant a fee not 2189  
exceeding the amount the responsible party pays to the bureau 2190  
under this section if the responsible party or designee notifies 2191  
the applicant at the time of initial application for employment 2192  
of the amount of the fee. 2193

(F) (1) A responsible party may employ conditionally an 2194  
applicant for whom a criminal records check is required by this 2195  
section prior to obtaining the results of the criminal records 2196  
check if both of the following apply: 2197

(a) The responsible party is not prohibited by division 2198  
(B) (1) of this section from employing the applicant in a 2199  
position that involves providing ombudsman services to residents 2200  
and recipients; 2201

(b) The responsible party or designee requests the 2202  
criminal records check in accordance with division (E) of this 2203  
section not later than five business days after the applicant 2204  
begins conditional employment. 2205

(2) A responsible party shall terminate the employment of 2206  
an applicant employed conditionally under division (F) (1) of 2207  
this section if the results of the criminal records check, other 2208  
than the results of any request for information from the federal 2209  
bureau of investigation, are not obtained within the period 2210  
ending sixty days after the date the request for the criminal 2211  
records check is made. Regardless of when the results of the 2212  
criminal records check are obtained, if the results indicate 2213  
that the applicant has been convicted of, pleaded guilty to, or 2214  
been found eligible for intervention in lieu of conviction for a 2215  
disqualifying offense, the responsible party shall terminate the 2216  
applicant's employment unless the applicant meets standards 2217  
specified in rules adopted under this section that permit the 2218  
responsible party to employ the applicant and the responsible 2219  
party chooses to employ the applicant. Termination of employment 2220  
under this division shall be considered just cause for discharge 2221  
for purposes of division (D) (2) of section 4141.29 of the 2222  
Revised Code if the applicant makes any attempt to deceive the 2223  
responsible party or designee about the applicant's criminal 2224  
record. 2225

(G) The report of any criminal records check conducted 2226  
pursuant to a request made under this section is not a public 2227  
record for the purposes of section 149.43 of the Revised Code 2228  
and shall not be made available to any person other than the 2229  
following: 2230

(1) The applicant or employee who is the subject of the 2231  
criminal records check or the applicant's or employee's 2232  
representative; 2233

(2) The responsible party or designee; 2234

(3) In the case of a criminal records check conducted for 2235

an applicant who is under final consideration for employment 2236  
with a regional long-term care ombudsman program (including as 2237  
the head of the regional program) or an employee of a regional 2238  
long-term care ombudsman program (including the head of a 2239  
regional program), the state long-term care ombudsman or a 2240  
representative of the office of the state long-term care 2241  
ombudsman program who is responsible for monitoring the regional 2242  
program's compliance with this section; 2243

(4) A court, hearing officer, or other necessary 2244  
individual involved in a case dealing with any of the following: 2245

(a) A denial of employment of the applicant or employee; 2246

(b) Employment or unemployment benefits of the applicant 2247  
or employee; 2248

(c) A civil or criminal action regarding the medicaid 2249  
program or a program the department of aging administers. 2250

(H) In a tort or other civil action for damages that is 2251  
brought as the result of an injury, death, or loss to person or 2252  
property caused by an applicant or employee who a responsible 2253  
party employs in a position that involves providing ombudsman 2254  
services to residents and recipients, all of the following shall 2255  
apply: 2256

(1) If the responsible party employed the applicant or 2257  
employee in good faith and reasonable reliance on the report of 2258  
a criminal records check requested under this section, the 2259  
responsible party shall not be found negligent solely because of 2260  
its reliance on the report, even if the information in the 2261  
report is determined later to have been incomplete or 2262  
inaccurate. 2263

(2) If the responsible party employed the applicant in 2264

good faith on a conditional basis pursuant to division (F) of 2265  
this section, the responsible party shall not be found negligent 2266  
solely because it employed the applicant prior to receiving the 2267  
report of a criminal records check requested under this section. 2268

(3) If the responsible party in good faith employed the 2269  
applicant or employee because the applicant or employee meets 2270  
standards specified in rules adopted under this section, the 2271  
responsible party shall not be found negligent solely because 2272  
the applicant or employee has been convicted of, pleaded guilty 2273  
to, or been found eligible for intervention in lieu of 2274  
conviction for a disqualifying offense. 2275

(I) The state long-term care ombudsman may not act as the 2276  
director of aging's designee for the purpose of this section. 2277  
The head of a regional long-term care ombudsman program may not 2278  
act as the regional program's designee for the purpose of this 2279  
section if the head is the employee for whom a database review 2280  
or criminal records check is being conducted. 2281

(J) The director of aging shall adopt rules in accordance 2282  
with Chapter 119. of the Revised Code to implement this section. 2283

(1) The rules may do the following: 2284

(a) Require employees to undergo database reviews and 2285  
criminal records checks under this section; 2286

(b) If the rules require employees to undergo database 2287  
reviews and criminal records checks under this section, exempt 2288  
one or more classes of employees from the requirements; 2289

(c) For the purpose of division (D) (7) of this section, 2290  
specify other databases that are to be checked as part of a 2291  
database review conducted under this section. 2292

(2) The rules shall specify all of the following:	2293
(a) The procedures for conducting database reviews under this section;	2294 2295
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;	2296 2297 2298 2299
(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;	2300 2301 2302 2303 2304
(d) Standards that an applicant or employee must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a position that involves providing ombudsman services to residents and recipients if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.	2305 2306 2307 2308 2309 2310 2311 2312
<b>Sec. 173.38.</b> (A) As used in this section:	2313
(1) "Applicant" means a person who is under final consideration for employment with a responsible party in a full-time, part-time, or temporary direct-care position or is referred to a responsible party by an employment service for such a position. "Applicant" does not include a person being considered for a direct-care position as a volunteer.	2314 2315 2316 2317 2318 2319
(2) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.	2320 2321

- (3) "Chief administrator of a responsible party" includes 2322  
a consumer when the consumer is a responsible party. 2323
- (4) "Community-based long-term care services" means 2324  
community-based long-term care services, as defined in section 2325  
173.14 of the Revised Code, that are provided under a program 2326  
the department of aging administers. 2327
- (5) "Consumer" means an individual who receives community- 2328  
based long-term care services. 2329
- (6) "Criminal records check" has the same meaning as in 2330  
section 109.572 of the Revised Code. 2331
- (7) (a) "Direct-care position" means an employment position 2332  
in which an employee has either or both of the following: 2333
- (i) In-person contact with one or more consumers; 2334
- (ii) Access to one or more consumers' personal property or 2335  
records. 2336
- (b) "Direct-care position" does not include a person whose 2337  
sole duties are transporting individuals under Chapter 306. of 2338  
the Revised Code. 2339
- (8) "Disqualifying offense" means any of the offenses 2340  
listed or described in divisions (A)(3)(a) to (e) of section 2341  
109.572 of the Revised Code. 2342
- (9) "Employee" means a person employed by a responsible 2343  
party in a full-time, part-time, or temporary direct-care 2344  
position and a person who works in such a position due to being 2345  
referred to a responsible party by an employment service. 2346  
"Employee" does not include a person who works in a direct-care 2347  
position as a volunteer. 2348

(10) "PASSPORT administrative agency" has the same meaning	2349
as in section 173.42 of the Revised Code.	2350
(11) "Provider" has the same meaning as in section 173.39	2351
of the Revised Code.	2352
(12) "Responsible party" means the following:	2353
(a) An area agency on aging in the case of either of the	2354
following:	2355
(i) A person who is an applicant because the person is	2356
under final consideration for employment with the agency in a	2357
full-time, part-time, or temporary direct-care position or is	2358
referred to the agency by an employment service for such a	2359
position;	2360
(ii) A person who is an employee because the person is	2361
employed by the agency in a full-time, part-time, or temporary	2362
direct-care position or works in such a position due to being	2363
referred to the agency by an employment service.	2364
(b) A PASSPORT administrative agency in the case of either	2365
of the following:	2366
(i) A person who is an applicant because the person is	2367
under final consideration for employment with the agency in a	2368
full-time, part-time, or temporary direct-care position or is	2369
referred to the agency by an employment service for such a	2370
position;	2371
(ii) A person who is an employee because the person is	2372
employed by the agency in a full-time, part-time, or temporary	2373
direct-care position or works in such a position due to being	2374
referred to the agency by an employment service.	2375
(c) A provider in the case of either of the following:	2376

(i) A person who is an applicant because the person is 2377  
under final consideration for employment with the provider in a 2378  
full-time, part-time, or temporary direct-care position or is 2379  
referred to the provider by an employment service for such a 2380  
position; 2381

(ii) A person who is an employee because the person is 2382  
employed by the provider in a full-time, part-time, or temporary 2383  
direct-care position or works in such a position due to being 2384  
referred to the provider by an employment service. 2385

(d) A subcontractor in the case of either of the 2386  
following: 2387

(i) A person who is an applicant because the person is 2388  
under final consideration for employment with the subcontractor 2389  
in a full-time, part-time, or temporary direct-care position or 2390  
is referred to the subcontractor by an employment service for 2391  
such a position; 2392

(ii) A person who is an employee because the person is 2393  
employed by the subcontractor in a full-time, part-time, or 2394  
temporary direct-care position or works in such a position due 2395  
to being referred to the subcontractor by an employment service. 2396

(e) A consumer in the case of either of the following: 2397

(i) A person who is an applicant because the person is 2398  
under final consideration for employment with the consumer in a 2399  
full-time, part-time, or temporary direct-care position for 2400  
which the consumer, as the employer of record, is to direct the 2401  
person in the provision of community-based long-term care 2402  
services the person is to provide the consumer or is referred to 2403  
the consumer by an employment service for such a position; 2404

(ii) A person who is an employee because the person is 2405

employed by the consumer in a full-time, part-time, or temporary 2406  
direct-care position for which the consumer, as the employer of 2407  
record, directs the person in the provision of community-based 2408  
long-term care services the person provides to the consumer or 2409  
who works in such a position due to being referred to the 2410  
consumer by an employment service. 2411

(13) "Subcontractor" has the meaning specified in rules 2412  
adopted under this section. 2413

(14) "Volunteer" means a person who serves in a direct- 2414  
care position without receiving or expecting to receive any form 2415  
of remuneration other than reimbursement for actual expenses. 2416

(15) "Waiver agency" has the same meaning as in section 2417  
5164.342 of the Revised Code. 2418

(B) This section does not apply to any individual who is 2419  
subject to a database review or criminal records check under 2420  
section 173.381 or 3701.881 of the Revised Code or to any 2421  
individual who is subject to a criminal records check under 2422  
section 3721.121 of the Revised Code. If a provider or 2423  
subcontractor also is a waiver agency, the provider or 2424  
subcontractor may provide for applicants and employees to 2425  
undergo database reviews and criminal records checks in 2426  
accordance with section 5164.342 of the Revised Code rather than 2427  
this section. 2428

(C) No responsible party shall employ an applicant or 2429  
continue to employ an employee in a direct-care position if any 2430  
of the following apply: 2431

(1) A review of the databases listed in division (E) of 2432  
this section reveals any of the following: 2433

(a) That the applicant or employee is included in one or 2434

more of the databases listed in divisions (E) (1) to (5) of this section; 2435  
2436

(b) That there is in the state nurse aide registry 2437  
established under section 3721.32 of the Revised Code a 2438  
statement detailing findings by the director of health that the 2439  
applicant or employee neglected or abused a long-term care 2440  
facility or residential care facility resident or 2441  
misappropriated property of such a resident; 2442

(c) That the applicant or employee is included in one or 2443  
more of the databases, if any, specified in rules adopted under 2444  
this section and the rules prohibit the responsible party from 2445  
employing an applicant or continuing to employ an employee 2446  
included in such a database in a direct-care position. 2447

(2) After the applicant or employee is provided, pursuant 2448  
to division (F) (2) (a) of this section, a copy of the form 2449  
prescribed pursuant to division (C) (1) of section 109.572 of the 2450  
Revised Code and the standard impression sheet prescribed 2451  
pursuant to division (C) (2) of that section, the applicant or 2452  
employee fails to complete the form or provide the applicant's 2453  
or employee's fingerprint impressions on the standard impression 2454  
sheet. 2455

(3) Unless the applicant or employee meets standards 2456  
specified in rules adopted under this section, the applicant or 2457  
employee is found by a criminal records check required by this 2458  
section to have been convicted of, pleaded guilty to, or been 2459  
found eligible for intervention in lieu of conviction for a 2460  
disqualifying offense. 2461

(D) Except as provided by division (G) of this section, 2462  
the chief administrator of a responsible party shall inform each 2463

applicant of both of the following at the time of the 2464  
applicant's initial application for employment or referral to 2465  
the responsible party by an employment service for a direct-care 2466  
position: 2467

(1) That a review of the databases listed in division (E) 2468  
of this section will be conducted to determine whether the 2469  
responsible party is prohibited by division (C) (1) of this 2470  
section from employing the applicant in the direct-care 2471  
position; 2472

(2) That, unless the database review reveals that the 2473  
applicant may not be employed in the direct-care position, a 2474  
criminal records check of the applicant will be conducted and 2475  
the applicant is required to provide a set of the applicant's 2476  
fingerprint impressions as part of the criminal records check. 2477

(E) As a condition of employing any applicant in a direct- 2478  
care position, the chief administrator of a responsible party 2479  
shall conduct a database review of the applicant in accordance 2480  
with rules adopted under this section. If rules adopted under 2481  
this section so require, the chief administrator of a 2482  
responsible party shall conduct a database review of an employee 2483  
in accordance with the rules as a condition of continuing to 2484  
employ the employee in a direct-care position. However, a chief 2485  
administrator is not required to conduct a database review of an 2486  
applicant or employee if division (G) of this section applies. A 2487  
database review shall determine whether the applicant or 2488  
employee is included in any of the following: 2489

(1) The excluded parties list system that is maintained by 2490  
the United States general services administration pursuant to 2491  
subpart 9.4 of the federal acquisition regulation and available 2492  
at the federal web site known as the system for award 2493

management;	2494
(2) The list of excluded individuals and entities	2495
maintained by the office of inspector general in the United	2496
States department of health and human services pursuant to the	2497
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7	2498
and 1320c-5;	2499
(3) The registry of <del>MR/DD</del> <u>developmental disabilities</u>	2500
employees established under section 5123.52 of the Revised Code;	2501
(4) The internet-based sex offender and child-victim	2502
offender database established under division (A) (11) of section	2503
2950.13 of the Revised Code;	2504
(5) The internet-based database of inmates established	2505
under section 5120.66 of the Revised Code;	2506
(6) The state nurse aide registry established under	2507
section 3721.32 of the Revised Code;	2508
(7) Any other database, if any, specified in rules adopted	2509
under this section.	2510
(F) (1) As a condition of employing any applicant in a	2511
direct-care position, the chief administrator of a responsible	2512
party shall request that the superintendent of the bureau of	2513
criminal identification and investigation conduct a criminal	2514
records check of the applicant. If rules adopted under this	2515
section so require, the chief administrator of a responsible	2516
party shall request that the superintendent conduct a criminal	2517
records check of an employee at times specified in the rules as	2518
a condition of continuing to employ the employee in a direct-	2519
care position. However, the chief administrator is not required	2520
to request the criminal records check of the applicant or	2521
employee if division (G) of this section applies or the	2522

responsible party is prohibited by division (C) (1) of this 2523  
section from employing the applicant or continuing to employ the 2524  
employee in a direct-care position. If an applicant or employee 2525  
for whom a criminal records check request is required by this 2526  
section does not present proof of having been a resident of this 2527  
state for the five-year period immediately prior to the date the 2528  
criminal records check is requested or provide evidence that 2529  
within that five-year period the superintendent has requested 2530  
information about the applicant or employee from the federal 2531  
bureau of investigation in a criminal records check, the chief 2532  
administrator shall request that the superintendent obtain 2533  
information from the federal bureau of investigation as part of 2534  
the criminal records check. Even if an applicant or employee for 2535  
whom a criminal records check request is required by this 2536  
section presents proof of having been a resident of this state 2537  
for the five-year period, the chief administrator may request 2538  
that the superintendent include information from the federal 2539  
bureau of investigation in the criminal records check. 2540

(2) The chief administrator shall do all of the following: 2541

(a) Provide to each applicant and employee for whom a 2542  
criminal records check request is required by this section a 2543  
copy of the form prescribed pursuant to division (C) (1) of 2544  
section 109.572 of the Revised Code and a standard impression 2545  
sheet prescribed pursuant to division (C) (2) of that section; 2546

(b) Obtain the completed form and standard impression 2547  
sheet from the applicant or employee; 2548

(c) Forward the completed form and standard impression 2549  
sheet to the superintendent. 2550

(3) A responsible party shall pay to the bureau of 2551

criminal identification and investigation the fee prescribed 2552  
pursuant to division (C) (3) of section 109.572 of the Revised 2553  
Code for each criminal records check the responsible party 2554  
requests under this section. A responsible party may charge an 2555  
applicant a fee not exceeding the amount the responsible party 2556  
pays to the bureau under this section if both of the following 2557  
apply: 2558

(a) The responsible party notifies the applicant at the 2559  
time of initial application for employment of the amount of the 2560  
fee and that, unless the fee is paid, the applicant will not be 2561  
considered for employment. 2562

(b) The medicaid program does not pay the responsible 2563  
party for the fee it pays to the bureau under this section. 2564

(G) Divisions (D) to (F) of this section do not apply with 2565  
regard to an applicant or employee if the applicant or employee 2566  
is referred to a responsible party by an employment service that 2567  
supplies full-time, part-time, or temporary staff for direct- 2568  
care positions and both of the following apply: 2569

(1) The chief administrator of the responsible party 2570  
receives from the employment service confirmation that a review 2571  
of the databases listed in division (E) of this section was 2572  
conducted of the applicant or employee. 2573

(2) The chief administrator of the responsible party 2574  
receives from the employment service, applicant, or employee a 2575  
report of the results of a criminal records check of the 2576  
applicant or employee that has been conducted by the 2577  
superintendent within the one-year period immediately preceding 2578  
the following: 2579

(a) In the case of an applicant, the date of the 2580

applicant's referral by the employment service to the 2581  
responsible party; 2582

(b) In the case of an employee, the date by which the 2583  
responsible party would otherwise have to request a criminal 2584  
records check of the employee under division (F) of this 2585  
section. 2586

(H) (1) A responsible party may employ conditionally an 2587  
applicant for whom a criminal records check request is required 2588  
by this section prior to obtaining the results of the criminal 2589  
records check if the responsible party is not prohibited by 2590  
division (C) (1) of this section from employing the applicant in 2591  
a direct-care position and either of the following applies: 2592

(a) The chief administrator of the responsible party 2593  
requests the criminal records check in accordance with division 2594  
(F) of this section not later than five business days after the 2595  
applicant begins conditional employment. 2596

(b) The applicant is referred to the responsible party by 2597  
an employment service, the employment service or the applicant 2598  
provides the chief administrator of the responsible party a 2599  
letter that is on the letterhead of the employment service, the 2600  
letter is dated and signed by a supervisor or another designated 2601  
official of the employment service, and the letter states all of 2602  
the following: 2603

(i) That the employment service has requested the 2604  
superintendent to conduct a criminal records check regarding the 2605  
applicant; 2606

(ii) That the requested criminal records check is to 2607  
include a determination of whether the applicant has been 2608  
convicted of, pleaded guilty to, or been found eligible for 2609

intervention in lieu of conviction for a disqualifying offense; 2610

(iii) That the employment service has not received the 2611  
results of the criminal records check as of the date set forth 2612  
on the letter; 2613

(iv) That the employment service promptly will send a copy 2614  
of the results of the criminal records check to the chief 2615  
administrator of the responsible party when the employment 2616  
service receives the results. 2617

(2) If a responsible party employs an applicant 2618  
conditionally pursuant to division (H) (1) (b) of this section, 2619  
the employment service, on its receipt of the results of the 2620  
criminal records check, promptly shall send a copy of the 2621  
results to the chief administrator of the responsible party. 2622

(3) A responsible party that employs an applicant 2623  
conditionally pursuant to division (H) (1) (a) or (b) of this 2624  
section shall terminate the applicant's employment if the 2625  
results of the criminal records check, other than the results of 2626  
any request for information from the federal bureau of 2627  
investigation, are not obtained within the period ending sixty 2628  
days after the date the request for the criminal records check 2629  
is made. Regardless of when the results of the criminal records 2630  
check are obtained, if the results indicate that the applicant 2631  
has been convicted of, pleaded guilty to, or been found eligible 2632  
for intervention in lieu of conviction for a disqualifying 2633  
offense, the responsible party shall terminate the applicant's 2634  
employment unless the applicant meets standards specified in 2635  
rules adopted under this section that permit the responsible 2636  
party to employ the applicant and the responsible party chooses 2637  
to employ the applicant. Termination of employment under this 2638  
division shall be considered just cause for discharge for 2639

purposes of division (D) (2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the responsible party about the applicant's criminal record.

(I) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The chief administrator of the responsible party requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides community-based long-term care services that is owned or operated by the same entity that owns or operates the responsible party that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of aging or a person authorized by the director to monitor a responsible party's compliance with this section;

(6) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if any of the following apply:

(a) In the case of a criminal records check requested by a

provider or subcontractor, the provider or subcontractor also is 2668  
a waiver agency; 2669

(b) In the case of a criminal records check requested by 2670  
an employment service, the employment service makes the request 2671  
for an applicant or employee the employment service refers to a 2672  
provider or subcontractor that also is a waiver agency; 2673

(c) The criminal records check is requested by a consumer 2674  
who is acting as a responsible party. 2675

(7) A court, hearing officer, or other necessary 2676  
individual involved in a case dealing with any of the following: 2677

(a) A denial of employment of the applicant or employee; 2678

(b) Employment or unemployment benefits of the applicant 2679  
or employee; 2680

(c) A civil or criminal action regarding the medicaid 2681  
program or a program the department of aging administers. 2682

(J) In a tort or other civil action for damages that is 2683  
brought as the result of an injury, death, or loss to person or 2684  
property caused by an applicant or employee who a responsible 2685  
party employs in a direct-care position, all of the following 2686  
shall apply: 2687

(1) If the responsible party employed the applicant or 2688  
employee in good faith and reasonable reliance on the report of 2689  
a criminal records check requested under this section, the 2690  
responsible party shall not be found negligent solely because of 2691  
its reliance on the report, even if the information in the 2692  
report is determined later to have been incomplete or 2693  
inaccurate. 2694

(2) If the responsible party employed the applicant in 2695

good faith on a conditional basis pursuant to division (H) of 2696  
this section, the responsible party shall not be found negligent 2697  
solely because it employed the applicant prior to receiving the 2698  
report of a criminal records check requested under this section. 2699

(3) If the responsible party in good faith employed the 2700  
applicant or employee because the applicant or employee meets 2701  
standards specified in rules adopted under this section, the 2702  
responsible party shall not be found negligent solely because 2703  
the applicant or employee has been convicted of, pleaded guilty 2704  
to, or been found eligible for intervention in lieu of 2705  
conviction for a disqualifying offense. 2706

(K) The director of aging shall adopt rules in accordance 2707  
with Chapter 119. of the Revised Code to implement this section. 2708

(1) The rules may do the following: 2709

(a) Require employees to undergo database reviews and 2710  
criminal records checks under this section; 2711

(b) If the rules require employees to undergo database 2712  
reviews and criminal records checks under this section, exempt 2713  
one or more classes of employees from the requirements; 2714

(c) For the purpose of division (E) (7) of this section, 2715  
specify other databases that are to be checked as part of a 2716  
database review conducted under this section. 2717

(2) The rules shall specify all of the following: 2718

(a) The meaning of the term "subcontractor"; 2719

(b) The procedures for conducting database reviews under 2720  
this section; 2721

(c) If the rules require employees to undergo database 2722

reviews and criminal records checks under this section, the 2723  
times at which the database reviews and criminal records checks 2724  
are to be conducted; 2725

(d) If the rules specify other databases to be checked as 2726  
part of the database reviews, the circumstances under which a 2727  
responsible party is prohibited from employing an applicant or 2728  
continuing to employ an employee who is found by a database 2729  
review to be included in one or more of those databases; 2730

(e) Standards that an applicant or employee must meet for 2731  
a responsible party to be permitted to employ the applicant or 2732  
continue to employ the employee in a direct-care position if the 2733  
applicant or employee is found by a criminal records check 2734  
required by this section to have been convicted of, pleaded 2735  
guilty to, or been found eligible for intervention in lieu of 2736  
conviction for a disqualifying offense. 2737

**Sec. 173.381.** (A) As used in this section: 2738

(1) "Community-based long-term care services" means 2739  
community-based long-term care services, as defined in section 2740  
173.14 of the Revised Code, that are provided under a program 2741  
the department of aging administers. 2742

(2) "Community-based long-term care services certificate" 2743  
means a certificate issued under section 173.391 of the Revised 2744  
Code. 2745

(3) "Community-based long-term care services contract or 2746  
grant" means a contract or grant awarded under section 173.392 2747  
of the Revised Code. 2748

(4) "Criminal records check" has the same meaning as in 2749  
section 109.572 of the Revised Code. 2750

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.	2751 2752 2753
(6) "Provider" has the same meaning as in section 173.39 of the Revised Code.	2754 2755
(7) "Self-employed provider" means a provider who works for the provider's self and has no employees.	2756 2757
(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code.	2758 2759 2760
(C) (1) The department of aging or its designee shall take the following actions when the circumstances specified in division (C) (2) of this section apply:	2761 2762 2763
(a) Refuse to issue a community-based long-term care services certificate to a self-employed provider;	2764 2765
(b) Revoke a self-employed provider's community-based long-term care services certificate;	2766 2767
(c) Refuse to award a community-based long-term care services contract or grant to a self-employed provider;	2768 2769
(d) Terminate a self-employed provider's community-based long-term care services contract or grant awarded on or after <del>the effective date of this section</del> <u>September 15, 2014</u> .	2770 2771 2772
(2) The following are the circumstances that require the department of aging or its designee to take action under division (C) (1) of this section:	2773 2774 2775
(a) A review of the databases listed in division (E) of this section reveals any of the following:	2776 2777

(i) That the self-employed provider is included in one or more of the databases listed in divisions (E) (1) to (5) of this section;	2778 2779 2780
(ii) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the self-employed provider neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;	2781 2782 2783 2784 2785 2786
(iii) That the self-employed provider is included in one or more of the databases, if any, specified in rules adopted under this section and the rules require the department or its designee to take action under division (C) (1) of this section if a self-employed provider is included in such a database.	2787 2788 2789 2790 2791
(b) After the self-employed provider is provided, pursuant to division (F) (2) (a) of this section, a copy of the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C) (2) of that section, the self-employed provider fails to complete the form or provide the self-employed provider's fingerprint impressions on the standard impression sheet.	2792 2793 2794 2795 2796 2797 2798 2799
(c) Unless the self-employed provider meets standards specified in rules adopted under this section, the self-employed provider is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.	2800 2801 2802 2803 2804 2805
(D) The department of aging or its designee shall inform	2806

each self-employed provider of both of the following at the time 2807  
of the self-employed provider's initial application for a 2808  
community-based long-term care services certificate or initial 2809  
bid for a community-based long-term care services contract or 2810  
grant: 2811

(1) That a review of the databases listed in division (E) 2812  
of this section will be conducted to determine whether the 2813  
department or its designee is required by division (C) of this 2814  
section to refuse to issue or award a community-based long-term 2815  
care services certificate or community-based long-term care 2816  
services contract or grant to the self-employed provider; 2817

(2) That, unless the database review reveals that the 2818  
department or its designee is required to refuse to issue or 2819  
award a community-based long-term care services certificate or 2820  
community-based long-term care services contract or grant to the 2821  
self-employed provider, a criminal records check of the self- 2822  
employed provider will be conducted and the self-employed 2823  
provider is required to provide a set of the self-employed 2824  
provider's fingerprint impressions as part of the criminal 2825  
records check. 2826

(E) As a condition of issuing or awarding a community- 2827  
based long-term care services certificate or community-based 2828  
long-term care services contract or grant to a self-employed 2829  
provider, the department of aging or its designee shall conduct 2830  
a database review of the self-employed provider in accordance 2831  
with rules adopted under this section. If rules adopted under 2832  
this section so require, the department or its designee shall 2833  
conduct a database review of a self-employed provider in 2834  
accordance with the rules as a condition of not revoking or 2835  
terminating the self-employed provider's community-based long- 2836

term care services certificate or community-based long-term care 2837  
services contract or grant. A database review shall determine 2838  
whether the self-employed provider is included in any of the 2839  
following: 2840

(1) The excluded parties list system that is maintained by 2841  
the United States general services administration pursuant to 2842  
subpart 9.4 of the federal acquisition regulation and available 2843  
at the federal web site known as the system for award 2844  
management; 2845

(2) The list of excluded individuals and entities 2846  
maintained by the office of inspector general in the United 2847  
States department of health and human services pursuant to the 2848  
"Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; 2849

(3) The registry of ~~MR/DD~~ developmental disabilities 2850  
employees established under section 5123.52 of the Revised Code; 2851

(4) The internet-based sex offender and child-victim 2852  
offender database established under division (A)(11) of section 2853  
2950.13 of the Revised Code; 2854

(5) The internet-based database of inmates established 2855  
under section 5120.66 of the Revised Code; 2856

(6) The state nurse aide registry established under 2857  
section 3721.32 of the Revised Code; 2858

(7) Any other database, if any, specified in rules adopted 2859  
under this section. 2860

(F)(1) As a condition of issuing or awarding a community- 2861  
based long-term care services certificate or community-based 2862  
long-term care services contract or grant to a self-employed 2863  
provider, the department of aging or its designee shall request 2864

that the superintendent of the bureau of criminal identification 2865  
and investigation conduct a criminal records check of the self- 2866  
employed provider. If rules adopted under this section so 2867  
require, the department or its designee shall request that the 2868  
superintendent conduct a criminal records check of a self- 2869  
employed provider at times specified in the rules as a condition 2870  
of not revoking or terminating the self-employed provider's 2871  
community-based long-term care services certificate or 2872  
community-based long-term care services contract or grant. 2873  
However, the department or its designee is not required to 2874  
request the criminal records check of the self-employed provider 2875  
if the department or its designee, because of circumstances 2876  
specified in division (C)(2)(a) of this section, is required to 2877  
refuse to issue or award a community-based long-term care 2878  
services certificate or community-based long-term care services 2879  
contract or grant to the self-employed provider or to revoke or 2880  
terminate the self-employed provider's certificate or contract 2881  
or grant. 2882

If a self-employed provider for whom a criminal records 2883  
check request is required by this section does not present proof 2884  
of having been a resident of this state for the five-year period 2885  
immediately prior to the date the criminal records check is 2886  
requested or provide evidence that within that five-year period 2887  
the superintendent has requested information about the self- 2888  
employed provider from the federal bureau of investigation in a 2889  
criminal records check, the department or its designee shall 2890  
request that the superintendent obtain information from the 2891  
federal bureau of investigation as part of the criminal records 2892  
check. Even if a self-employed provider for whom a criminal 2893  
records check request is required by this section presents proof 2894  
of having been a resident of this state for the five-year 2895

period, the department or its designee may request that the 2896  
superintendent include information from the federal bureau of 2897  
investigation in the criminal records check. 2898

(2) The department or its designee shall do all of the 2899  
following: 2900

(a) Provide to each self-employed provider for whom a 2901  
criminal records check request is required by this section a 2902  
copy of the form prescribed pursuant to division (C)(1) of 2903  
section 109.572 of the Revised Code and a standard impression 2904  
sheet prescribed pursuant to division (C)(2) of that section; 2905

(b) Obtain the completed form and standard impression 2906  
sheet from the self-employed provider; 2907

(c) Forward the completed form and standard impression 2908  
sheet to the superintendent. 2909

(3) The department or its designee shall pay to the bureau 2910  
of criminal identification and investigation the fee prescribed 2911  
pursuant to division (C)(3) of section 109.572 of the Revised 2912  
Code for each criminal records check of a self-employed provider 2913  
the department or its designee requests under this section. The 2914  
department or its designee may charge the self-employed provider 2915  
a fee that does not exceed the amount the department or its 2916  
designee pays to the bureau. 2917

(G) The report of any criminal records check of a self- 2918  
employed provider conducted pursuant to a request made under 2919  
this section is not a public record for the purposes of section 2920  
149.43 of the Revised Code and shall not be made available to 2921  
any person other than the following: 2922

(1) The self-employed provider or the self-employed 2923  
provider's representative; 2924

(2) The department of aging, the department's designee, or	2925
a representative of the department or its designee;	2926
(3) The medicaid director and the staff of the department	2927
of medicaid who are involved in the administration of the	2928
medicaid program if the self-employed provider is to provide, or	2929
provides, community-based long-term care services under a	2930
component of the medicaid program that the department of aging	2931
administers;	2932
(4) A court, hearing officer, or other necessary	2933
individual involved in a case dealing with any of the following:	2934
(a) A refusal to issue or award a community-based long-	2935
term services certificate or community-based long-term care	2936
services contract or grant to the self-employed provider;	2937
(b) A revocation or termination of the self-employed	2938
provider's community-based long-term care services certificate	2939
or community-based long-term care services contract or grant;	2940
(c) A civil or criminal action regarding a program the	2941
department of aging administers.	2942
(H) In a tort or other civil action for damages that is	2943
brought as the result of an injury, death, or loss to person or	2944
property caused by a self-employed provider, both of the	2945
following shall apply:	2946
(1) If the department of aging or its designee, in good	2947
faith and reasonable reliance on the report of a criminal	2948
records check requested under this section, issued or awarded a	2949
community-based long-term care services certificate or	2950
community-based long-term care services contract or grant to the	2951
self-employed provider or did not revoke or terminate the self-	2952
employed provider's certificate or contract or grant, the	2953

department and its designee shall not be found negligent solely 2954  
because of its reliance on the report, even if the information 2955  
in the report is determined later to have been incomplete or 2956  
inaccurate. 2957

(2) If the department or its designee in good faith issued 2958  
or awarded a community-based long-term care services certificate 2959  
or community-based long-term care services contract or grant to 2960  
the self-employed provider or did not revoke or terminate the 2961  
self-employed provider's certificate or contract or grant 2962  
because the self-employed provider meets standards specified in 2963  
rules adopted under this section, the department and its 2964  
designee shall not be found negligent solely because the self- 2965  
employed provider has been convicted of, pleaded guilty to, or 2966  
been found eligible for intervention in lieu of conviction for a 2967  
disqualifying offense. 2968

(I) The director of aging shall adopt rules in accordance 2969  
with Chapter 119. of the Revised Code to implement this section. 2970

(1) The rules may do the following: 2971

(a) Require self-employed providers who have been issued 2972  
or awarded community-based long-term care services certificates 2973  
or community-based long-term care services contracts or grants 2974  
to undergo database reviews and criminal records checks under 2975  
this section; 2976

(b) If the rules require self-employed providers who have 2977  
been issued or awarded community-based long-term care services 2978  
certificates or community-based long-term care services 2979  
contracts or grants to undergo database reviews and criminal 2980  
records checks under this section, exempt one or more classes of 2981  
such self-employed providers from the requirements; 2982

(c) For the purpose of division (E) (7) of this section, 2983  
specify other databases that are to be checked as part of a 2984  
database review conducted under this section. 2985

(2) The rules shall specify all of the following: 2986

(a) The procedures for conducting database reviews under 2987  
this section; 2988

(b) If the rules require self-employed providers who have 2989  
been issued or awarded community-based long-term care services 2990  
certificates or community-based long-term care services 2991  
contracts or grants to undergo database reviews and criminal 2992  
records checks under this section, the times at which the 2993  
database reviews and criminal records checks are to be 2994  
conducted; 2995

(c) If the rules specify other databases to be checked as 2996  
part of the database reviews, the circumstances under which the 2997  
department of aging or its designee is required to refuse to 2998  
issue or award a community-based long-term care services 2999  
certificate or community-based long-term care services contract 3000  
or grant to a self-employed provider or to revoke or terminate a 3001  
self-employed provider's certificate or contract or grant when 3002  
the self-employed provider is found by a database review to be 3003  
included in one or more of those databases; 3004

(d) Standards that a self-employed provider must meet for 3005  
the department or its designee to be permitted to issue or award 3006  
a community-based long-term care services certificate or 3007  
community-based long-term care services contract or grant to the 3008  
self-employed provider or not to revoke or terminate the self- 3009  
employed provider's certificate or contract or grant if the 3010  
self-employed provider is found by a criminal records check 3011

required by this section to have been convicted of, pleaded 3012  
guilty to, or been found eligible for intervention in lieu of 3013  
conviction for a disqualifying offense. 3014

**Sec. 305.07.** (A) Special sessions of the board of county 3015  
commissioners may be held as often as the commissioners deem it 3016  
necessary. At a regular or special session, the board may make 3017  
any necessary order or contract in relation to the building, 3018  
furnishing, repairing, or insuring of public buildings or 3019  
bridges; the employment of janitors; the improvements or 3020  
enclosure of public grounds; the maintenance or support of 3021  
~~mentally retarded or developmentally disabled persons~~ with 3022  
developmental disabilities or of the mentally ill; the 3023  
expenditure of any fund; or the board may provide for the 3024  
reconstruction or repair of any bridge destroyed by fire, flood, 3025  
or otherwise. The board shall comply with division (F) of 3026  
section 121.22 of the Revised Code. The board may do any other 3027  
official act not, by law, restricted to a particular regular 3028  
session. 3029

(B) The board of county commissioners may provide by 3030  
resolution for the holding of special sessions of the board at a 3031  
location in the county other than the usual office of the board 3032  
at the county seat. The adoption of the resolution and the 3033  
location where the sessions will be held shall be entered on the 3034  
journal of the board. The board shall give reasonable public 3035  
notice of its action taken pursuant to this division, in 3036  
accordance with division (F) of section 121.22 of the Revised 3037  
Code. 3038

**Sec. 307.02.** The board of county commissioners of any 3039  
county, in addition to its other powers, may purchase, for cash 3040  
or by installment payments, enter into lease-purchase 3041

agreements, lease with option to purchase, lease, appropriate, 3042  
construct, enlarge, improve, rebuild, equip, and furnish a 3043  
courthouse, county offices, jail, county home, juvenile court 3044  
building, detention facility, public market houses, retail store 3045  
rooms and offices, if located in a building acquired to house 3046  
county offices, for which store rooms or offices the board of 3047  
county commissioners may establish and collect rents or enter 3048  
into leases as provided in section 307.09 of the Revised Code, 3049  
county children's home, community mental health facility, 3050  
community ~~mental retardation or developmental disability~~ 3051  
disabilities facility, facilities for senior citizens, alcohol 3052  
treatment and control center, other necessary buildings, public 3053  
stadiums, public auditorium, exhibition hall, zoological park, 3054  
public library buildings, golf courses, and off-street parking 3055  
facilities determined by the board of county commissioners to be 3056  
so situated as to be useful for any of such purposes or any 3057  
combination of such purposes, for the use of which parking 3058  
facilities the board of county commissioners may establish and 3059  
collect rates, charges, or rents, and sites therefor, such real 3060  
estate adjoining an existing site as is necessary for any of 3061  
such purposes, including real estate necessary to afford light, 3062  
air, protection from fire, suitable surroundings, ingress, and 3063  
egress; such copies of any public records of such county, made 3064  
or reproduced by miniature photography or microfilm, as are 3065  
necessary for the protection and preservation of public records 3066  
of such county. 3067

The board of county commissioners of any county may lease 3068  
for a period not to exceed forty years, pursuant to a contract 3069  
providing for the construction thereof under a lease-purchase 3070  
plan, those buildings, structures, and other improvements 3071  
enumerated in the first paragraph of this section, and in 3072

conjunction therewith, may grant leases, easements, or licenses 3073  
for lands under the control of the county for a period not to 3074  
exceed forty years. Such lease-purchase plan shall provide that 3075  
at the end of the lease period such buildings, structures, and 3076  
related improvements, together with the land on which they are 3077  
situated, shall become the property of the county without cost. 3078

Whenever any building, structure or other improvement is 3079  
to be so leased by a county, the board of county commissioners 3080  
shall file in the office of the board, if the board has a full- 3081  
time clerk, or in the office of the county auditor such basic 3082  
plans, specifications, bills of materials, and estimates of cost 3083  
with sufficient detail to afford bidders all needed information, 3084  
or alternatively, shall file the following plans, details, bills 3085  
of materials, and specifications: 3086

(A) Full and accurate plans, suitable for the use of 3087  
mechanics and other builders in such construction, improvement, 3088  
addition, alteration, or installation; 3089

(B) Details to scale and full sized, so drawn and 3090  
represented as to be easily understood; 3091

(C) Accurate bills showing the exact quantity of different 3092  
kinds of material necessary to the construction; 3093

(D) Definite and complete specifications of the work to be 3094  
performed, together with such directions as will enable a 3095  
competent mechanic or other builder to carry them out and afford 3096  
bidders all needed information; 3097

(E) A full and accurate estimate of each item of expense 3098  
and of the aggregate cost thereof. 3099

The board of county commissioners shall invite bids in the 3100  
manner prescribed in sections 307.86 to 307.92 of the Revised 3101

Code. Such bids shall contain the terms upon which the builder 3102  
would propose to lease the building, structure, or other 3103  
improvement to the county. The form of the bid approved by the 3104  
board of county commissioners shall be used and a bid shall be 3105  
invalid and not considered unless such form is used without 3106  
change, alteration, or addition. 3107

Before submitting bids pursuant to this section, any 3108  
builder shall have complied with sections 153.50 to 153.52 of 3109  
the Revised Code. 3110

On the day and at the place named for receiving bids for 3111  
entering into lease agreements with the county, the board of 3112  
county commissioners shall open the bids, and shall publicly 3113  
proceed immediately to tabulate the bids. No such lease 3114  
agreement shall be entered into until the bureau of workers' 3115  
compensation has certified that the corporation, partnership, or 3116  
person to be awarded the lease agreement has complied with 3117  
Chapter 4123. of the Revised Code, and until, if the builder 3118  
submitting the lowest and best bid is a foreign corporation, the 3119  
secretary of state has certified that such corporation is 3120  
authorized to do business in this state, and until, if the 3121  
builder submitting the lowest and best bid is a person or 3122  
partnership nonresident of this state, such person or 3123  
partnership has filed with the secretary of state a power of 3124  
attorney designating the secretary of state as its agent for the 3125  
purpose of accepting service of summons in any action brought 3126  
under Chapter 4123. of the Revised Code, and until the agreement 3127  
is submitted to the county prosecutor and the county 3128  
prosecutor's approval certified thereon. Within thirty days 3129  
after the day on which the bids are received, the board of 3130  
county commissioners shall investigate the bids received and 3131  
shall determine that the bureau and the secretary of state have 3132

made the certifications required by this section of the builder 3133  
who has submitted the lowest and best bid. Within ten days of 3134  
the completion of the investigation of the bids the board of 3135  
county commissioners may award the lease agreement to the 3136  
builder who has submitted the lowest and best bid and who has 3137  
been certified by the bureau and secretary of state as required 3138  
by this section. If bidding for the lease agreement has been 3139  
conducted upon the basis of basic plans, specifications, bills 3140  
of materials, and estimates of costs, upon the award to the 3141  
builder, the board of county commissioners, or the builder with 3142  
the approval of the board of county commissioners, shall appoint 3143  
an architect or engineer licensed in Ohio to prepare such 3144  
further detailed plans, specifications, and bills of materials 3145  
as are required to construct the buildings, structures, and 3146  
other improvements enumerated in the first paragraph of this 3147  
section. The board of county commissioners may reject any bid. 3148  
Where there is reason to believe there is collusion or 3149  
combination among the bidders, the bids of those concerned 3150  
therein shall be rejected. 3151

**Sec. 313.12.** (A) When any person dies as a result of 3152  
criminal or other violent means, by casualty, by suicide, or in 3153  
any suspicious or unusual manner, when any person, including a 3154  
child under two years of age, dies suddenly when in apparent 3155  
good health, or when any ~~mentally retarded person or~~ 3156  
~~developmentally disabled person~~ with a developmental disability 3157  
dies regardless of the circumstances, the physician called in 3158  
attendance, or any member of an ambulance service, emergency 3159  
squad, or law enforcement agency who obtains knowledge thereof 3160  
arising from the person's duties, shall immediately notify the 3161  
office of the coroner of the known facts concerning the time, 3162  
place, manner, and circumstances of the death, and any other 3163

information that is required pursuant to sections 313.01 to 3164  
313.22 of the Revised Code. In such cases, if a request is made 3165  
for cremation, the funeral director called in attendance shall 3166  
immediately notify the coroner. 3167

(B) As used in this section, ~~"mentally retarded person"~~ 3168  
~~and "developmentally disabled person"~~ developmental disability 3169  
~~have~~ has the same ~~meanings~~ meaning as in section 5123.01 of the 3170  
Revised Code. 3171

**Sec. 325.07.** In addition to the compensation and salary 3172  
provided by section 325.06 of the Revised Code, the board of 3173  
county commissioners shall make allowances monthly to each 3174  
sheriff for ~~his~~ the actual and necessary expenses incurred and 3175  
expended by the sheriff in pursuing within or without the state 3176  
or transporting persons accused or convicted of crimes and 3177  
offenses, for any expenses incurred in conveying and 3178  
transferring persons to or from any state hospital for the 3179  
mentally ill, any institution for ~~the mentally retarded~~ persons 3180  
with developmental disabilities that are intellectual 3181  
disabilities, any institution operated by the youth commission, 3182  
children's homes, county homes, and all similar institutions, 3183  
and for all expenses of maintaining transportation facilities 3184  
necessary to the proper administration of the duties of ~~his~~ the 3185  
sheriff's office. 3186

The board shall allow the sheriff ~~his~~ the actual 3187  
transportation expense and telephone tolls expended by the 3188  
sheriff in serving civil processes and subpoenaing witnesses in 3189  
civil and criminal cases and before the grand jury, and it may 3190  
allow any other necessary transportation expense for the proper 3191  
administration of the duties of ~~his~~ the sheriff's office. Each 3192  
sheriff shall file under oath a monthly report containing a 3193

full, accurate, and itemized account of all ~~his~~ the sheriff's 3194  
actual and necessary expenses, including telephone tolls and any 3195  
other transportation expense mentioned in this section, before 3196  
the expense is allowed by the board. The statement shall show 3197  
the number of the case, the court in which the service was 3198  
rendered, and the point from which a transportation vehicle was 3199  
used. 3200

For the purpose of making available to the sheriff funds 3201  
necessary in the performance of the duties required ~~of him~~ under 3202  
this section, the board may authorize, as an advancement to the 3203  
sheriff, a sum not exceeding fifty per cent of ~~his~~ the sheriff's 3204  
annual salary, from appropriations made to ~~him~~ the sheriff by 3205  
the board for pursuing prisoners within or without the state or 3206  
for transporting the prisoners to correctional institutions, or 3207  
both, and for transporting persons to the institutions 3208  
enumerated in this section, from which sum of money so advanced 3209  
the necessary expenses for the transportation or pursuance may 3210  
be paid by the sheriff. The county auditor shall draw ~~his~~ a 3211  
warrant upon the county treasurer, in favor of the sheriff, as 3212  
authorized by the board. 3213

After the itemized monthly report provided for in this 3214  
section has been filed by the sheriff and approved and allowed 3215  
by the board, the board shall restore to the fund the amount 3216  
expended and disbursed by the sheriff, as approved and allowed 3217  
by the board. 3218

Any unexpended balance of such fund remaining in the hands 3219  
of the sheriff, at the end of each succeeding fiscal year, shall 3220  
be returned and paid into the county treasury by the sheriff. 3221

**Sec. 711.23.** As used in this section, "incompetent person" 3222  
means a person who is so mentally impaired, as a result of a 3223

mental or physical illness or disability, ~~or mental retardation~~ 3224  
as a result of intellectual disability, or as a result of 3225  
chronic substance abuse, that the person is incapable of taking 3226  
proper care of the person's self or property or fails to provide 3227  
for the person's family or other persons for whom the person is 3228  
charged by law to provide. 3229

If the court of common pleas is of the opinion that any 3230  
person owning a lot in a plat, addition, or part thereof 3231  
proposed to be vacated or altered, and not assenting to such 3232  
vacation or alteration, will sustain damage thereby, it may 3233  
proceed to hear proof in reference thereto, and may render 3234  
judgment against the petitioners for such damages as it thinks 3235  
proper and just, to be assessed ratably against the petitioners 3236  
by the court, according to the value of the property owned by 3237  
the petitioners as it stands taxed on the tax list of the 3238  
county. When necessary, the court shall appoint a guardian ad 3239  
litem for all minors or incompetent persons interested in the 3240  
premises. The judgment of the court vacating such plat, 3241  
addition, or parts thereof, shall be conditioned upon the 3242  
payment of the damages thus assessed. 3243

**Sec. 1751.01.** As used in this chapter: 3244

(A) (1) "Basic health care services" means the following 3245  
services when medically necessary: 3246

(a) Physician's services, except when such services are 3247  
supplemental under division (B) of this section; 3248

(b) Inpatient hospital services; 3249

(c) Outpatient medical services; 3250

(d) Emergency health services; 3251

(e) Urgent care services;	3252
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	3253 3254
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	3255 3256 3257
(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;	3258 3259 3260 3261
(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.	3262 3263 3264
"Basic health care services" does not include experimental procedures.	3265 3266
Except as provided by divisions (A) (2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any	3267 3268 3269 3270 3271 3272 3273 3274 3275 3276 3277 3278 3279 3280

contract covering officers or employees of the state that has 3281  
been entered into by the department of administrative services. 3282

(2) A health insuring corporation may offer coverage for 3283  
diagnostic and treatment services for biologically based mental 3284  
illnesses without offering coverage for all other basic health 3285  
care services. A health insuring corporation may offer coverage 3286  
for diagnostic and treatment services for biologically based 3287  
mental illnesses alone or in combination with one or more 3288  
supplemental health care services. However, a health insuring 3289  
corporation that offers coverage for any other basic health care 3290  
service shall offer coverage for diagnostic and treatment 3291  
services for biologically based mental illnesses in combination 3292  
with the offer of coverage for all other listed basic health 3293  
care services. 3294

(3) A health insuring corporation that offers coverage for 3295  
basic health care services is not required to offer coverage for 3296  
diagnostic and treatment services for biologically based mental 3297  
illnesses in combination with the offer of coverage for all 3298  
other listed basic health care services if all of the following 3299  
apply: 3300

(a) The health insuring corporation submits documentation 3301  
certified by an independent member of the American academy of 3302  
actuaries to the superintendent of insurance showing that 3303  
incurred claims for diagnostic and treatment services for 3304  
biologically based mental illnesses for a period of at least six 3305  
months independently caused the health insuring corporation's 3306  
costs for claims and administrative expenses for the coverage of 3307  
basic health care services to increase by more than one per cent 3308  
per year. 3309

(b) The health insuring corporation submits a signed 3310

letter from an independent member of the American academy of 3311  
actuaries to the superintendent of insurance opining that the 3312  
increase in costs described in division (A) (3) (a) of this 3313  
section could reasonably justify an increase of more than one 3314  
per cent in the annual premiums or rates charged by the health 3315  
insuring corporation for the coverage of basic health care 3316  
services. 3317

(c) The superintendent of insurance makes the following 3318  
determinations from the documentation and opinion submitted 3319  
pursuant to divisions (A) (3) (a) and (b) of this section: 3320

(i) Incurred claims for diagnostic and treatment services 3321  
for biologically based mental illnesses for a period of at least 3322  
six months independently caused the health insuring 3323  
corporation's costs for claims and administrative expenses for 3324  
the coverage of basic health care services to increase by more 3325  
than one per cent per year. 3326

(ii) The increase in costs reasonably justifies an 3327  
increase of more than one per cent in the annual premiums or 3328  
rates charged by the health insuring corporation for the 3329  
coverage of basic health care services. 3330

Any determination made by the superintendent under this 3331  
division is subject to Chapter 119. of the Revised Code. 3332

(B) (1) "Supplemental health care services" means any 3333  
health care services other than basic health care services that 3334  
a health insuring corporation may offer, alone or in combination 3335  
with either basic health care services or other supplemental 3336  
health care services, and includes: 3337

(a) Services of facilities for intermediate or long-term 3338  
care, or both; 3339

(b) Dental care services;	3340
(c) Vision care and optometric services including lenses and frames;	3341 3342
(d) Podiatric care or foot care services;	3343
(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;	3344 3345
(f) Short-term outpatient evaluative and crisis- intervention mental health services;	3346 3347
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	3348 3349
(h) Home health services;	3350
(i) Prescription drug services;	3351
(j) Nursing services;	3352
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	3353 3354
(l) Physical therapy services;	3355
(m) Chiropractic services;	3356
(n) Any other category of services approved by the superintendent of insurance.	3357 3358
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	3359 3360 3361 3362 3363
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this	3364 3365

section, when provided by a health insuring corporation on an 3366  
outpatient-only basis and not in combination with other 3367  
supplemental health care services. 3368

(D) "Biologically based mental illnesses" means 3369  
schizophrenia, schizoaffective disorder, major depressive 3370  
disorder, bipolar disorder, paranoia and other psychotic 3371  
disorders, obsessive-compulsive disorder, and panic disorder, as 3372  
these terms are defined in the most recent edition of the 3373  
diagnostic and statistical manual of mental disorders published 3374  
by the American psychiatric association. 3375

(E) "Closed panel plan" means a health care plan that 3376  
requires enrollees to use participating providers. 3377

(F) "Compensation" means remuneration for the provision of 3378  
health care services, determined on other than a fee-for-service 3379  
or discounted-fee-for-service basis. 3380

(G) "Contractual periodic prepayment" means the formula 3381  
for determining the premium rate for all subscribers of a health 3382  
insuring corporation. 3383

(H) "Corporation" means a corporation formed under Chapter 3384  
1701. or 1702. of the Revised Code or the similar laws of 3385  
another state. 3386

(I) "Emergency health services" means those health care 3387  
services that must be available on a seven-days-per-week, 3388  
twenty-four-hours-per-day basis in order to prevent jeopardy to 3389  
an enrollee's health status that would occur if such services 3390  
were not received as soon as possible, and includes, where 3391  
appropriate, provisions for transportation and indemnity 3392  
payments or service agreements for out-of-area coverage. 3393

(J) "Enrollee" means any natural person who is entitled to 3394

receive health care benefits provided by a health insuring corporation. 3395  
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(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan. 3397  
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(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, ~~mental retardation~~ intellectual disability, intermediate care, or skilled nursing services. 3401  
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(M) "Health care services" means basic, supplemental, and specialty health care services. 3406  
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(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis. 3408  
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(O) "Health insuring corporation" means a corporation, as defined in division (H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan. 3412  
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"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. of the 3422  
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Revised Code, an insurer licensed under Title XXXIX of the 3424  
Revised Code if that insurer offers only open panel plans under 3425  
which all providers and health care facilities participating 3426  
receive their compensation directly from the insurer, a 3427  
corporation formed by or on behalf of a political subdivision or 3428  
a department, office, or institution of the state, or a public 3429  
entity formed by or on behalf of a board of county 3430  
commissioners, a county board of developmental disabilities, an 3431  
alcohol and drug addiction services board, a board of alcohol, 3432  
drug addiction, and mental health services, or a community 3433  
mental health board, as those terms are used in Chapters 340. 3434  
and 5126. of the Revised Code. Except as provided by division 3435  
(D) of section 1751.02 of the Revised Code, or as otherwise 3436  
provided by law, no board, commission, agency, or other entity 3437  
under the control of a political subdivision may accept 3438  
insurance risk in providing for health care services. However, 3439  
nothing in this division shall be construed as prohibiting such 3440  
entities from purchasing the services of a health insuring 3441  
corporation or a third-party administrator licensed under 3442  
Chapter 3959. of the Revised Code. 3443

(P) "Intermediary organization" means a health delivery 3444  
network or other entity that contracts with licensed health 3445  
insuring corporations or self-insured employers, or both, to 3446  
provide health care services, and that enters into contractual 3447  
arrangements with other entities for the provision of health 3448  
care services for the purpose of fulfilling the terms of its 3449  
contracts with the health insuring corporations and self-insured 3450  
employers. 3451

(Q) "Intermediate care" means residential care above the 3452  
level of room and board for patients who require personal 3453  
assistance and health-related services, but who do not require 3454

skilled nursing care. 3455

(R) "Medical record" means the personal information that 3456  
relates to an individual's physical or mental condition, medical 3457  
history, or medical treatment. 3458

(S) (1) "Open panel plan" means a health care plan that 3459  
provides incentives for enrollees to use participating providers 3460  
and that also allows enrollees to use providers that are not 3461  
participating providers. 3462

(2) No health insuring corporation may offer an open panel 3463  
plan, unless the health insuring corporation is also licensed as 3464  
an insurer under Title XXXIX of the Revised Code, the health 3465  
insuring corporation, on June 4, 1997, holds a certificate of 3466  
authority or license to operate under Chapter 1736. or 1740. of 3467  
the Revised Code, or an insurer licensed under Title XXXIX of 3468  
the Revised Code is responsible for the out-of-network risk as 3469  
evidenced by both an evidence of coverage filing under section 3470  
1751.11 of the Revised Code and a policy and certificate filing 3471  
under section 3923.02 of the Revised Code. 3472

(T) "Osteopathic hospital" means a hospital registered 3473  
under section 3701.07 of the Revised Code that advocates 3474  
osteopathic principles and the practice and perpetuation of 3475  
osteopathic medicine by doing any of the following: 3476

(1) Maintaining a department or service of osteopathic 3477  
medicine or a committee on the utilization of osteopathic 3478  
principles and methods, under the supervision of an osteopathic 3479  
physician; 3480

(2) Maintaining an active medical staff, the majority of 3481  
which is comprised of osteopathic physicians; 3482

(3) Maintaining a medical staff executive committee that 3483

has osteopathic physicians as a majority of its members. 3484

(U) "Panel" means a group of providers or health care 3485  
facilities that have joined together to deliver health care 3486  
services through a contractual arrangement with a health 3487  
insuring corporation, employer group, or other payor. 3488

(V) "Person" has the same meaning as in section 1.59 of 3489  
the Revised Code, and, unless the context otherwise requires, 3490  
includes any insurance company holding a certificate of 3491  
authority under Title XXXIX of the Revised Code, any subsidiary 3492  
and affiliate of an insurance company, and any government 3493  
agency. 3494

(W) "Premium rate" means any set fee regularly paid by a 3495  
subscriber to a health insuring corporation. A "premium rate" 3496  
does not include a one-time membership fee, an annual 3497  
administrative fee, or a nominal access fee, paid to a managed 3498  
health care system under which the recipient of health care 3499  
services remains solely responsible for any charges accessed for 3500  
those services by the provider or health care facility. 3501

(X) "Primary care provider" means a provider that is 3502  
designated by a health insuring corporation to supervise, 3503  
coordinate, or provide initial care or continuing care to an 3504  
enrollee, and that may be required by the health insuring 3505  
corporation to initiate a referral for specialty care and to 3506  
maintain supervision of the health care services rendered to the 3507  
enrollee. 3508

(Y) "Provider" means any natural person or partnership of 3509  
natural persons who are licensed, certified, accredited, or 3510  
otherwise authorized in this state to furnish health care 3511  
services, or any professional association organized under 3512

Chapter 1785. of the Revised Code, provided that nothing in this 3513  
chapter or other provisions of law shall be construed to 3514  
preclude a health insuring corporation, health care 3515  
practitioner, or organized health care group associated with a 3516  
health insuring corporation from employing certified nurse 3517  
practitioners, certified nurse anesthetists, clinical nurse 3518  
specialists, certified nurse-midwives, dietitians, physician 3519  
assistants, dental assistants, dental hygienists, optometric 3520  
technicians, or other allied health personnel who are licensed, 3521  
certified, accredited, or otherwise authorized in this state to 3522  
furnish health care services. 3523

(Z) "Provider sponsored organization" means a corporation, 3524  
as defined in division (H) of this section, that is at least 3525  
eighty per cent owned or controlled by one or more hospitals, as 3526  
defined in section 3727.01 of the Revised Code, or one or more 3527  
physicians licensed to practice medicine or surgery or 3528  
osteopathic medicine and surgery under Chapter 4731. of the 3529  
Revised Code, or any combination of such physicians and 3530  
hospitals. Such control is presumed to exist if at least eighty 3531  
per cent of the voting rights or governance rights of a provider 3532  
sponsored organization are directly or indirectly owned, 3533  
controlled, or otherwise held by any combination of the 3534  
physicians and hospitals described in this division. 3535

(AA) "Solicitation document" means the written materials 3536  
provided to prospective subscribers or enrollees, or both, and 3537  
used for advertising and marketing to induce enrollment in the 3538  
health care plans of a health insuring corporation. 3539

(BB) "Subscriber" means a person who is responsible for 3540  
making payments to a health insuring corporation for 3541  
participation in a health care plan, or an enrollee whose 3542

employment or other status is the basis of eligibility for 3543  
enrollment in a health insuring corporation. 3544

(CC) "Urgent care services" means those health care 3545  
services that are appropriately provided for an unforeseen 3546  
condition of a kind that usually requires medical attention 3547  
without delay but that does not pose a threat to the life, limb, 3548  
or permanent health of the injured or ill person, and may 3549  
include such health care services provided out of the health 3550  
insuring corporation's approved service area pursuant to 3551  
indemnity payments or service agreements. 3552

**Sec. 1751.14.** (A) Notwithstanding section 3901.71 of the 3553  
Revised Code, any policy, contract, or agreement for health care 3554  
services authorized by this chapter that is issued, delivered, 3555  
or renewed in this state and that provides that coverage of an 3556  
unmarried dependent child will terminate upon attainment of the 3557  
limiting age for dependent children specified in the policy, 3558  
contract, or agreement, shall also provide in substance both of 3559  
the following: 3560

(1) Once an unmarried child has attained the limiting age 3561  
for dependent children, as provided in the policy, contract, or 3562  
agreement, upon the request of the subscriber, the health 3563  
insuring corporation shall offer to cover the unmarried child 3564  
until the child attains twenty-six years of age if all of the 3565  
following are true: 3566

(a) The child is the natural child, stepchild, or adopted 3567  
child of the subscriber. 3568

(b) The child is a resident of this state or a full-time 3569  
student at an accredited public or private institution of higher 3570  
education. 3571

(c) The child is not employed by an employer that offers 3572  
any health benefit plan under which the child is eligible for 3573  
coverage. 3574

(d) The child is not eligible for coverage under the 3575  
medicaid program or the medicare program. 3576

(2) That attainment of the limiting age for dependent 3577  
children shall not operate to terminate the coverage of a 3578  
dependent child if the child is and continues to be both of the 3579  
following: 3580

(a) Incapable of self-sustaining employment by reason of 3581  
~~mental retardation or physical handicap or intellectual~~ 3582  
disability; 3583

(b) Primarily dependent upon the subscriber for support 3584  
and maintenance. 3585

(B) Proof of incapacity and dependence for purposes of 3586  
division (A) (2) of this section shall be furnished to the health 3587  
insuring corporation within thirty-one days of the child's 3588  
attainment of the limiting age. Upon request, but not more 3589  
frequently than annually, the health insuring corporation may 3590  
require proof satisfactory to it of the continuance of such 3591  
incapacity and dependency. 3592

(C) Nothing in this section shall do any of the following: 3593

(1) Require that any policy, contract, or agreement offer 3594  
coverage for dependent children or provide coverage for an 3595  
unmarried dependent child's children as dependents on the 3596  
policy, contract, or agreement; 3597

(2) Require an employer to pay for any part of the premium 3598  
for an unmarried dependent child that has attained the limiting 3599

age for dependents, as provided in the policy, contract, or 3600  
agreement; 3601

(3) Require an employer to offer health insurance coverage 3602  
to the dependents of any employee. 3603

(D) This section does not apply to any health insuring 3604  
corporation policy, contract, or agreement offering only 3605  
supplemental health care services or specialty health care 3606  
services. 3607

(E) As used in this section, "health benefit plan" has the 3608  
same meaning as in section 3924.01 of the Revised Code and also 3609  
includes both of the following: 3610

(1) A public employee benefit plan; 3611

(2) A health benefit plan as regulated under the "Employee 3612  
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 3613

**Sec. 2101.17.** The fees enumerated in this section shall be 3614  
paid to the probate court from the county treasury upon the 3615  
warrant of the county auditor which shall issue upon the 3616  
certificate of the probate judge and shall be in full for all 3617  
services rendered in the respective proceedings as follows: 3618

(A) For each hearing to determine if a person 3619  
is a mentally ill individual subject to 3620  
hospitalization when the person is committed 3621  
to a state hospital or to relatives 3622  
..... \$ 12.00; 3623

(B) When the person is discharged 3624  
..... 7.00; 3625

(C) For order of return of a mentally ill person 3626  
to a state hospital or removal therefrom 3627  
..... 2.00; 3628

(D) For proceedings for committing a person to an institution for <del>the mentally retarded</del>		3629
<u>persons with developmental disabilities</u>		3630
.....	10.00;	3631
(E) For habeas corpus proceedings when a person is confined under color of proceedings in a criminal case and is discharged		3632
.....	10.00;	3633
(F) When acting as a juvenile judge, for each case filed against a <del>delinquency</del> <u>delinquent</u> , dependent, unruly, or neglected child, or a juvenile traffic offender		3634
.....	5.00;	3635
(G) For proceedings to take a child from parents or other persons having control thereof		3636
.....	5.00.	3637
<b>Sec. 2101.24.</b> (A) (1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:		3638
(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.		3639
(b) To grant and revoke letters testamentary and of administration;		3640
(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;		3641

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired, as a result of a mental or physical illness or disability, ~~or mental retardation~~ as a result of intellectual disability, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;

(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;

(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;

(j) To authorize the completion of real property contracts on petition of executors and administrators;

(k) To construe wills;

(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;

(m) To direct and control the conduct of fiduciaries and settle their accounts;

(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	3687 3688 3689
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	3690 3691
(p) To hear and determine actions to contest the validity of wills;	3692 3693
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	3694 3695 3696
(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;	3697 3698 3699 3700 3701
(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	3702 3703
(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	3704 3705
(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;	3706 3707 3708
(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;	3709 3710 3711
(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;	3712 3713 3714

(x) To hear and determine complaints that pertain to the 3715  
use or continuation, or the withholding or withdrawal, of life- 3716  
sustaining treatment in connection with certain patients 3717  
allegedly in a terminal condition or in a permanently 3718  
unconscious state pursuant to division (E) of section 2133.08 of 3719  
the Revised Code, in accordance with that division; 3720

(y) To hear and determine applications that pertain to the 3721  
withholding or withdrawal of nutrition and hydration from 3722  
certain patients allegedly in a permanently unconscious state 3723  
pursuant to section 2133.09 of the Revised Code, in accordance 3724  
with that section; 3725

(z) To hear and determine applications of attending 3726  
physicians in accordance with division (B) of section 2133.15 of 3727  
the Revised Code; 3728

(aa) To hear and determine actions relative to the use or 3729  
continuation of comfort care in connection with certain 3730  
principals under durable powers of attorney for health care, 3731  
declarants under declarations, or patients in accordance with 3732  
division (E) of either section 1337.16 or 2133.12 of the Revised 3733  
Code; 3734

(bb) To hear and determine applications for an order 3735  
relieving an estate from administration under section 2113.03 of 3736  
the Revised Code; 3737

(cc) To hear and determine applications for an order 3738  
granting a summary release from administration under section 3739  
2113.031 of the Revised Code; 3740

(dd) To hear and determine actions relating to the 3741  
exercise of the right of disposition, in accordance with section 3742  
2108.90 of the Revised Code; 3743

(ee) To hear and determine actions relating to the 3744  
disinterment and reinterment of human remains under section 3745  
517.23 of the Revised Code; 3746

(ff) To hear and determine petitions for an order for 3747  
treatment of a person suffering from alcohol and other drug 3748  
abuse filed under section 5119.93 of the Revised Code and to 3749  
order treatment of that nature in accordance with, and take 3750  
other actions afforded to the court under, sections 5119.90 to 3751  
5119.98 of the Revised Code. 3752

(2) In addition to the exclusive jurisdiction conferred 3753  
upon the probate court by division (A) (1) of this section, the 3754  
probate court shall have exclusive jurisdiction over a 3755  
particular subject matter if both of the following apply: 3756

(a) Another section of the Revised Code expressly confers 3757  
jurisdiction over that subject matter upon the probate court. 3758

(b) No section of the Revised Code expressly confers 3759  
jurisdiction over that subject matter upon any other court or 3760  
agency. 3761

(B) (1) The probate court has concurrent jurisdiction with, 3762  
and the same powers at law and in equity as, the general 3763  
division of the court of common pleas to issue writs and orders, 3764  
and to hear and determine actions as follows: 3765

(a) If jurisdiction relative to a particular subject 3766  
matter is stated to be concurrent in a section of the Revised 3767  
Code or has been construed by judicial decision to be 3768  
concurrent, any action that involves that subject matter; 3769

(b) Any action that involves an inter vivos trust; a trust 3770  
created pursuant to section 5815.28 of the Revised Code; a 3771  
charitable trust or foundation; subject to divisions (A) (1) (u) 3772

and (z) of this section, a power of attorney, including, but not 3773  
limited to, a durable power of attorney; the medical treatment 3774  
of a competent adult; or a writ of habeas corpus; 3775

(c) Subject to section 2101.31 of the Revised Code, any 3776  
action with respect to a probate estate, guardianship, trust, or 3777  
post-death dispute that involves any of the following: 3778

(i) A designation or removal of a beneficiary of a life 3779  
insurance policy, annuity contract, retirement plan, brokerage 3780  
account, security account, bank account, real property, or 3781  
tangible personal property; 3782

(ii) A designation or removal of a payable-on-death 3783  
beneficiary or transfer-on-death beneficiary; 3784

(iii) A change in the title to any asset involving a joint 3785  
and survivorship interest; 3786

(iv) An alleged gift; 3787

(v) The passing of assets upon the death of an individual 3788  
otherwise than by will, intestate succession, or trust. 3789

(2) Any action that involves a concurrent jurisdiction 3790  
subject matter and that is before the probate court may be 3791  
transferred by the probate court, on its order, to the general 3792  
division of the court of common pleas. 3793

(C) The probate court has plenary power at law and in 3794  
equity to dispose fully of any matter that is properly before 3795  
the court, unless the power is expressly otherwise limited or 3796  
denied by a section of the Revised Code. 3797

(D) The jurisdiction acquired by a probate court over a 3798  
matter or proceeding is exclusive of that of any other probate 3799  
court, except when otherwise provided by law. 3800

**Sec. 2108.521.** (A) If a ~~mentally retarded person or a~~ 3801  
~~developmentally disabled person~~ with a developmental disability 3802  
dies, if the department of developmental disabilities or a 3803  
county board of developmental disabilities has a good faith 3804  
reason to believe that the deceased person's death occurred 3805  
under suspicious circumstances, if the coroner was apprised of 3806  
the circumstances of the death, and if the coroner after being 3807  
so apprised of the circumstances declines to conduct an autopsy, 3808  
the department or the board may file a petition in a court of 3809  
common pleas seeking an order authorizing an autopsy or post- 3810  
mortem examination under this section. 3811

(B) Upon the filing of a petition under division (A) of 3812  
this section, the court may conduct, but is not required to 3813  
conduct, a hearing on the petition. The court may determine 3814  
whether to grant the petition without a hearing. The department 3815  
or board, and all other interested parties, may submit 3816  
information and statements to the court that are relevant to the 3817  
petition, and, if the court conducts a hearing, may present 3818  
evidence and testimony at the hearing. The court shall order the 3819  
requested autopsy or post-mortem examination if it finds that, 3820  
under the circumstances, the department or board has 3821  
demonstrated a need for the autopsy or post-mortem examination. 3822  
The court shall order an autopsy or post-mortem examination in 3823  
the circumstances specified in this division regardless of 3824  
whether any consent has been given, or has been given and 3825  
withdrawn, under section 2108.50 of the Revised Code, and 3826  
regardless of whether any information was presented to the 3827  
coroner pursuant to section 313.131 of the Revised Code or to 3828  
the court under this section regarding an autopsy being contrary 3829  
to the deceased person's religious beliefs. 3830

(C) An autopsy or post-mortem examination ordered under 3831

this section may be performed upon the body of the deceased 3832  
person by a licensed physician or surgeon. The court may 3833  
identify in the order the person who is to perform the autopsy 3834  
or post-mortem examination. If an autopsy or post-mortem 3835  
examination is ordered under this section, the department or 3836  
board that requested the autopsy or examination shall pay the 3837  
physician or surgeon who performs the autopsy or examination for 3838  
costs and expenses incurred in performing the autopsy or 3839  
examination. 3840

**Sec. 2109.01.** "Fiduciary," as used in Chapters 2101. to 3841  
2131. of the Revised Code, means any person, other than an 3842  
assignee or trustee for an insolvent debtor or a guardian under 3843  
sections 5905.01 to 5905.19 of the Revised Code, appointed by 3844  
and accountable to the probate court and acting in a fiduciary 3845  
capacity for any person, or charged with duties in relation to 3846  
any property, interest, trust, or estate for the benefit of 3847  
another; and includes an agency under contract with the 3848  
department of developmental disabilities for the provision of 3849  
protective service under sections 5123.55 to 5123.59 of the 3850  
Revised Code, appointed by and accountable to the probate court 3851  
as guardian or trustee with respect to ~~mentally retarded or~~ 3852  
~~developmentally disabled persons~~ with developmental 3853  
disabilities. 3854

**Sec. 2111.01.** As used in Chapters 2101. to 2131. of the 3855  
Revised Code: 3856

(A) "Guardian," other than a guardian under sections 3857  
5905.01 to 5905.19 of the Revised Code, means any person, 3858  
association, or corporation appointed by the probate court to 3859  
have the care and management of the person, the estate, or both 3860  
of an incompetent or minor. When applicable, "guardian" 3861

includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent.

(B) "Ward" means any person for whom a guardian is acting or for whom the probate court is acting pursuant to section 2111.50 of the Revised Code.

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

(D) "Incompetent" means ~~any~~ either of the following:

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

(2) Any person confined to a correctional institution within this state.

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

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

section 2111.021 of the Revised Code. 3891

(G) "Parent" means a natural parent or adoptive parent of 3892  
a minor child whose parental rights and responsibilities have 3893  
not been terminated by a juvenile court or another court. 3894

(H) "Financial harm" means impairment of an individual's 3895  
financial assets by unlawfully obtaining or exerting control 3896  
over the individual's real or personal property in any of the 3897  
following ways: 3898

(1) Without the consent of the individual or the person 3899  
authorized to give consent on the individual's behalf; 3900

(2) Beyond the scope of the express or implied consent of 3901  
the individual or the person authorized to give consent on the 3902  
individual's behalf; 3903

(3) By deception; 3904

(4) By threat; 3905

(5) By intimidation; 3906

(6) By fraud; 3907

(7) By undue influence. 3908

**Sec. 2111.10.** As used in this section, "~~mentally retarded-~~ 3909  
~~person~~" and "~~developmentally disabled person~~developmental 3910  
disability" ~~have~~has the same ~~meanings~~meaning as in section 3911  
5123.01 of the Revised Code. 3912

Any appointment of a corporation as guardian shall apply 3913  
to the estate only and not to the person, except that a 3914  
nonprofit corporation organized under the laws of this state and 3915  
entitled to tax exempt status under section 501(a) of the 3916  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 3917

501, as amended, that has a contract with the department of 3918  
developmental disabilities to provide protective services may be 3919  
appointed as a guardian of ~~the person of a mentally retarded or~~ 3920  
~~developmentally disabled~~ a person with a developmental 3921  
disability and may serve as guardian pursuant to sections 3922  
5123.55 to 5123.59 of the Revised Code. 3923

**Sec. 2111.49.** (A) (1) Subject to division (A) (3) of this 3924  
section, the guardian of an incompetent person shall file a 3925  
guardian's report with the court two years after the date of the 3926  
issuance of the guardian's letters of appointment and biennially 3927  
after that time, or at any other time upon the motion or a rule 3928  
of the probate court. The report shall be in a form prescribed 3929  
by the court and shall include all of the following. 3930

(a) The present address of the place of residence of the 3931  
ward; 3932

(b) The present address of the guardian; 3933

(c) If the place of residence of the ward is not the 3934  
ward's personal home, the name of the facility at which the ward 3935  
resides and the name of the person responsible for the ward's 3936  
care; 3937

(d) The approximate number of times during the period 3938  
covered by the report that the guardian has had contact with the 3939  
ward, the nature of those contacts, and the date that the ward 3940  
was last seen by the guardian; 3941

(e) Any major changes in the physical or mental condition 3942  
of the ward observed by the guardian; 3943

(f) The opinion of the guardian as to the necessity for 3944  
the continuation of the guardianship; 3945

(g) The opinion of the guardian as to the adequacy of the present care of the ward;

(h) The date that the ward was last examined or otherwise seen by a physician and the purpose of that visit;

(i) A statement by a licensed physician, licensed clinical psychologist, licensed independent social worker, licensed professional clinical counselor, or ~~mental retardation~~ developmental disability team that has evaluated or examined the ward within three months prior to the date of the report as to the need for continuing the guardianship.

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

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

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

(C) Except as provided in this division, for any

guardianship, upon written request by the ward, the ward's 3975  
attorney, or any other interested party made at any time after 3976  
the expiration of one hundred twenty days from the date of the 3977  
original appointment of the guardian, a hearing shall be held in 3978  
accordance with section 2111.02 of the Revised Code to evaluate 3979  
the continued necessity of the guardianship. Upon written 3980  
request, the court shall conduct a minimum of one hearing under 3981  
this division in the calendar year in which the guardian was 3982  
appointed, and upon written request, shall conduct a minimum of 3983  
one hearing in each of the following calendar years. Upon its 3984  
own motion or upon written request, the court may, in its 3985  
discretion, conduct a hearing within the first one hundred 3986  
twenty days after appointment of the guardian or conduct more 3987  
than one hearing in a calendar year. If the ward alleges 3988  
competence, the burden of proving incompetence shall be upon the 3989  
applicant for guardianship or the guardian, by clear and 3990  
convincing evidence. 3991

**Sec. 2151.011.** (A) As used in the Revised Code: 3992

(1) "Juvenile court" means whichever of the following is 3993  
applicable that has jurisdiction under this chapter and Chapter 3994  
2152. of the Revised Code: 3995

(a) The division of the court of common pleas specified in 3996  
section 2101.022 or 2301.03 of the Revised Code as having 3997  
jurisdiction under this chapter and Chapter 2152. of the Revised 3998  
Code or as being the juvenile division or the juvenile division 3999  
combined with one or more other divisions; 4000

(b) The juvenile court of Cuyahoga county or Hamilton 4001  
county that is separately and independently created by section 4002  
2151.08 or Chapter 2153. of the Revised Code and that has 4003  
jurisdiction under this chapter and Chapter 2152. of the Revised 4004

Code; 4005

(c) If division (A) (1) (a) or (b) of this section does not 4006  
apply, the probate division of the court of common pleas. 4007

(2) "Juvenile judge" means a judge of a court having 4008  
jurisdiction under this chapter. 4009

(3) "Private child placing agency" means any association, 4010  
as defined in section 5103.02 of the Revised Code, that is 4011  
certified under section 5103.03 of the Revised Code to accept 4012  
temporary, permanent, or legal custody of children and place the 4013  
children for either foster care or adoption. 4014

(4) "Private noncustodial agency" means any person, 4015  
organization, association, or society certified by the 4016  
department of job and family services that does not accept 4017  
temporary or permanent legal custody of children, that is 4018  
privately operated in this state, and that does one or more of 4019  
the following: 4020

(a) Receives and cares for children for two or more 4021  
consecutive weeks; 4022

(b) Participates in the placement of children in certified 4023  
foster homes; 4024

(c) Provides adoption services in conjunction with a 4025  
public children services agency or private child placing agency. 4026

(B) As used in this chapter: 4027

(1) "Adequate parental care" means the provision by a 4028  
child's parent or parents, guardian, or custodian of adequate 4029  
food, clothing, and shelter to ensure the child's health and 4030  
physical safety and the provision by a child's parent or parents 4031  
of specialized services warranted by the child's physical or 4032

mental needs. 4033

(2) "Adult" means an individual who is eighteen years of 4034  
age or older. 4035

(3) "Agreement for temporary custody" means a voluntary 4036  
agreement authorized by section 5103.15 of the Revised Code that 4037  
transfers the temporary custody of a child to a public children 4038  
services agency or a private child placing agency. 4039

(4) "Alternative response" means the public children 4040  
services agency's response to a report of child abuse or neglect 4041  
that engages the family in a comprehensive evaluation of child 4042  
safety, risk of subsequent harm, and family strengths and needs 4043  
and that does not include a determination as to whether child 4044  
abuse or neglect occurred. 4045

(5) "Certified foster home" means a foster home, as 4046  
defined in section 5103.02 of the Revised Code, certified under 4047  
section 5103.03 of the Revised Code. 4048

(6) "Child" means a person who is under eighteen years of 4049  
age, except that the juvenile court has jurisdiction over any 4050  
person who is adjudicated an unruly child prior to attaining 4051  
eighteen years of age until the person attains twenty-one years 4052  
of age, and, for purposes of that jurisdiction related to that 4053  
adjudication, a person who is so adjudicated an unruly child 4054  
shall be deemed a "child" until the person attains twenty-one 4055  
years of age. 4056

(7) "Child day camp," "child care," "child day-care 4057  
center," "part-time child day-care center," "type A family day- 4058  
care home," "licensed type B family day-care home," "type B 4059  
family day-care home," "administrator of a child day-care 4060  
center," "administrator of a type A family day-care home," and 4061

"in-home aide" have the same meanings as in section 5104.01 of 4062  
the Revised Code. 4063

(8) "Child care provider" means an individual who is a 4064  
child-care staff member or administrator of a child day-care 4065  
center, a type A family day-care home, or a type B family day- 4066  
care home, or an in-home aide or an individual who is licensed, 4067  
is regulated, is approved, operates under the direction of, or 4068  
otherwise is certified by the department of job and family 4069  
services, department of developmental disabilities, or the early 4070  
childhood programs of the department of education. 4071

(9) "Chronic truant" has the same meaning as in section 4072  
2152.02 of the Revised Code. 4073

(10) "Commit" means to vest custody as ordered by the 4074  
court. 4075

(11) "Counseling" includes both of the following: 4076

(a) General counseling services performed by a public 4077  
children services agency or shelter for victims of domestic 4078  
violence to assist a child, a child's parents, and a child's 4079  
siblings in alleviating identified problems that may cause or 4080  
have caused the child to be an abused, neglected, or dependent 4081  
child. 4082

(b) Psychiatric or psychological therapeutic counseling 4083  
services provided to correct or alleviate any mental or 4084  
emotional illness or disorder and performed by a licensed 4085  
psychiatrist, licensed psychologist, or a person licensed under 4086  
Chapter 4757. of the Revised Code to engage in social work or 4087  
professional counseling. 4088

(12) "Custodian" means a person who has legal custody of a 4089  
child or a public children services agency or private child 4090

placing agency that has permanent, temporary, or legal custody 4091  
of a child. 4092

(13) "Delinquent child" has the same meaning as in section 4093  
2152.02 of the Revised Code. 4094

(14) "Detention" means the temporary care of children 4095  
pending court adjudication or disposition, or execution of a 4096  
court order, in a public or private facility designed to 4097  
physically restrict the movement and activities of children. 4098

(15) "Developmental disability" has the same meaning as in 4099  
section 5123.01 of the Revised Code. 4100

(16) "Differential response approach" means an approach 4101  
that a public children services agency may use to respond to 4102  
accepted reports of child abuse or neglect with either an 4103  
alternative response or a traditional response. 4104

(17) "Foster caregiver" has the same meaning as in section 4105  
5103.02 of the Revised Code. 4106

(18) "Guardian" means a person, association, or 4107  
corporation that is granted authority by a probate court 4108  
pursuant to Chapter 2111. of the Revised Code to exercise 4109  
parental rights over a child to the extent provided in the 4110  
court's order and subject to the residual parental rights of the 4111  
child's parents. 4112

(19) "Habitual truant" means any child of compulsory 4113  
school age who is absent without legitimate excuse for absence 4114  
from the public school the child is supposed to attend for five 4115  
or more consecutive school days, seven or more school days in 4116  
one school month, or twelve or more school days in a school 4117  
year. 4118

(20) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code. 4119  
4120

(21) "Juvenile traffic offender" has the same meaning as 4121  
in section 2152.02 of the Revised Code. 4122

~~(21)~~(22) "Legal custody" means a legal status that vests 4123  
in the custodian the right to have physical care and control of 4124  
the child and to determine where and with whom the child shall 4125  
live, and the right and duty to protect, train, and discipline 4126  
the child and to provide the child with food, shelter, 4127  
education, and medical care, all subject to any residual 4128  
parental rights, privileges, and responsibilities. An individual 4129  
granted legal custody shall exercise the rights and 4130  
responsibilities personally unless otherwise authorized by any 4131  
section of the Revised Code or by the court. 4132

~~(22)~~(23) A "legitimate excuse for absence from the public 4133  
school the child is supposed to attend" includes, but is not 4134  
limited to, any of the following: 4135

(a) The fact that the child in question has enrolled in 4136  
and is attending another public or nonpublic school in this or 4137  
another state; 4138

(b) The fact that the child in question is excused from 4139  
attendance at school for any of the reasons specified in section 4140  
3321.04 of the Revised Code; 4141

(c) The fact that the child in question has received an 4142  
age and schooling certificate in accordance with section 3331.01 4143  
of the Revised Code. 4144

~~(23)~~(24) "Mental illness" and ~~"mentally ill person~~ 4145  
~~subject to court order" have has~~ the same meanings meaning as in 4146  
section 5122.01 of the Revised Code. 4147

~~(24)~~ (25) "Mental injury" means any behavioral, cognitive, 4148  
emotional, or mental disorder in a child caused by an act or 4149  
omission that is described in section 2919.22 of the Revised 4150  
Code and is committed by the parent or other person responsible 4151  
for the child's care. 4152

~~(25) "Mentally retarded person" has the same meaning as in 4153  
section 5123.01 of the Revised Code. 4154~~

(26) "Nonsecure care, supervision, or training" means 4155  
care, supervision, or training of a child in a facility that 4156  
does not confine or prevent movement of the child within the 4157  
facility or from the facility. 4158

(27) "Of compulsory school age" has the same meaning as in 4159  
section 3321.01 of the Revised Code. 4160

(28) "Organization" means any institution, public, 4161  
semipublic, or private, and any private association, society, or 4162  
agency located or operating in the state, incorporated or 4163  
unincorporated, having among its functions the furnishing of 4164  
protective services or care for children, or the placement of 4165  
children in certified foster homes or elsewhere. 4166

(29) "Out-of-home care" means detention facilities, 4167  
shelter facilities, certified children's crisis care facilities, 4168  
certified foster homes, placement in a prospective adoptive home 4169  
prior to the issuance of a final decree of adoption, 4170  
organizations, certified organizations, child day-care centers, 4171  
type A family day-care homes, type B family day-care homes, 4172  
child care provided by in-home aides, group home providers, 4173  
group homes, institutions, state institutions, residential 4174  
facilities, residential care facilities, residential camps, day 4175  
camps, private, nonprofit therapeutic wilderness camps, public 4176

schools, chartered nonpublic schools, educational service 4177  
centers, hospitals, and medical clinics that are responsible for 4178  
the care, physical custody, or control of children. 4179

(30) "Out-of-home care child abuse" means any of the 4180  
following when committed by a person responsible for the care of 4181  
a child in out-of-home care: 4182

(a) Engaging in sexual activity with a child in the 4183  
person's care; 4184

(b) Denial to a child, as a means of punishment, of proper 4185  
or necessary subsistence, education, medical care, or other care 4186  
necessary for a child's health; 4187

(c) Use of restraint procedures on a child that cause 4188  
injury or pain; 4189

(d) Administration of prescription drugs or psychotropic 4190  
medication to the child without the written approval and ongoing 4191  
supervision of a licensed physician; 4192

(e) Commission of any act, other than by accidental means, 4193  
that results in any injury to or death of the child in out-of- 4194  
home care or commission of any act by accidental means that 4195  
results in an injury to or death of a child in out-of-home care 4196  
and that is at variance with the history given of the injury or 4197  
death. 4198

(31) "Out-of-home care child neglect" means any of the 4199  
following when committed by a person responsible for the care of 4200  
a child in out-of-home care: 4201

(a) Failure to provide reasonable supervision according to 4202  
the standards of care appropriate to the age, mental and 4203  
physical condition, or other special needs of the child; 4204

(b) Failure to provide reasonable supervision according to 4205  
the standards of care appropriate to the age, mental and 4206  
physical condition, or other special needs of the child, that 4207  
results in sexual or physical abuse of the child by any person; 4208

(c) Failure to develop a process for all of the following: 4209

(i) Administration of prescription drugs or psychotropic 4210  
drugs for the child; 4211

(ii) Assuring that the instructions of the licensed 4212  
physician who prescribed a drug for the child are followed; 4213

(iii) Reporting to the licensed physician who prescribed 4214  
the drug all unfavorable or dangerous side effects from the use 4215  
of the drug. 4216

(d) Failure to provide proper or necessary subsistence, 4217  
education, medical care, or other individualized care necessary 4218  
for the health or well-being of the child; 4219

(e) Confinement of the child to a locked room without 4220  
monitoring by staff; 4221

(f) Failure to provide ongoing security for all 4222  
prescription and nonprescription medication; 4223

(g) Isolation of a child for a period of time when there 4224  
is substantial risk that the isolation, if continued, will 4225  
impair or retard the mental health or physical well-being of the 4226  
child. 4227

(32) "Permanent custody" means a legal status that vests 4228  
in a public children services agency or a private child placing 4229  
agency, all parental rights, duties, and obligations, including 4230  
the right to consent to adoption, and divests the natural 4231  
parents or adoptive parents of all parental rights, privileges, 4232

and obligations, including all residual rights and obligations. 4233

(33) "Permanent surrender" means the act of the parents 4234  
or, if a child has only one parent, of the parent of a child, by 4235  
a voluntary agreement authorized by section 5103.15 of the 4236  
Revised Code, to transfer the permanent custody of the child to 4237  
a public children services agency or a private child placing 4238  
agency. 4239

(34) "Person" means an individual, association, 4240  
corporation, or partnership and the state or any of its 4241  
political subdivisions, departments, or agencies. 4242

(35) "Person responsible for a child's care in out-of-home 4243  
care" means any of the following: 4244

(a) Any foster caregiver, in-home aide, or provider; 4245

(b) Any administrator, employee, or agent of any of the 4246  
following: a public or private detention facility; shelter 4247  
facility; certified children's crisis care facility; 4248  
organization; certified organization; child day-care center; 4249  
type A family day-care home; licensed type B family day-care 4250  
home; group home; institution; state institution; residential 4251  
facility; residential care facility; residential camp; day camp; 4252  
school district; community school; chartered nonpublic school; 4253  
educational service center; hospital; or medical clinic; 4254

(c) Any person who supervises or coaches children as part 4255  
of an extracurricular activity sponsored by a school district, 4256  
public school, or chartered nonpublic school; 4257

(d) Any other person who performs a similar function with 4258  
respect to, or has a similar relationship to, children. 4259

(36) "~~Physically impaired~~Physical impairment" means having 4260

one or more of the following conditions that substantially limit 4261  
one or more of an individual's major life activities, including 4262  
self-care, receptive and expressive language, learning, 4263  
mobility, and self-direction: 4264

(a) A substantial impairment of vision, speech, or 4265  
hearing; 4266

(b) A congenital orthopedic impairment; 4267

(c) An orthopedic impairment caused by disease, rheumatic 4268  
fever or any other similar chronic or acute health problem, or 4269  
amputation or another similar cause. 4270

(37) "Placement for adoption" means the arrangement by a 4271  
public children services agency or a private child placing 4272  
agency with a person for the care and adoption by that person of 4273  
a child of whom the agency has permanent custody. 4274

(38) "Placement in foster care" means the arrangement by a 4275  
public children services agency or a private child placing 4276  
agency for the out-of-home care of a child of whom the agency 4277  
has temporary custody or permanent custody. 4278

(39) "Planned permanent living arrangement" means an order 4279  
of a juvenile court pursuant to which both of the following 4280  
apply: 4281

(a) The court gives legal custody of a child to a public 4282  
children services agency or a private child placing agency 4283  
without the termination of parental rights. 4284

(b) The order permits the agency to make an appropriate 4285  
placement of the child and to enter into a written agreement 4286  
with a foster care provider or with another person or agency 4287  
with whom the child is placed. 4288

- (40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code. 4289  
4290  
4291
- (41) "Private, nonprofit therapeutic wilderness camp" has the same meaning as in section 5103.02 of the Revised Code. 4292  
4293
- (42) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A) (4) of section 2152.19 of the Revised Code. 4294  
4295  
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4297
- (43) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child. 4298  
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- (44) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code. 4306  
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- (45) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code. 4308  
4309
- (46) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes. 4310  
4311  
4312
- (47) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code and that provides care for a child. 4313  
4314  
4315  
4316

(48) "Residential facility" means a home or facility that 4317  
is licensed by the department of developmental disabilities 4318  
under section 5123.19 of the Revised Code and in which a child 4319  
with a developmental disability resides. 4320

(49) "Residual parental rights, privileges, and 4321  
responsibilities" means those rights, privileges, and 4322  
responsibilities remaining with the natural parent after the 4323  
transfer of legal custody of the child, including, but not 4324  
necessarily limited to, the privilege of reasonable visitation, 4325  
consent to adoption, the privilege to determine the child's 4326  
religious affiliation, and the responsibility for support. 4327

(50) "School day" means the school day established by the 4328  
board of education of the applicable school district pursuant to 4329  
section 3313.481 of the Revised Code. 4330

(51) "School year" has the same meaning as in section 4331  
3313.62 of the Revised Code. 4332

(52) "Secure correctional facility" means a facility under 4333  
the direction of the department of youth services that is 4334  
designed to physically restrict the movement and activities of 4335  
children and used for the placement of children after 4336  
adjudication and disposition. 4337

(53) "Sexual activity" has the same meaning as in section 4338  
2907.01 of the Revised Code. 4339

(54) "Shelter" means the temporary care of children in 4340  
physically unrestricted facilities pending court adjudication or 4341  
disposition. 4342

(55) "Shelter for victims of domestic violence" has the 4343  
same meaning as in section 3113.33 of the Revised Code. 4344

(56) "Temporary custody" means legal custody of a child 4345  
who is removed from the child's home, which custody may be 4346  
terminated at any time at the discretion of the court or, if the 4347  
legal custody is granted in an agreement for temporary custody, 4348  
by the person who executed the agreement. 4349

(57) "Traditional response" means a public children 4350  
services agency's response to a report of child abuse or neglect 4351  
that encourages engagement of the family in a comprehensive 4352  
evaluation of the child's current and future safety needs and a 4353  
fact-finding process to determine whether child abuse or neglect 4354  
occurred and the circumstances surrounding the alleged harm or 4355  
risk of harm. 4356

(C) For the purposes of this chapter, a child shall be 4357  
presumed abandoned when the parents of the child have failed to 4358  
visit or maintain contact with the child for more than ninety 4359  
days, regardless of whether the parents resume contact with the 4360  
child after that period of ninety days. 4361

**Sec. 2151.281.** (A) The court shall appoint a guardian ad 4362  
litem, subject to rules adopted by the supreme court, to protect 4363  
the interest of a child in any proceeding concerning an alleged 4364  
or adjudicated delinquent child or unruly child when either of 4365  
the following applies: 4366

(1) The child has no parent, guardian, or legal custodian. 4367

(2) The court finds that there is a conflict of interest 4368  
between the child and the child's parent, guardian, or legal 4369  
custodian. 4370

(B) (1) Except as provided in division (K) of this section, 4371  
the court shall appoint a guardian ad litem, subject to rules 4372  
adopted by the supreme court, to protect the interest of a child 4373

in any proceeding concerning an alleged abused or neglected 4374  
child and in any proceeding held pursuant to section 2151.414 of 4375  
the Revised Code. The guardian ad litem so appointed shall not 4376  
be the attorney responsible for presenting the evidence alleging 4377  
that the child is an abused or neglected child and shall not be 4378  
an employee of any party in the proceeding. 4379

(2) Except in any proceeding concerning a dependent child 4380  
involving the permanent custody of an infant under the age of 4381  
six months for the sole purpose of placement for adoption by a 4382  
private child placing agency, the court shall appoint a guardian 4383  
ad litem, subject to rules adopted by the supreme court, to 4384  
protect the interest of a child in any proceeding concerning an 4385  
alleged dependent child if any of the following applies: 4386

(a) The parent of the child appears to be mentally 4387  
incompetent or is under eighteen years of age. 4388

(b) There is a conflict of interest between the child and 4389  
the child's parents, guardian, or custodian. 4390

(c) The court believes that the parent of the child is not 4391  
capable of representing the best interest of the child. 4392

(3) Except in any proceeding concerning a dependent child 4393  
involving the permanent custody of an infant under the age of 4394  
six months for the sole purpose of placement for adoption by a 4395  
private child placing agency, the court may appoint a guardian 4396  
ad litem, subject to rules adopted by the supreme court, to 4397  
protect the interest of the child in any other proceeding 4398  
concerning an alleged dependent child. 4399

(4) The guardian ad litem appointed for an alleged or 4400  
adjudicated abused or neglected child may bring a civil action 4401  
against any person who is required by division (A) (1) or (4) of 4402

section 2151.421 of the Revised Code to file a report of child 4403  
abuse or child neglect that is known or reasonably suspected or 4404  
believed to have occurred if that person knows, or has 4405  
reasonable cause to suspect or believe based on facts that would 4406  
cause a reasonable person in a similar position to suspect or 4407  
believe, as applicable, that the child for whom the guardian ad 4408  
litem is appointed is the subject of child abuse or child 4409  
neglect and does not file the required report and if the child 4410  
suffers any injury or harm as a result of the child abuse or 4411  
child neglect that is known or reasonably suspected or believed 4412  
to have occurred or suffers additional injury or harm after the 4413  
failure to file the report. 4414

(C) In any proceeding concerning an alleged or adjudicated 4415  
delinquent, unruly, abused, neglected, or dependent child in 4416  
which the parent appears to be mentally incompetent or is under 4417  
eighteen years of age, the court shall appoint a guardian ad 4418  
litem to protect the interest of that parent. 4419

(D) The court shall require the guardian ad litem to 4420  
faithfully discharge the guardian ad litem's duties and, upon 4421  
the guardian ad litem's failure to faithfully discharge the 4422  
guardian ad litem's duties, shall discharge the guardian ad 4423  
litem and appoint another guardian ad litem. The court may fix 4424  
the compensation for the service of the guardian ad litem, which 4425  
compensation shall be paid from the treasury of the county, 4426  
subject to rules adopted by the supreme court. 4427

(E) A parent who is eighteen years of age or older and not 4428  
mentally incompetent shall be deemed sui juris for the purpose 4429  
of any proceeding relative to a child of the parent who is 4430  
alleged or adjudicated to be an abused, neglected, or dependent 4431  
child. 4432

(F) In any case in which a parent of a child alleged or adjudicated to be an abused, neglected, or dependent child is under eighteen years of age, the parents of that parent shall be summoned to appear at any hearing respecting the child, who is alleged or adjudicated to be an abused, neglected, or dependent child.

(G) Except as provided in division (K) of this section, in any case in which a guardian ad litem is to be appointed for an alleged or adjudicated abused, neglected, or dependent child or in any case involving an agreement for the voluntary surrender of temporary or permanent custody of a child that is made in accordance with section 5103.15 of the Revised Code, the court shall appoint the guardian ad litem in each case as soon as possible after the complaint is filed, the request for an extension of the temporary custody agreement is filed with the court, or the request for court approval of the permanent custody agreement is filed. The guardian ad litem or the guardian ad litem's replacement shall continue to serve until any of the following occur:

(1) The complaint is dismissed or the request for an extension of a temporary custody agreement or for court approval of the permanent custody agreement is withdrawn or denied;

(2) All dispositional orders relative to the child have terminated;

(3) The legal custody of the child is granted to a relative of the child, or to another person;

(4) The child is placed in an adoptive home or, at the court's discretion, a final decree of adoption is issued with respect to the child;

(5) The child reaches the age of eighteen if the child ~~is~~ 4462  
~~does not mentally retarded, developmentally disabled,~~ have a 4463  
developmental disability or physically impaired physical 4464  
impairment or the child reaches the age of twenty-one if the 4465  
child ~~is mentally retarded, developmentally disabled,~~ has a 4466  
developmental disability or physically impaired physical 4467  
impairment; 4468

(6) The guardian ad litem resigns or is removed by the 4469  
court and a replacement is appointed by the court. 4470

If a guardian ad litem ceases to serve a child pursuant to 4471  
division (G) (4) of this section and the petition for adoption 4472  
with respect to the child is denied or withdrawn prior to the 4473  
issuance of a final decree of adoption or prior to the date an 4474  
interlocutory order of adoption becomes final, the juvenile 4475  
court shall reappoint a guardian ad litem for that child. The 4476  
public children services agency or private child placing agency 4477  
with permanent custody of the child shall notify the juvenile 4478  
court if the petition for adoption is denied or withdrawn. 4479

(H) If the guardian ad litem for an alleged or adjudicated 4480  
abused, neglected, or dependent child is an attorney admitted to 4481  
the practice of law in this state, the guardian ad litem also 4482  
may serve as counsel to the ward. Until the supreme court adopts 4483  
rules regarding service as a guardian ad litem that regulate 4484  
conflicts between a person's role as guardian ad litem and as 4485  
counsel, if a person is serving as guardian ad litem and counsel 4486  
for a child and either that person or the court finds that a 4487  
conflict may exist between the person's roles as guardian ad 4488  
litem and as counsel, the court shall relieve the person of 4489  
duties as guardian ad litem and appoint someone else as guardian 4490  
ad litem for the child. If the court appoints a person who is 4491

not an attorney admitted to the practice of law in this state to 4492  
be a guardian ad litem, the court also may appoint an attorney 4493  
admitted to the practice of law in this state to serve as 4494  
counsel for the guardian ad litem. 4495

(I) The guardian ad litem for an alleged or adjudicated 4496  
abused, neglected, or dependent child shall perform whatever 4497  
functions are necessary to protect the best interest of the 4498  
child, including, but not limited to, investigation, mediation, 4499  
monitoring court proceedings, and monitoring the services 4500  
provided the child by the public children services agency or 4501  
private child placing agency that has temporary or permanent 4502  
custody of the child, and shall file any motions and other court 4503  
papers that are in the best interest of the child in accordance 4504  
with rules adopted by the supreme court. 4505

The guardian ad litem shall be given notice of all 4506  
hearings, administrative reviews, and other proceedings in the 4507  
same manner as notice is given to parties to the action. 4508

(J) (1) When the court appoints a guardian ad litem 4509  
pursuant to this section, it shall appoint a qualified volunteer 4510  
or court appointed special advocate whenever one is available 4511  
and the appointment is appropriate. 4512

(2) Upon request, the department of job and family 4513  
services shall provide for the training of volunteer guardians 4514  
ad litem. 4515

(K) A guardian ad litem shall not be appointed for a child 4516  
who is under six months of age in any proceeding in which a 4517  
private child placing agency is seeking permanent custody of the 4518  
child or seeking approval of a voluntary permanent custody 4519  
surrender agreement for the sole purpose of the adoption of the 4520

child. 4521

**Sec. 2151.353.** (A) If a child is adjudicated an abused, 4522  
neglected, or dependent child, the court may make any of the 4523  
following orders of disposition: 4524

(1) Place the child in protective supervision; 4525

(2) Commit the child to the temporary custody of a public 4526  
children services agency, a private child placing agency, either 4527  
parent, a relative residing within or outside the state, or a 4528  
probation officer for placement in a certified foster home, or 4529  
in any other home approved by the court; 4530

(3) Award legal custody of the child to either parent or 4531  
to any other person who, prior to the dispositional hearing, 4532  
files a motion requesting legal custody of the child or is 4533  
identified as a proposed legal custodian in a complaint or 4534  
motion filed prior to the dispositional hearing by any party to 4535  
the proceedings. A person identified in a complaint or motion 4536  
filed by a party to the proceedings as a proposed legal 4537  
custodian shall be awarded legal custody of the child only if 4538  
the person identified signs a statement of understanding for 4539  
legal custody that contains at least the following provisions: 4540

(a) That it is the intent of the person to become the 4541  
legal custodian of the child and the person is able to assume 4542  
legal responsibility for the care and supervision of the child; 4543

(b) That the person understands that legal custody of the 4544  
child in question is intended to be permanent in nature and that 4545  
the person will be responsible as the custodian for the child 4546  
until the child reaches the age of majority. Responsibility as 4547  
custodian for the child shall continue beyond the age of 4548  
majority if, at the time the child reaches the age of majority, 4549

the child is pursuing a diploma granted by the board of 4550  
education or other governing authority, successful completion of 4551  
the curriculum of any high school, successful completion of an 4552  
individualized education program developed for the student by 4553  
any high school, or an age and schooling certificate. 4554  
Responsibility beyond the age of majority shall terminate when 4555  
the child ceases to continuously pursue such an education, 4556  
completes such an education, or is excused from such an 4557  
education under standards adopted by the state board of 4558  
education, whichever occurs first. 4559

(c) That the parents of the child have residual parental 4560  
rights, privileges, and responsibilities, including, but not 4561  
limited to, the privilege of reasonable visitation, consent to 4562  
adoption, the privilege to determine the child's religious 4563  
affiliation, and the responsibility for support; 4564

(d) That the person understands that the person must be 4565  
present in court for the dispositional hearing in order to 4566  
affirm the person's intention to become legal custodian, to 4567  
affirm that the person understands the effect of the 4568  
custodianship before the court, and to answer any questions that 4569  
the court or any parties to the case may have. 4570

(4) Commit the child to the permanent custody of a public 4571  
children services agency or private child placing agency, if the 4572  
court determines in accordance with division (E) of section 4573  
2151.414 of the Revised Code that the child cannot be placed 4574  
with one of the child's parents within a reasonable time or 4575  
should not be placed with either parent and determines in 4576  
accordance with division (D) (1) of section 2151.414 of the 4577  
Revised Code that the permanent commitment is in the best 4578  
interest of the child. If the court grants permanent custody 4579

under this division, the court, upon the request of any party, 4580  
shall file a written opinion setting forth its findings of fact 4581  
and conclusions of law in relation to the proceeding. 4582

(5) Place the child in a planned permanent living 4583  
arrangement with a public children services agency or private 4584  
child placing agency, if a public children services agency or 4585  
private child placing agency requests the court to place the 4586  
child in a planned permanent living arrangement and if the court 4587  
finds, by clear and convincing evidence, that a planned 4588  
permanent living arrangement is in the best interest of the 4589  
child and that one of the following exists: 4590

(a) The child, because of physical, mental, or 4591  
psychological problems or needs, is unable to function in a 4592  
family-like setting and must remain in residential or 4593  
institutional care now and for the foreseeable future beyond the 4594  
date of the dispositional hearing held pursuant to section 4595  
2151.35 of the Revised Code. 4596

(b) The child is sixteen years of age or older, the 4597  
parents of the child have significant physical, mental, or 4598  
psychological problems and are unable to care for the child 4599  
because of those problems, adoption is not in the best interest 4600  
of the child, as determined in accordance with division (D) (1) 4601  
of section 2151.414 of the Revised Code, and the child retains a 4602  
significant and positive relationship with a parent or relative. 4603

(c) The child is sixteen years of age or older, has been 4604  
counseled on the permanent placement options available to the 4605  
child, and is unwilling to accept or unable to adapt to a 4606  
permanent placement. 4607

(6) Order the removal from the child's home until further 4608

order of the court of the person who committed abuse as 4609  
described in section 2151.031 of the Revised Code against the 4610  
child, who caused or allowed the child to suffer neglect as 4611  
described in section 2151.03 of the Revised Code, or who is the 4612  
parent, guardian, or custodian of a child who is adjudicated a 4613  
dependent child and order any person not to have contact with 4614  
the child or the child's siblings. 4615

(B) (1) When making a determination on whether to place a 4616  
child in a planned permanent living arrangement pursuant to 4617  
division (A) (5) (b) or (c) of this section, the court shall 4618  
consider all relevant information that has been presented to the 4619  
court, including information gathered from the child, the 4620  
child's guardian ad litem, and the public children services 4621  
agency or private child placing agency. 4622

(2) A child who is placed in a planned permanent living 4623  
arrangement pursuant to division (A) (5) (b) or (c) of this 4624  
section shall be placed in an independent living setting or in a 4625  
family setting in which the caregiver has been provided by the 4626  
agency that has custody of the child with a notice that 4627  
addresses the following: 4628

(a) The caregiver understands that the planned permanent 4629  
living arrangement is intended to be permanent in nature and 4630  
that the caregiver will provide a stable placement for the child 4631  
through the child's emancipation or until the court releases the 4632  
child from the custody of the agency, whichever occurs first. 4633

(b) The caregiver is expected to actively participate in 4634  
the youth's independent living case plan, attend agency team 4635  
meetings and court hearings as appropriate, complete training, 4636  
as provided in division (B) of section 5103.035 of the Revised 4637  
Code, related to providing the child independent living 4638

services, and assist in the child's transition into adulthood. 4639

(3) The department of job and family services shall 4640  
develop a model notice to be provided by an agency that has 4641  
custody of a child to a caregiver under division (B) (2) of this 4642  
section. The agency may modify the model notice to apply to the 4643  
needs of the agency. 4644

(C) No order for permanent custody or temporary custody of 4645  
a child or the placement of a child in a planned permanent 4646  
living arrangement shall be made pursuant to this section unless 4647  
the complaint alleging the abuse, neglect, or dependency 4648  
contains a prayer requesting permanent custody, temporary 4649  
custody, or the placement of the child in a planned permanent 4650  
living arrangement as desired, the summons served on the parents 4651  
of the child contains as is appropriate a full explanation that 4652  
the granting of an order for permanent custody permanently 4653  
divests them of their parental rights, a full explanation that 4654  
an adjudication that the child is an abused, neglected, or 4655  
dependent child may result in an order of temporary custody that 4656  
will cause the removal of the child from their legal custody 4657  
until the court terminates the order of temporary custody or 4658  
permanently divests the parents of their parental rights, or a 4659  
full explanation that the granting of an order for a planned 4660  
permanent living arrangement will result in the removal of the 4661  
child from their legal custody if any of the conditions listed 4662  
in divisions (A) (5) (a) to (c) of this section are found to 4663  
exist, and the summons served on the parents contains a full 4664  
explanation of their right to be represented by counsel and to 4665  
have counsel appointed pursuant to Chapter 120. of the Revised 4666  
Code if they are indigent. 4667

If after making disposition as authorized by division (A) 4668

(2) of this section, a motion is filed that requests permanent custody of the child, the court may grant permanent custody of the child to the movant in accordance with section 2151.414 of the Revised Code.

(D) If the court issues an order for protective supervision pursuant to division (A)(1) of this section, the court may place any reasonable restrictions upon the child, the child's parents, guardian, or custodian, or any other person, including, but not limited to, any of the following:

(1) Order a party, within forty-eight hours after the issuance of the order, to vacate the child's home indefinitely or for a specified period of time;

(2) Order a party, a parent of the child, or a physical custodian of the child to prevent any particular person from having contact with the child;

(3) Issue an order restraining or otherwise controlling the conduct of any person which conduct would not be in the best interest of the child.

(E) As part of its dispositional order, the court shall journalize a case plan for the child. The journalized case plan shall not be changed except as provided in section 2151.412 of the Revised Code.

(F)(1) The court shall retain jurisdiction over any child for whom the court issues an order of disposition pursuant to division (A) of this section or pursuant to section 2151.414 or 2151.415 of the Revised Code until the child attains the age of eighteen years if the child ~~is does not mentally retarded,~~ developmentally disabled, have a developmental disability or physically impaired physical impairment, the child attains the

age of twenty-one years if the child ~~is mentally retarded,~~ 4698  
~~developmentally disabled,~~ has a developmental disability or 4699  
~~physically impaired,~~ physical impairment, or the child is adopted 4700  
and a final decree of adoption is issued, except that the court 4701  
may retain jurisdiction over the child and continue any order of 4702  
disposition under division (A) of this section or under section 4703  
2151.414 or 2151.415 of the Revised Code for a specified period 4704  
of time to enable the child to graduate from high school or 4705  
vocational school. The court shall make an entry continuing its 4706  
jurisdiction under this division in the journal. 4707

(2) Any public children services agency, any private child 4708  
placing agency, the department of job and family services, or 4709  
any party, other than any parent whose parental rights with 4710  
respect to the child have been terminated pursuant to an order 4711  
issued under division (A) (4) of this section, by filing a motion 4712  
with the court, may at any time request the court to modify or 4713  
terminate any order of disposition issued pursuant to division 4714  
(A) of this section or section 2151.414 or 2151.415 of the 4715  
Revised Code. The court shall hold a hearing upon the motion as 4716  
if the hearing were the original dispositional hearing and shall 4717  
give all parties to the action and the guardian ad litem notice 4718  
of the hearing pursuant to the Juvenile Rules. If applicable, 4719  
the court shall comply with section 2151.42 of the Revised Code. 4720

(G) Any temporary custody order issued pursuant to 4721  
division (A) of this section shall terminate one year after the 4722  
earlier of the date on which the complaint in the case was filed 4723  
or the child was first placed into shelter care, except that, 4724  
upon the filing of a motion pursuant to section 2151.415 of the 4725  
Revised Code, the temporary custody order shall continue and not 4726  
terminate until the court issues a dispositional order under 4727  
that section. In resolving the motion, the court shall not order 4728

an existing temporary custody order to continue beyond two years 4729  
after the date on which the complaint was filed or the child was 4730  
first placed into shelter care, whichever date is earlier, 4731  
regardless of whether any extensions have been previously 4732  
ordered pursuant to division (D) of section 2151.415 of the 4733  
Revised Code. 4734

(H) (1) No later than one year after the earlier of the 4735  
date the complaint in the case was filed or the child was first 4736  
placed in shelter care, a party may ask the court to extend an 4737  
order for protective supervision for six months or to terminate 4738  
the order. A party requesting extension or termination of the 4739  
order shall file a written request for the extension or 4740  
termination with the court and give notice of the proposed 4741  
extension or termination in writing before the end of the day 4742  
after the day of filing it to all parties and the child's 4743  
guardian ad litem. If a public children services agency or 4744  
private child placing agency requests termination of the order, 4745  
the agency shall file a written status report setting out the 4746  
facts supporting termination of the order at the time it files 4747  
the request with the court. If no party requests extension or 4748  
termination of the order, the court shall notify the parties 4749  
that the court will extend the order for six months or terminate 4750  
it and that it may do so without a hearing unless one of the 4751  
parties requests a hearing. All parties and the guardian ad 4752  
litem shall have seven days from the date a notice is sent 4753  
pursuant to this division to object to and request a hearing on 4754  
the proposed extension or termination. 4755

(a) If it receives a timely request for a hearing, the 4756  
court shall schedule a hearing to be held no later than thirty 4757  
days after the request is received by the court. The court shall 4758  
give notice of the date, time, and location of the hearing to 4759

all parties and the guardian ad litem. At the hearing, the court shall determine whether extension or termination of the order is in the child's best interest. If termination is in the child's best interest, the court shall terminate the order. If extension is in the child's best interest, the court shall extend the order for six months.

(b) If it does not receive a timely request for a hearing, the court may extend the order for six months or terminate it without a hearing and shall journalize the order of extension or termination not later than fourteen days after receiving the request for extension or termination or after the date the court notifies the parties that it will extend or terminate the order. If the court does not extend or terminate the order, it shall schedule a hearing to be held no later than thirty days after the expiration of the applicable fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the child's guardian ad litem. At the hearing, the court shall determine whether extension or termination of the order is in the child's best interest. If termination is in the child's best interest, the court shall terminate the order. If extension is in the child's best interest, the court shall issue an order extending the order for protective supervision six months.

(2) If the court grants an extension of the order for protective supervision pursuant to division (H)(1) of this section, a party may, prior to termination of the extension, file with the court a request for an additional extension of six months or for termination of the order. The court and the parties shall comply with division (H)(1) of this section with respect to extending or terminating the order.

(3) If a court grants an extension pursuant to division 4790  
(H) (2) of this section, the court shall terminate the order for 4791  
protective supervision at the end of the extension. 4792

(I) The court shall not issue a dispositional order 4793  
pursuant to division (A) of this section that removes a child 4794  
from the child's home unless the court complies with section 4795  
2151.419 of the Revised Code and includes in the dispositional 4796  
order the findings of fact required by that section. 4797

(J) If a motion or application for an order described in 4798  
division (A) (6) of this section is made, the court shall not 4799  
issue the order unless, prior to the issuance of the order, it 4800  
provides to the person all of the following: 4801

(1) Notice and a copy of the motion or application; 4802

(2) The grounds for the motion or application; 4803

(3) An opportunity to present evidence and witnesses at a 4804  
hearing regarding the motion or application; 4805

(4) An opportunity to be represented by counsel at the 4806  
hearing. 4807

(K) The jurisdiction of the court shall terminate one year 4808  
after the date of the award or, if the court takes any further 4809  
action in the matter subsequent to the award, the date of the 4810  
latest further action subsequent to the award, if the court 4811  
awards legal custody of a child to either of the following: 4812

(1) A legal custodian who, at the time of the award of 4813  
legal custody, resides in a county of this state other than the 4814  
county in which the court is located; 4815

(2) A legal custodian who resides in the county in which 4816  
the court is located at the time of the award of legal custody, 4817

but moves to a different county of this state prior to one year 4818  
after the date of the award or, if the court takes any further 4819  
action in the matter subsequent to the award, one year after the 4820  
date of the latest further action subsequent to the award. 4821

The court in the county in which the legal custodian 4822  
resides then shall have jurisdiction in the matter. 4823

**Sec. 2151.414.** (A) (1) Upon the filing of a motion pursuant 4824  
to section 2151.413 of the Revised Code for permanent custody of 4825  
a child, the court shall schedule a hearing and give notice of 4826  
the filing of the motion and of the hearing, in accordance with 4827  
section 2151.29 of the Revised Code, to all parties to the 4828  
action and to the child's guardian ad litem. The notice also 4829  
shall contain a full explanation that the granting of permanent 4830  
custody permanently divests the parents of their parental 4831  
rights, a full explanation of their right to be represented by 4832  
counsel and to have counsel appointed pursuant to Chapter 120. 4833  
of the Revised Code if they are indigent, and the name and 4834  
telephone number of the court employee designated by the court 4835  
pursuant to section 2151.314 of the Revised Code to arrange for 4836  
the prompt appointment of counsel for indigent persons. 4837

The court shall conduct a hearing in accordance with 4838  
section 2151.35 of the Revised Code to determine if it is in the 4839  
best interest of the child to permanently terminate parental 4840  
rights and grant permanent custody to the agency that filed the 4841  
motion. The adjudication that the child is an abused, neglected, 4842  
or dependent child and any dispositional order that has been 4843  
issued in the case under section 2151.353 of the Revised Code 4844  
pursuant to the adjudication shall not be readjudicated at the 4845  
hearing and shall not be affected by a denial of the motion for 4846  
permanent custody. 4847

(2) The court shall hold the hearing scheduled pursuant to 4848  
division (A) (1) of this section not later than one hundred 4849  
twenty days after the agency files the motion for permanent 4850  
custody, except that, for good cause shown, the court may 4851  
continue the hearing for a reasonable period of time beyond the 4852  
one-hundred-twenty-day deadline. The court shall issue an order 4853  
that grants, denies, or otherwise disposes of the motion for 4854  
permanent custody, and journalize the order, not later than two 4855  
hundred days after the agency files the motion. 4856

If a motion is made under division (D) (2) of section 4857  
2151.413 of the Revised Code and no dispositional hearing has 4858  
been held in the case, the court may hear the motion in the 4859  
dispositional hearing required by division (B) of section 4860  
2151.35 of the Revised Code. If the court issues an order 4861  
pursuant to section 2151.353 of the Revised Code granting 4862  
permanent custody of the child to the agency, the court shall 4863  
immediately dismiss the motion made under division (D) (2) of 4864  
section 2151.413 of the Revised Code. 4865

The failure of the court to comply with the time periods 4866  
set forth in division (A) (2) of this section does not affect the 4867  
authority of the court to issue any order under this chapter and 4868  
does not provide any basis for attacking the jurisdiction of the 4869  
court or the validity of any order of the court. 4870

(B) (1) Except as provided in division (B) (2) of this 4871  
section, the court may grant permanent custody of a child to a 4872  
movant if the court determines at the hearing held pursuant to 4873  
division (A) of this section, by clear and convincing evidence, 4874  
that it is in the best interest of the child to grant permanent 4875  
custody of the child to the agency that filed the motion for 4876  
permanent custody and that any of the following apply: 4877

(a) The child is not abandoned or orphaned, has not been 4878  
in the temporary custody of one or more public children services 4879  
agencies or private child placing agencies for twelve or more 4880  
months of a consecutive twenty-two-month period, or has not been 4881  
in the temporary custody of one or more public children services 4882  
agencies or private child placing agencies for twelve or more 4883  
months of a consecutive twenty-two-month period if, as described 4884  
in division (D)(1) of section 2151.413 of the Revised Code, the 4885  
child was previously in the temporary custody of an equivalent 4886  
agency in another state, and the child cannot be placed with 4887  
either of the child's parents within a reasonable time or should 4888  
not be placed with the child's parents. 4889

(b) The child is abandoned. 4890

(c) The child is orphaned, and there are no relatives of 4891  
the child who are able to take permanent custody. 4892

(d) The child has been in the temporary custody of one or 4893  
more public children services agencies or private child placing 4894  
agencies for twelve or more months of a consecutive twenty-two- 4895  
month period, or the child has been in the temporary custody of 4896  
one or more public children services agencies or private child 4897  
placing agencies for twelve or more months of a consecutive 4898  
twenty-two-month period and, as described in division (D)(1) of 4899  
section 2151.413 of the Revised Code, the child was previously 4900  
in the temporary custody of an equivalent agency in another 4901  
state. 4902

(e) The child or another child in the custody of the 4903  
parent or parents from whose custody the child has been removed 4904  
has been adjudicated an abused, neglected, or dependent child on 4905  
three separate occasions by any court in this state or another 4906  
state. 4907

For the purposes of division (B) (1) of this section, a 4908  
child shall be considered to have entered the temporary custody 4909  
of an agency on the earlier of the date the child is adjudicated 4910  
pursuant to section 2151.28 of the Revised Code or the date that 4911  
is sixty days after the removal of the child from home. 4912

(2) With respect to a motion made pursuant to division (D) 4913  
(2) of section 2151.413 of the Revised Code, the court shall 4914  
grant permanent custody of the child to the movant if the court 4915  
determines in accordance with division (E) of this section that 4916  
the child cannot be placed with one of the child's parents 4917  
within a reasonable time or should not be placed with either 4918  
parent and determines in accordance with division (D) of this 4919  
section that permanent custody is in the child's best interest. 4920

(C) In making the determinations required by this section 4921  
or division (A) (4) of section 2151.353 of the Revised Code, a 4922  
court shall not consider the effect the granting of permanent 4923  
custody to the agency would have upon any parent of the child. A 4924  
written report of the guardian ad litem of the child shall be 4925  
submitted to the court prior to or at the time of the hearing 4926  
held pursuant to division (A) of this section or section 2151.35 4927  
of the Revised Code but shall not be submitted under oath. 4928

If the court grants permanent custody of a child to a 4929  
movant under this division, the court, upon the request of any 4930  
party, shall file a written opinion setting forth its findings 4931  
of fact and conclusions of law in relation to the proceeding. 4932  
The court shall not deny an agency's motion for permanent 4933  
custody solely because the agency failed to implement any 4934  
particular aspect of the child's case plan. 4935

(D) (1) In determining the best interest of a child at a 4936  
hearing held pursuant to division (A) of this section or for the 4937

purposes of division (A) (4) or (5) of section 2151.353 or 4938  
division (C) of section 2151.415 of the Revised Code, the court 4939  
shall consider all relevant factors, including, but not limited 4940  
to, the following: 4941

(a) The interaction and interrelationship of the child 4942  
with the child's parents, siblings, relatives, foster caregivers 4943  
and out-of-home providers, and any other person who may 4944  
significantly affect the child; 4945

(b) The wishes of the child, as expressed directly by the 4946  
child or through the child's guardian ad litem, with due regard 4947  
for the maturity of the child; 4948

(c) The custodial history of the child, including whether 4949  
the child has been in the temporary custody of one or more 4950  
public children services agencies or private child placing 4951  
agencies for twelve or more months of a consecutive twenty-two- 4952  
month period, or the child has been in the temporary custody of 4953  
one or more public children services agencies or private child 4954  
placing agencies for twelve or more months of a consecutive 4955  
twenty-two-month period and, as described in division (D) (1) of 4956  
section 2151.413 of the Revised Code, the child was previously 4957  
in the temporary custody of an equivalent agency in another 4958  
state; 4959

(d) The child's need for a legally secure permanent 4960  
placement and whether that type of placement can be achieved 4961  
without a grant of permanent custody to the agency; 4962

(e) Whether any of the factors in divisions (E) (7) to (11) 4963  
of this section apply in relation to the parents and child. 4964

For the purposes of division (D) (1) of this section, a 4965  
child shall be considered to have entered the temporary custody 4966

of an agency on the earlier of the date the child is adjudicated 4967  
pursuant to section 2151.28 of the Revised Code or the date that 4968  
is sixty days after the removal of the child from home. 4969

(2) If all of the following apply, permanent custody is in 4970  
the best interest of the child, and the court shall commit the 4971  
child to the permanent custody of a public children services 4972  
agency or private child placing agency: 4973

(a) The court determines by clear and convincing evidence 4974  
that one or more of the factors in division (E) of this section 4975  
exist and the child cannot be placed with one of the child's 4976  
parents within a reasonable time or should not be placed with 4977  
either parent. 4978

(b) The child has been in an agency's custody for two 4979  
years or longer, and no longer qualifies for temporary custody 4980  
pursuant to division (D) of section 2151.415 of the Revised 4981  
Code. 4982

(c) The child does not meet the requirements for a planned 4983  
permanent living arrangement pursuant to division (A) (5) of 4984  
section 2151.353 of the Revised Code. 4985

(d) Prior to the dispositional hearing, no relative or 4986  
other interested person has filed, or has been identified in, a 4987  
motion for legal custody of the child. 4988

(E) In determining at a hearing held pursuant to division 4989  
(A) of this section or for the purposes of division (A) (4) of 4990  
section 2151.353 of the Revised Code whether a child cannot be 4991  
placed with either parent within a reasonable period of time or 4992  
should not be placed with the parents, the court shall consider 4993  
all relevant evidence. If the court determines, by clear and 4994  
convincing evidence, at a hearing held pursuant to division (A) 4995

of this section or for the purposes of division (A) (4) of 4996  
section 2151.353 of the Revised Code that one or more of the 4997  
following exist as to each of the child's parents, the court 4998  
shall enter a finding that the child cannot be placed with 4999  
either parent within a reasonable time or should not be placed 5000  
with either parent: 5001

(1) Following the placement of the child outside the 5002  
child's home and notwithstanding reasonable case planning and 5003  
diligent efforts by the agency to assist the parents to remedy 5004  
the problems that initially caused the child to be placed 5005  
outside the home, the parent has failed continuously and 5006  
repeatedly to substantially remedy the conditions causing the 5007  
child to be placed outside the child's home. In determining 5008  
whether the parents have substantially remedied those 5009  
conditions, the court shall consider parental utilization of 5010  
medical, psychiatric, psychological, and other social and 5011  
rehabilitative services and material resources that were made 5012  
available to the parents for the purpose of changing parental 5013  
conduct to allow them to resume and maintain parental duties. 5014

(2) Chronic mental illness, chronic emotional illness, 5015  
~~mental retardation~~ intellectual disability, physical disability, 5016  
or chemical dependency of the parent that is so severe that it 5017  
makes the parent unable to provide an adequate permanent home 5018  
for the child at the present time and, as anticipated, within 5019  
one year after the court holds the hearing pursuant to division 5020  
(A) of this section or for the purposes of division (A) (4) of 5021  
section 2151.353 of the Revised Code; 5022

(3) The parent committed any abuse as described in section 5023  
2151.031 of the Revised Code against the child, caused the child 5024  
to suffer any neglect as described in section 2151.03 of the 5025

Revised Code, or allowed the child to suffer any neglect as 5026  
described in section 2151.03 of the Revised Code between the 5027  
date that the original complaint alleging abuse or neglect was 5028  
filed and the date of the filing of the motion for permanent 5029  
custody; 5030

(4) The parent has demonstrated a lack of commitment 5031  
toward the child by failing to regularly support, visit, or 5032  
communicate with the child when able to do so, or by other 5033  
actions showing an unwillingness to provide an adequate 5034  
permanent home for the child; 5035

(5) The parent is incarcerated for an offense committed 5036  
against the child or a sibling of the child; 5037

(6) The parent has been convicted of or pleaded guilty to 5038  
an offense under division (A) or (C) of section 2919.22 or under 5039  
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 5040  
2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.23, 5041  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 5042  
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 2919.25, 5043  
2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the Revised 5044  
Code, and the child or a sibling of the child was a victim of 5045  
the offense, or the parent has been convicted of or pleaded 5046  
guilty to an offense under section 2903.04 of the Revised Code, 5047  
a sibling of the child was the victim of the offense, and the 5048  
parent who committed the offense poses an ongoing danger to the 5049  
child or a sibling of the child. 5050

(7) The parent has been convicted of or pleaded guilty to 5051  
one of the following: 5052

(a) An offense under section 2903.01, 2903.02, or 2903.03 5053  
of the Revised Code or under an existing or former law of this 5054

state, any other state, or the United States that is 5055  
substantially equivalent to an offense described in those 5056  
sections and the victim of the offense was a sibling of the 5057  
child or the victim was another child who lived in the parent's 5058  
household at the time of the offense; 5059

(b) An offense under section 2903.11, 2903.12, or 2903.13 5060  
of the Revised Code or under an existing or former law of this 5061  
state, any other state, or the United States that is 5062  
substantially equivalent to an offense described in those 5063  
sections and the victim of the offense is the child, a sibling 5064  
of the child, or another child who lived in the parent's 5065  
household at the time of the offense; 5066

(c) An offense under division (B) (2) of section 2919.22 of 5067  
the Revised Code or under an existing or former law of this 5068  
state, any other state, or the United States that is 5069  
substantially equivalent to the offense described in that 5070  
section and the child, a sibling of the child, or another child 5071  
who lived in the parent's household at the time of the offense 5072  
is the victim of the offense; 5073

(d) An offense under section 2907.02, 2907.03, 2907.04, 5074  
2907.05, or 2907.06 of the Revised Code or under an existing or 5075  
former law of this state, any other state, or the United States 5076  
that is substantially equivalent to an offense described in 5077  
those sections and the victim of the offense is the child, a 5078  
sibling of the child, or another child who lived in the parent's 5079  
household at the time of the offense; 5080

(e) An offense under section 2905.32, 2907.21, or 2907.22 5081  
of the Revised Code or under an existing or former law of this 5082  
state, any other state, or the United States that is 5083  
substantially equivalent to the offense described in that 5084

section and the victim of the offense is the child, a sibling of 5085  
the child, or another child who lived in the parent's household 5086  
at the time of the offense; 5087

(f) A conspiracy or attempt to commit, or complicity in 5088  
committing, an offense described in division (E) (7) (a), (d), or 5089  
(e) of this section. 5090

(8) The parent has repeatedly withheld medical treatment 5091  
or food from the child when the parent has the means to provide 5092  
the treatment or food, and, in the case of withheld medical 5093  
treatment, the parent withheld it for a purpose other than to 5094  
treat the physical or mental illness or defect of the child by 5095  
spiritual means through prayer alone in accordance with the 5096  
tenets of a recognized religious body. 5097

(9) The parent has placed the child at substantial risk of 5098  
harm two or more times due to alcohol or drug abuse and has 5099  
rejected treatment two or more times or refused to participate 5100  
in further treatment two or more times after a case plan issued 5101  
pursuant to section 2151.412 of the Revised Code requiring 5102  
treatment of the parent was journalized as part of a 5103  
dispositional order issued with respect to the child or an order 5104  
was issued by any other court requiring treatment of the parent. 5105

(10) The parent has abandoned the child. 5106

(11) The parent has had parental rights involuntarily 5107  
terminated with respect to a sibling of the child pursuant to 5108  
this section or section 2151.353 or 2151.415 of the Revised 5109  
Code, or under an existing or former law of this state, any 5110  
other state, or the United States that is substantially 5111  
equivalent to those sections, and the parent has failed to 5112  
provide clear and convincing evidence to prove that, 5113

notwithstanding the prior termination, the parent can provide a 5114  
legally secure permanent placement and adequate care for the 5115  
health, welfare, and safety of the child. 5116

(12) The parent is incarcerated at the time of the filing 5117  
of the motion for permanent custody or the dispositional hearing 5118  
of the child and will not be available to care for the child for 5119  
at least eighteen months after the filing of the motion for 5120  
permanent custody or the dispositional hearing. 5121

(13) The parent is repeatedly incarcerated, and the 5122  
repeated incarceration prevents the parent from providing care 5123  
for the child. 5124

(14) The parent for any reason is unwilling to provide 5125  
food, clothing, shelter, and other basic necessities for the 5126  
child or to prevent the child from suffering physical, 5127  
emotional, or sexual abuse or physical, emotional, or mental 5128  
neglect. 5129

(15) The parent has committed abuse as described in 5130  
section 2151.031 of the Revised Code against the child or caused 5131  
or allowed the child to suffer neglect as described in section 5132  
2151.03 of the Revised Code, and the court determines that the 5133  
seriousness, nature, or likelihood of recurrence of the abuse or 5134  
neglect makes the child's placement with the child's parent a 5135  
threat to the child's safety. 5136

(16) Any other factor the court considers relevant. 5137

(F) The parents of a child for whom the court has issued 5138  
an order granting permanent custody pursuant to this section, 5139  
upon the issuance of the order, cease to be parties to the 5140  
action. This division is not intended to eliminate or restrict 5141  
any right of the parents to appeal the granting of permanent 5142

custody of their child to a movant pursuant to this section. 5143

**Sec. 2151.415.** (A) Except for cases in which a motion for 5144  
permanent custody described in division (D) (1) of section 5145  
2151.413 of the Revised Code is required to be made, a public 5146  
children services agency or private child placing agency that 5147  
has been given temporary custody of a child pursuant to section 5148  
2151.353 of the Revised Code, not later than thirty days prior 5149  
to the earlier of the date for the termination of the custody 5150  
order pursuant to division (H) of section 2151.353 of the 5151  
Revised Code or the date set at the dispositional hearing for 5152  
the hearing to be held pursuant to this section, shall file a 5153  
motion with the court that issued the order of disposition 5154  
requesting that any of the following orders of disposition of 5155  
the child be issued by the court: 5156

(1) An order that the child be returned home and the 5157  
custody of the child's parents, guardian, or custodian without 5158  
any restrictions; 5159

(2) An order for protective supervision; 5160

(3) An order that the child be placed in the legal custody 5161  
of a relative or other interested individual; 5162

(4) An order permanently terminating the parental rights 5163  
of the child's parents; 5164

(5) An order that the child be placed in a planned 5165  
permanent living arrangement; 5166

(6) In accordance with division (D) of this section, an 5167  
order for the extension of temporary custody. 5168

(B) Upon the filing of a motion pursuant to division (A) 5169  
of this section, the court shall hold a dispositional hearing on 5170

the date set at the dispositional hearing held pursuant to 5171  
section 2151.35 of the Revised Code, with notice to all parties 5172  
to the action in accordance with the Juvenile Rules. After the 5173  
dispositional hearing or at a date after the dispositional 5174  
hearing that is not later than one year after the earlier of the 5175  
date on which the complaint in the case was filed or the child 5176  
was first placed into shelter care, the court, in accordance 5177  
with the best interest of the child as supported by the evidence 5178  
presented at the dispositional hearing, shall issue an order of 5179  
disposition as set forth in division (A) of this section, except 5180  
that all orders for permanent custody shall be made in 5181  
accordance with sections 2151.413 and 2151.414 of the Revised 5182  
Code. In issuing an order of disposition under this section, the 5183  
court shall comply with section 2151.42 of the Revised Code. 5184

(C) (1) If an agency pursuant to division (A) of this 5185  
section requests the court to place a child into a planned 5186  
permanent living arrangement, the agency shall present evidence 5187  
to indicate why a planned permanent living arrangement is 5188  
appropriate for the child, including, but not limited to, 5189  
evidence that the agency has tried or considered all other 5190  
possible dispositions for the child. A court shall not place a 5191  
child in a planned permanent living arrangement, unless it 5192  
finds, by clear and convincing evidence, that a planned 5193  
permanent living arrangement is in the best interest of the 5194  
child and that one of the following exists: 5195

(a) The child, because of physical, mental, or 5196  
psychological problems or needs, is unable to function in a 5197  
family-like setting and must remain in residential or 5198  
institutional care. 5199

(b) The parents of the child have significant physical, 5200

mental, or psychological problems and are unable to care for the 5201  
child because of those problems, adoption is not in the best 5202  
interest of the child, as determined in accordance with division 5203  
(D) (1) of section 2151.414 of the Revised Code, and the child 5204  
retains a significant and positive relationship with a parent or 5205  
relative; 5206

(c) The child is sixteen years of age or older, has been 5207  
counseled on the permanent placement options available, is 5208  
unwilling to accept or unable to adapt to a permanent placement, 5209  
and is in an agency program preparing for independent living. 5210

(2) If the court issues an order placing a child in a 5211  
planned permanent living arrangement, both of the following 5212  
apply: 5213

(a) The court shall issue a finding of fact setting forth 5214  
the reasons for its finding; 5215

(b) The agency may make any appropriate placement for the 5216  
child and shall develop a case plan for the child that is 5217  
designed to assist the child in finding a permanent home outside 5218  
of the home of the parents. 5219

(D) (1) If an agency pursuant to division (A) of this 5220  
section requests the court to grant an extension of temporary 5221  
custody for a period of up to six months, the agency shall 5222  
include in the motion an explanation of the progress on the case 5223  
plan of the child and of its expectations of reunifying the 5224  
child with the child's family, or placing the child in a 5225  
permanent placement, within the extension period. The court 5226  
shall schedule a hearing on the motion, give notice of its date, 5227  
time, and location to all parties and the guardian ad litem of 5228  
the child, and at the hearing consider the evidence presented by 5229

the parties and the guardian ad litem. The court may extend the 5230  
temporary custody order of the child for a period of up to six 5231  
months, if it determines at the hearing, by clear and convincing 5232  
evidence, that the extension is in the best interest of the 5233  
child, there has been significant progress on the case plan of 5234  
the child, and there is reasonable cause to believe that the 5235  
child will be reunified with one of the parents or otherwise 5236  
permanently placed within the period of extension. In 5237  
determining whether to extend the temporary custody of the child 5238  
pursuant to this division, the court shall comply with section 5239  
2151.42 of the Revised Code. If the court extends the temporary 5240  
custody of the child pursuant to this division, upon request it 5241  
shall issue findings of fact. 5242

(2) Prior to the end of the extension granted pursuant to 5243  
division (D)(1) of this section, the agency that received the 5244  
extension shall file a motion with the court requesting the 5245  
issuance of one of the orders of disposition set forth in 5246  
divisions (A)(1) to (5) of this section or requesting the court 5247  
to extend the temporary custody order of the child for an 5248  
additional period of up to six months. If the agency requests 5249  
the issuance of an order of disposition under divisions (A)(1) 5250  
to (5) of this section or does not file any motion prior to the 5251  
expiration of the extension period, the court shall conduct a 5252  
hearing in accordance with division (B) of this section and 5253  
issue an appropriate order of disposition. In issuing an order 5254  
of disposition, the court shall comply with section 2151.42 of 5255  
the Revised Code. 5256

If the agency requests an additional extension of up to 5257  
six months of the temporary custody order of the child, the 5258  
court shall schedule and conduct a hearing in the manner set 5259  
forth in division (D)(1) of this section. The court may extend 5260

the temporary custody order of the child for an additional 5261  
period of up to six months if it determines at the hearing, by 5262  
clear and convincing evidence, that the additional extension is 5263  
in the best interest of the child, there has been substantial 5264  
additional progress since the original extension of temporary 5265  
custody in the case plan of the child, there has been 5266  
substantial additional progress since the original extension of 5267  
temporary custody toward reunifying the child with one of the 5268  
parents or otherwise permanently placing the child, and there is 5269  
reasonable cause to believe that the child will be reunified 5270  
with one of the parents or otherwise placed in a permanent 5271  
setting before the expiration of the additional extension 5272  
period. In determining whether to grant an additional extension, 5273  
the court shall comply with section 2151.42 of the Revised Code. 5274  
If the court extends the temporary custody of the child for an 5275  
additional period pursuant to this division, upon request it 5276  
shall issue findings of fact. 5277

(3) Prior to the end of the extension of a temporary 5278  
custody order granted pursuant to division (D)(2) of this 5279  
section, the agency that received the extension shall file a 5280  
motion with the court requesting the issuance of one of the 5281  
orders of disposition set forth in divisions (A)(1) to (5) of 5282  
this section. Upon the filing of the motion by the agency or, if 5283  
the agency does not file the motion prior to the expiration of 5284  
the extension period, upon its own motion, the court, prior to 5285  
the expiration of the extension period, shall conduct a hearing 5286  
in accordance with division (B) of this section and issue an 5287  
appropriate order of disposition. In issuing an order of 5288  
disposition, the court shall comply with section 2151.42 of the 5289  
Revised Code. 5290

(4) No court shall grant an agency more than two 5291

extensions of temporary custody pursuant to division (D) of this 5292  
section and the court shall not order an existing temporary 5293  
custody order to continue beyond two years after the date on 5294  
which the complaint was filed or the child was first placed into 5295  
shelter care, whichever date is earlier, regardless of whether 5296  
any extensions have been previously ordered pursuant to division 5297  
(D) of this section. 5298

(E) After the issuance of an order pursuant to division 5299  
(B) of this section, the court shall retain jurisdiction over 5300  
the child until the child attains the age of eighteen if the 5301  
child ~~is does not mentally retarded, developmentally disabled,~~ 5302  
have a developmental disability or physically impaired physical 5303  
impairment, the child attains the age of twenty-one if the child 5304  
~~is mentally retarded, developmentally disabled, has a~~ 5305  
developmental disability or physically impaired physical 5306  
impairment, or the child is adopted and a final decree of 5307  
adoption is issued, unless the court's jurisdiction over the 5308  
child is extended pursuant to division (F) of section 2151.353 5309  
of the Revised Code. 5310

(F) The court, on its own motion or the motion of the 5311  
agency or person with legal custody of the child, the child's 5312  
guardian ad litem, or any other party to the action, may conduct 5313  
a hearing with notice to all parties to determine whether any 5314  
order issued pursuant to this section should be modified or 5315  
terminated or whether any other dispositional order set forth in 5316  
divisions (A) (1) to (5) of this section should be issued. After 5317  
the hearing and consideration of all the evidence presented, the 5318  
court, in accordance with the best interest of the child, may 5319  
modify or terminate any order issued pursuant to this section or 5320  
issue any dispositional order set forth in divisions (A) (1) to 5321  
(5) of this section. In rendering a decision under this 5322

division, the court shall comply with section 2151.42 of the Revised Code.

(G) If the court places a child in a planned permanent living arrangement with a public children services agency or a private child placing agency pursuant to this section, the agency with which the child is placed in a planned permanent living arrangement shall not remove the child from the residential placement in which the child is originally placed pursuant to the case plan for the child or in which the child is placed with court approval pursuant to this division, unless the court and the guardian ad litem are given notice of the intended removal and the court issues an order approving the removal or unless the removal is necessary to protect the child from physical or emotional harm and the agency gives the court notice of the removal and of the reasons why the removal is necessary to protect the child from physical or emotional harm immediately after the removal of the child from the prior setting.

(H) If the hearing held under this section takes the place of an administrative review that otherwise would have been held under section 2151.416 of the Revised Code, the court at the hearing held under this section shall do all of the following in addition to any other requirements of this section:

(1) Determine the continued necessity for and the appropriateness of the child's placement;

(2) Determine the extent of compliance with the child's case plan;

(3) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating the child's placement in foster care;

(4) Project a likely date by which the child may be returned to the child's home or placed for adoption or legal guardianship;

(5) Approve the permanency plan for the child consistent with section 2151.417 of the Revised Code.

**Sec. 2151.421.** (A) (1) (a) No person described in division (A) (1) (b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age, or a ~~mentally retarded, developmentally disabled, or physically impaired child person~~ with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A) (1) (a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse;

visiting nurse; other health care professional; licensed	5382
psychologist; licensed school psychologist; independent marriage	5383
and family therapist or marriage and family therapist; speech	5384
pathologist or audiologist; coroner; administrator or employee	5385
of a child day-care center; administrator or employee of a	5386
residential camp, child day camp, or private, nonprofit	5387
therapeutic wilderness camp; administrator or employee of a	5388
certified child care agency or other public or private children	5389
services agency; school teacher; school employee; school	5390
authority; person engaged in social work or the practice of	5391
professional counseling; agent of a county humane society;	5392
person, other than a cleric, rendering spiritual treatment	5393
through prayer in accordance with the tenets of a well-	5394
recognized religion; employee of a county department of job and	5395
family services who is a professional and who works with	5396
children and families; superintendent or regional administrator	5397
employed by the department of youth services; superintendent,	5398
board member, or employee of a county board of developmental	5399
disabilities; investigative agent contracted with by a county	5400
board of developmental disabilities; employee of the department	5401
of developmental disabilities; employee of a facility or home	5402
that provides respite care in accordance with section 5123.171	5403
of the Revised Code; employee of a home health agency; employee	5404
of an entity that provides homemaker services; a person	5405
performing the duties of an assessor pursuant to Chapter 3107.	5406
or 5103. of the Revised Code; third party employed by a public	5407
children services agency to assist in providing child or family	5408
related services; court appointed special advocate; or guardian	5409
ad litem.	5410
(2) Except as provided in division (A)(3) of this section,	5411
an attorney or a physician is not required to make a report	5412

pursuant to division (A) (1) of this section concerning any 5413  
communication the attorney or physician receives from a client 5414  
or patient in an attorney-client or physician-patient 5415  
relationship, if, in accordance with division (A) or (B) of 5416  
section 2317.02 of the Revised Code, the attorney or physician 5417  
could not testify with respect to that communication in a civil 5418  
or criminal proceeding. 5419

(3) The client or patient in an attorney-client or 5420  
physician-patient relationship described in division (A) (2) of 5421  
this section is deemed to have waived any testimonial privilege 5422  
under division (A) or (B) of section 2317.02 of the Revised Code 5423  
with respect to any communication the attorney or physician 5424  
receives from the client or patient in that attorney-client or 5425  
physician-patient relationship, and the attorney or physician 5426  
shall make a report pursuant to division (A) (1) of this section 5427  
with respect to that communication, if all of the following 5428  
apply: 5429

(a) The client or patient, at the time of the 5430  
communication, is ~~either~~ a child under eighteen years of age or 5431  
~~is a mentally retarded, developmentally disabled, or physically-~~ 5432  
~~impaired~~ person under twenty-one years of age with a 5433  
developmental disability or physical impairment. 5434

(b) The attorney or physician knows, or has reasonable 5435  
cause to suspect based on facts that would cause a reasonable 5436  
person in similar position to suspect, as a result of the 5437  
communication or any observations made during that 5438  
communication, that the client or patient has suffered or faces 5439  
a threat of suffering any physical or mental wound, injury, 5440  
disability, or condition of a nature that reasonably indicates 5441  
abuse or neglect of the client or patient. 5442

(c) The abuse or neglect does not arise out of the 5443  
client's or patient's attempt to have an abortion without the 5444  
notification of her parents, guardian, or custodian in 5445  
accordance with section 2151.85 of the Revised Code. 5446

(4) (a) No cleric and no person, other than a volunteer, 5447  
designated by any church, religious society, or faith acting as 5448  
a leader, official, or delegate on behalf of the church, 5449  
religious society, or faith who is acting in an official or 5450  
professional capacity, who knows, or has reasonable cause to 5451  
believe based on facts that would cause a reasonable person in a 5452  
similar position to believe, that a child under eighteen years 5453  
of age, ~~or a mentally retarded, developmentally disabled, or~~ 5454  
~~physically impaired child person~~ under twenty-one years of age 5455  
with a developmental disability or physical impairment, has 5456  
suffered or faces a threat of suffering any physical or mental 5457  
wound, injury, disability, or condition of a nature that 5458  
reasonably indicates abuse or neglect of the child, and who 5459  
knows, or has reasonable cause to believe based on facts that 5460  
would cause a reasonable person in a similar position to 5461  
believe, that another cleric or another person, other than a 5462  
volunteer, designated by a church, religious society, or faith 5463  
acting as a leader, official, or delegate on behalf of the 5464  
church, religious society, or faith caused, or poses the threat 5465  
of causing, the wound, injury, disability, or condition that 5466  
reasonably indicates abuse or neglect shall fail to immediately 5467  
report that knowledge or reasonable cause to believe to the 5468  
entity or persons specified in this division. Except as provided 5469  
in section 5120.173 of the Revised Code, the person making the 5470  
report shall make it to the public children services agency or a 5471  
municipal or county peace officer in the county in which the 5472  
child resides or in which the abuse or neglect is occurring or 5473

has occurred. In the circumstances described in section 5120.173 5474  
of the Revised Code, the person making the report shall make it 5475  
to the entity specified in that section. 5476

(b) Except as provided in division (A)(4)(c) of this 5477  
section, a cleric is not required to make a report pursuant to 5478  
division (A)(4)(a) of this section concerning any communication 5479  
the cleric receives from a penitent in a cleric-penitent 5480  
relationship, if, in accordance with division (C) of section 5481  
2317.02 of the Revised Code, the cleric could not testify with 5482  
respect to that communication in a civil or criminal proceeding. 5483

(c) The penitent in a cleric-penitent relationship 5484  
described in division (A)(4)(b) of this section is deemed to 5485  
have waived any testimonial privilege under division (C) of 5486  
section 2317.02 of the Revised Code with respect to any 5487  
communication the cleric receives from the penitent in that 5488  
cleric-penitent relationship, and the cleric shall make a report 5489  
pursuant to division (A)(4)(a) of this section with respect to 5490  
that communication, if all of the following apply: 5491

(i) The penitent, at the time of the communication, is 5492  
~~either a child under eighteen years of age or is a mentally~~ 5493  
~~retarded, developmentally disabled, or physically impaired~~ 5494  
person under twenty-one years of age with a developmental 5495  
disability or physical impairment. 5496

(ii) The cleric knows, or has reasonable cause to believe 5497  
based on facts that would cause a reasonable person in a similar 5498  
position to believe, as a result of the communication or any 5499  
observations made during that communication, the penitent has 5500  
suffered or faces a threat of suffering any physical or mental 5501  
wound, injury, disability, or condition of a nature that 5502  
reasonably indicates abuse or neglect of the penitent. 5503

(iii) The abuse or neglect does not arise out of the 5504  
penitent's attempt to have an abortion performed upon a child 5505  
under eighteen years of age or upon a ~~mentally retarded,~~ 5506  
~~developmentally disabled, or physically impaired~~ person under 5507  
twenty-one years of age with a developmental disability or 5508  
physical impairment without the notification of her parents, 5509  
guardian, or custodian in accordance with section 2151.85 of the 5510  
Revised Code. 5511

(d) Divisions (A) (4) (a) and (c) of this section do not 5512  
apply in a cleric-penitent relationship when the disclosure of 5513  
any communication the cleric receives from the penitent is in 5514  
violation of the sacred trust. 5515

(e) As used in divisions (A) (1) and (4) of this section, 5516  
"cleric" and "sacred trust" have the same meanings as in section 5517  
2317.02 of the Revised Code. 5518

(B) Anyone who knows, or has reasonable cause to suspect 5519  
based on facts that would cause a reasonable person in similar 5520  
circumstances to suspect, that a child under eighteen years of 5521  
age, or a ~~mentally retarded, developmentally disabled, or~~ 5522  
~~physically impaired~~ person under twenty-one years of age with a 5523  
developmental disability or physical impairment, has suffered or 5524  
faces a threat of suffering any physical or mental wound, 5525  
injury, disability, or other condition of a nature that 5526  
reasonably indicates abuse or neglect of the child may report or 5527  
cause reports to be made of that knowledge or reasonable cause 5528  
to suspect to the entity or persons specified in this division. 5529  
Except as provided in section 5120.173 of the Revised Code, a 5530  
person making a report or causing a report to be made under this 5531  
division shall make it or cause it to be made to the public 5532  
children services agency or to a municipal or county peace 5533

officer. In the circumstances described in section 5120.173 of 5534  
the Revised Code, a person making a report or causing a report 5535  
to be made under this division shall make it or cause it to be 5536  
made to the entity specified in that section. 5537

(C) Any report made pursuant to division (A) or (B) of 5538  
this section shall be made forthwith either by telephone or in 5539  
person and shall be followed by a written report, if requested 5540  
by the receiving agency or officer. The written report shall 5541  
contain: 5542

(1) The names and addresses of the child and the child's 5543  
parents or the person or persons having custody of the child, if 5544  
known; 5545

(2) The child's age and the nature and extent of the 5546  
child's injuries, abuse, or neglect that is known or reasonably 5547  
suspected or believed, as applicable, to have occurred or of the 5548  
threat of injury, abuse, or neglect that is known or reasonably 5549  
suspected or believed, as applicable, to exist, including any 5550  
evidence of previous injuries, abuse, or neglect; 5551

(3) Any other information that might be helpful in 5552  
establishing the cause of the injury, abuse, or neglect that is 5553  
known or reasonably suspected or believed, as applicable, to 5554  
have occurred or of the threat of injury, abuse, or neglect that 5555  
is known or reasonably suspected or believed, as applicable, to 5556  
exist. 5557

Any person, who is required by division (A) of this 5558  
section to report child abuse or child neglect that is known or 5559  
reasonably suspected or believed to have occurred, may take or 5560  
cause to be taken color photographs of areas of trauma visible 5561  
on a child and, if medically indicated, cause to be performed 5562

radiological examinations of the child. 5563

(D) As used in this division, "children's advocacy center" 5564  
and "sexual abuse of a child" have the same meanings as in 5565  
section 2151.425 of the Revised Code. 5566

(1) When a municipal or county peace officer receives a 5567  
report concerning the possible abuse or neglect of a child or 5568  
the possible threat of abuse or neglect of a child, upon receipt 5569  
of the report, the municipal or county peace officer who 5570  
receives the report shall refer the report to the appropriate 5571  
public children services agency. 5572

(2) When a public children services agency receives a 5573  
report pursuant to this division or division (A) or (B) of this 5574  
section, upon receipt of the report, the public children 5575  
services agency shall do both of the following: 5576

(a) Comply with section 2151.422 of the Revised Code; 5577

(b) If the county served by the agency is also served by a 5578  
children's advocacy center and the report alleges sexual abuse 5579  
of a child or another type of abuse of a child that is specified 5580  
in the memorandum of understanding that creates the center as 5581  
being within the center's jurisdiction, comply regarding the 5582  
report with the protocol and procedures for referrals and 5583  
investigations, with the coordinating activities, and with the 5584  
authority or responsibility for performing or providing 5585  
functions, activities, and services stipulated in the 5586  
interagency agreement entered into under section 2151.428 of the 5587  
Revised Code relative to that center. 5588

(E) No township, municipal, or county peace officer shall 5589  
remove a child about whom a report is made pursuant to this 5590  
section from the child's parents, stepparents, or guardian or 5591

any other persons having custody of the child without 5592  
consultation with the public children services agency, unless, 5593  
in the judgment of the officer, and, if the report was made by 5594  
physician, the physician, immediate removal is considered 5595  
essential to protect the child from further abuse or neglect. 5596  
The agency that must be consulted shall be the agency conducting 5597  
the investigation of the report as determined pursuant to 5598  
section 2151.422 of the Revised Code. 5599

(F) (1) Except as provided in section 2151.422 of the 5600  
Revised Code or in an interagency agreement entered into under 5601  
section 2151.428 of the Revised Code that applies to the 5602  
particular report, the public children services agency shall 5603  
investigate, within twenty-four hours, each report of child 5604  
abuse or child neglect that is known or reasonably suspected or 5605  
believed to have occurred and of a threat of child abuse or 5606  
child neglect that is known or reasonably suspected or believed 5607  
to exist that is referred to it under this section to determine 5608  
the circumstances surrounding the injuries, abuse, or neglect or 5609  
the threat of injury, abuse, or neglect, the cause of the 5610  
injuries, abuse, neglect, or threat, and the person or persons 5611  
responsible. The investigation shall be made in cooperation with 5612  
the law enforcement agency and in accordance with the memorandum 5613  
of understanding prepared under division (J) of this section. A 5614  
representative of the public children services agency shall, at 5615  
the time of initial contact with the person subject to the 5616  
investigation, inform the person of the specific complaints or 5617  
allegations made against the person. The information shall be 5618  
given in a manner that is consistent with division (H) (1) of 5619  
this section and protects the rights of the person making the 5620  
report under this section. 5621

A failure to make the investigation in accordance with the 5622

memorandum is not grounds for, and shall not result in, the 5623  
dismissal of any charges or complaint arising from the report or 5624  
the suppression of any evidence obtained as a result of the 5625  
report and does not give, and shall not be construed as giving, 5626  
any rights or any grounds for appeal or post-conviction relief 5627  
to any person. The public children services agency shall report 5628  
each case to the uniform statewide automated child welfare 5629  
information system that the department of job and family 5630  
services shall maintain in accordance with section 5101.13 of 5631  
the Revised Code. The public children services agency shall 5632  
submit a report of its investigation, in writing, to the law 5633  
enforcement agency. 5634

(2) The public children services agency shall make any 5635  
recommendations to the county prosecuting attorney or city 5636  
director of law that it considers necessary to protect any 5637  
children that are brought to its attention. 5638

(G) (1) (a) Except as provided in division (H) (3) of this 5639  
section, anyone or any hospital, institution, school, health 5640  
department, or agency participating in the making of reports 5641  
under division (A) of this section, anyone or any hospital, 5642  
institution, school, health department, or agency participating 5643  
in good faith in the making of reports under division (B) of 5644  
this section, and anyone participating in good faith in a 5645  
judicial proceeding resulting from the reports, shall be immune 5646  
from any civil or criminal liability for injury, death, or loss 5647  
to person or property that otherwise might be incurred or 5648  
imposed as a result of the making of the reports or the 5649  
participation in the judicial proceeding. 5650

(b) Notwithstanding section 4731.22 of the Revised Code, 5651  
the physician-patient privilege shall not be a ground for 5652

excluding evidence regarding a child's injuries, abuse, or 5653  
neglect, or the cause of the injuries, abuse, or neglect in any 5654  
judicial proceeding resulting from a report submitted pursuant 5655  
to this section. 5656

(2) In any civil or criminal action or proceeding in which 5657  
it is alleged and proved that participation in the making of a 5658  
report under this section was not in good faith or participation 5659  
in a judicial proceeding resulting from a report made under this 5660  
section was not in good faith, the court shall award the 5661  
prevailing party reasonable attorney's fees and costs and, if a 5662  
civil action or proceeding is voluntarily dismissed, may award 5663  
reasonable attorney's fees and costs to the party against whom 5664  
the civil action or proceeding is brought. 5665

(H) (1) Except as provided in divisions (H) (4) and (N) of 5666  
this section, a report made under this section is confidential. 5667  
The information provided in a report made pursuant to this 5668  
section and the name of the person who made the report shall not 5669  
be released for use, and shall not be used, as evidence in any 5670  
civil action or proceeding brought against the person who made 5671  
the report. Nothing in this division shall preclude the use of 5672  
reports of other incidents of known or suspected abuse or 5673  
neglect in a civil action or proceeding brought pursuant to 5674  
division (M) of this section against a person who is alleged to 5675  
have violated division (A) (1) of this section, provided that any 5676  
information in a report that would identify the child who is the 5677  
subject of the report or the maker of the report, if the maker 5678  
of the report is not the defendant or an agent or employee of 5679  
the defendant, has been redacted. In a criminal proceeding, the 5680  
report is admissible in evidence in accordance with the Rules of 5681  
Evidence and is subject to discovery in accordance with the 5682  
Rules of Criminal Procedure. 5683

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section. 5684  
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(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code. 5687  
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(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board or the director of health pursuant to guidelines established under section 3701.70 of the Revised Code, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death or to the director. On the request of the review board or director, the agency or peace officer may, at its discretion, make the report available to the review board or director. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center. 5692  
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(5) A public children services agency shall advise a 5715  
person alleged to have inflicted abuse or neglect on a child who 5716  
is the subject of a report made pursuant to this section, 5717  
including a report alleging sexual abuse of a child or another 5718  
type of abuse of a child referred to a children's advocacy 5719  
center pursuant to an interagency agreement entered into under 5720  
section 2151.428 of the Revised Code, in writing of the 5721  
disposition of the investigation. The agency shall not provide 5722  
to the person any information that identifies the person who 5723  
made the report, statements of witnesses, or police or other 5724  
investigative reports. 5725

(I) Any report that is required by this section, other 5726  
than a report that is made to the state highway patrol as 5727  
described in section 5120.173 of the Revised Code, shall result 5728  
in protective services and emergency supportive services being 5729  
made available by the public children services agency on behalf 5730  
of the children about whom the report is made, in an effort to 5731  
prevent further neglect or abuse, to enhance their welfare, and, 5732  
whenever possible, to preserve the family unit intact. The 5733  
agency required to provide the services shall be the agency 5734  
conducting the investigation of the report pursuant to section 5735  
2151.422 of the Revised Code. 5736

(J) (1) Each public children services agency shall prepare 5737  
a memorandum of understanding that is signed by all of the 5738  
following: 5739

(a) If there is only one juvenile judge in the county, the 5740  
juvenile judge of the county or the juvenile judge's 5741  
representative; 5742

(b) If there is more than one juvenile judge in the 5743  
county, a juvenile judge or the juvenile judges' representative 5744

selected by the juvenile judges or, if they are unable to do so 5745  
for any reason, the juvenile judge who is senior in point of 5746  
service or the senior juvenile judge's representative; 5747

(c) The county peace officer; 5748

(d) All chief municipal peace officers within the county; 5749

(e) Other law enforcement officers handling child abuse 5750  
and neglect cases in the county; 5751

(f) The prosecuting attorney of the county; 5752

(g) If the public children services agency is not the 5753  
county department of job and family services, the county 5754  
department of job and family services; 5755

(h) The county humane society; 5756

(i) If the public children services agency participated in 5757  
the execution of a memorandum of understanding under section 5758  
2151.426 of the Revised Code establishing a children's advocacy 5759  
center, each participating member of the children's advocacy 5760  
center established by the memorandum. 5761

(2) A memorandum of understanding shall set forth the 5762  
normal operating procedure to be employed by all concerned 5763  
officials in the execution of their respective responsibilities 5764  
under this section and division (C) of section 2919.21, division 5765  
(B) (1) of section 2919.22, division (B) of section 2919.23, and 5766  
section 2919.24 of the Revised Code and shall have as two of its 5767  
primary goals the elimination of all unnecessary interviews of 5768  
children who are the subject of reports made pursuant to 5769  
division (A) or (B) of this section and, when feasible, 5770  
providing for only one interview of a child who is the subject 5771  
of any report made pursuant to division (A) or (B) of this 5772

section. A failure to follow the procedure set forth in the 5773  
memorandum by the concerned officials is not grounds for, and 5774  
shall not result in, the dismissal of any charges or complaint 5775  
arising from any reported case of abuse or neglect or the 5776  
suppression of any evidence obtained as a result of any reported 5777  
child abuse or child neglect and does not give, and shall not be 5778  
construed as giving, any rights or any grounds for appeal or 5779  
post-conviction relief to any person. 5780

(3) A memorandum of understanding shall include all of the 5781  
following: 5782

(a) The roles and responsibilities for handling emergency 5783  
and nonemergency cases of abuse and neglect; 5784

(b) Standards and procedures to be used in handling and 5785  
coordinating investigations of reported cases of child abuse and 5786  
reported cases of child neglect, methods to be used in 5787  
interviewing the child who is the subject of the report and who 5788  
allegedly was abused or neglected, and standards and procedures 5789  
addressing the categories of persons who may interview the child 5790  
who is the subject of the report and who allegedly was abused or 5791  
neglected. 5792

(4) If a public children services agency participated in 5793  
the execution of a memorandum of understanding under section 5794  
2151.426 of the Revised Code establishing a children's advocacy 5795  
center, the agency shall incorporate the contents of that 5796  
memorandum in the memorandum prepared pursuant to this section. 5797

(5) The clerk of the court of common pleas in the county 5798  
may sign the memorandum of understanding prepared under division 5799  
(J) (1) of this section. If the clerk signs the memorandum of 5800  
understanding, the clerk shall execute all relevant 5801

responsibilities as required of officials specified in the 5802  
memorandum. 5803

(K) (1) Except as provided in division (K) (4) of this 5804  
section, a person who is required to make a report pursuant to 5805  
division (A) of this section may make a reasonable number of 5806  
requests of the public children services agency that receives or 5807  
is referred the report, or of the children's advocacy center 5808  
that is referred the report if the report is referred to a 5809  
children's advocacy center pursuant to an interagency agreement 5810  
entered into under section 2151.428 of the Revised Code, to be 5811  
provided with the following information: 5812

(a) Whether the agency or center has initiated an 5813  
investigation of the report; 5814

(b) Whether the agency or center is continuing to 5815  
investigate the report; 5816

(c) Whether the agency or center is otherwise involved 5817  
with the child who is the subject of the report; 5818

(d) The general status of the health and safety of the 5819  
child who is the subject of the report; 5820

(e) Whether the report has resulted in the filing of a 5821  
complaint in juvenile court or of criminal charges in another 5822  
court. 5823

(2) A person may request the information specified in 5824  
division (K) (1) of this section only if, at the time the report 5825  
is made, the person's name, address, and telephone number are 5826  
provided to the person who receives the report. 5827

When a municipal or county peace officer or employee of a 5828  
public children services agency receives a report pursuant to 5829

division (A) or (B) of this section the recipient of the report 5830  
shall inform the person of the right to request the information 5831  
described in division (K) (1) of this section. The recipient of 5832  
the report shall include in the initial child abuse or child 5833  
neglect report that the person making the report was so informed 5834  
and, if provided at the time of the making of the report, shall 5835  
include the person's name, address, and telephone number in the 5836  
report. 5837

Each request is subject to verification of the identity of 5838  
the person making the report. If that person's identity is 5839  
verified, the agency shall provide the person with the 5840  
information described in division (K) (1) of this section a 5841  
reasonable number of times, except that the agency shall not 5842  
disclose any confidential information regarding the child who is 5843  
the subject of the report other than the information described 5844  
in those divisions. 5845

(3) A request made pursuant to division (K) (1) of this 5846  
section is not a substitute for any report required to be made 5847  
pursuant to division (A) of this section. 5848

(4) If an agency other than the agency that received or 5849  
was referred the report is conducting the investigation of the 5850  
report pursuant to section 2151.422 of the Revised Code, the 5851  
agency conducting the investigation shall comply with the 5852  
requirements of division (K) of this section. 5853

(L) The director of job and family services shall adopt 5854  
rules in accordance with Chapter 119. of the Revised Code to 5855  
implement this section. The department of job and family 5856  
services may enter into a plan of cooperation with any other 5857  
governmental entity to aid in ensuring that children are 5858  
protected from abuse and neglect. The department shall make 5859

recommendations to the attorney general that the department 5860  
determines are necessary to protect children from child abuse 5861  
and child neglect. 5862

(M) Whoever violates division (A) of this section is 5863  
liable for compensatory and exemplary damages to the child who 5864  
would have been the subject of the report that was not made. A 5865  
person who brings a civil action or proceeding pursuant to this 5866  
division against a person who is alleged to have violated 5867  
division (A) (1) of this section may use in the action or 5868  
proceeding reports of other incidents of known or suspected 5869  
abuse or neglect, provided that any information in a report that 5870  
would identify the child who is the subject of the report or the 5871  
maker of the report, if the maker is not the defendant or an 5872  
agent or employee of the defendant, has been redacted. 5873

(N) (1) As used in this division: 5874

(a) "Out-of-home care" includes a nonchartered nonpublic 5875  
school if the alleged child abuse or child neglect, or alleged 5876  
threat of child abuse or child neglect, described in a report 5877  
received by a public children services agency allegedly occurred 5878  
in or involved the nonchartered nonpublic school and the alleged 5879  
perpetrator named in the report holds a certificate, permit, or 5880  
license issued by the state board of education under section 5881  
3301.071 or Chapter 3319. of the Revised Code. 5882

(b) "Administrator, director, or other chief 5883  
administrative officer" means the superintendent of the school 5884  
district if the out-of-home care entity subject to a report made 5885  
pursuant to this section is a school operated by the district. 5886

(2) No later than the end of the day following the day on 5887  
which a public children services agency receives a report of 5888

alleged child abuse or child neglect, or a report of an alleged 5889  
threat of child abuse or child neglect, that allegedly occurred 5890  
in or involved an out-of-home care entity, the agency shall 5891  
provide written notice of the allegations contained in and the 5892  
person named as the alleged perpetrator in the report to the 5893  
administrator, director, or other chief administrative officer 5894  
of the out-of-home care entity that is the subject of the report 5895  
unless the administrator, director, or other chief 5896  
administrative officer is named as an alleged perpetrator in the 5897  
report. If the administrator, director, or other chief 5898  
administrative officer of an out-of-home care entity is named as 5899  
an alleged perpetrator in a report of alleged child abuse or 5900  
child neglect, or a report of an alleged threat of child abuse 5901  
or child neglect, that allegedly occurred in or involved the 5902  
out-of-home care entity, the agency shall provide the written 5903  
notice to the owner or governing board of the out-of-home care 5904  
entity that is the subject of the report. The agency shall not 5905  
provide witness statements or police or other investigative 5906  
reports. 5907

(3) No later than three days after the day on which a 5908  
public children services agency that conducted the investigation 5909  
as determined pursuant to section 2151.422 of the Revised Code 5910  
makes a disposition of an investigation involving a report of 5911  
alleged child abuse or child neglect, or a report of an alleged 5912  
threat of child abuse or child neglect, that allegedly occurred 5913  
in or involved an out-of-home care entity, the agency shall send 5914  
written notice of the disposition of the investigation to the 5915  
administrator, director, or other chief administrative officer 5916  
and the owner or governing board of the out-of-home care entity. 5917  
The agency shall not provide witness statements or police or 5918  
other investigative reports. 5919

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

**Sec. 2151.425.** As used in sections 2151.426 to 2151.428 of the Revised Code:

(A) "Children's advocacy center" means a center operated by participating entities within a county or two or more contiguous counties to perform functions and activities and provide services, in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code, regarding reports received under section 2151.421 of the Revised Code of alleged sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction and regarding the children who are the subjects of the report.

(B) "Sexual abuse of a child" means unlawful sexual conduct or sexual contact, as those terms are defined in section 2907.01 of the Revised Code, with a person under eighteen years of age or a ~~mentally retarded, developmentally disabled, or physically impaired~~ person under twenty-one years of age with a developmental disability or physical impairment.

**Sec. 2151.651.** The board of county commissioners of a county which, either separately or as part of a district, is planning to establish a school, forestry camp, or other facility under section 2151.65 of the Revised Code, to be used exclusively for the rehabilitation of children between the ages of twelve to eighteen years, other than psychotic children or mentally retarded children with intellectual disabilities, who

are designated delinquent children, as defined in section 5950  
2152.02 of the Revised Code, or unruly children, as defined in 5951  
section 2151.022 of the Revised Code, by order of a juvenile 5952  
court, may make application to the department of youth services, 5953  
created under section 5139.01 of the Revised Code, for financial 5954  
assistance in defraying the county's share of the cost of 5955  
acquisition or construction of such school, camp, or other 5956  
facility, as provided in section 5139.27 of the Revised Code. 5957  
Such application shall be made on forms prescribed and furnished 5958  
by the department. 5959

**Sec. 2152.02.** As used in this chapter: 5960

(A) "Act charged" means the act that is identified in a 5961  
complaint, indictment, or information alleging that a child is a 5962  
delinquent child. 5963

(B) "Admitted to a department of youth services facility" 5964  
includes admission to a facility operated, or contracted for, by 5965  
the department and admission to a comparable facility outside 5966  
this state by another state or the United States. 5967

(C) (1) "Child" means a person who is under eighteen years 5968  
of age, except as otherwise provided in divisions (C) (2) to (8) 5969  
of this section. 5970

(2) Subject to division (C) (3) of this section, any person 5971  
who violates a federal or state law or a municipal ordinance 5972  
prior to attaining eighteen years of age shall be deemed a 5973  
"child" irrespective of that person's age at the time the 5974  
complaint with respect to that violation is filed or the hearing 5975  
on the complaint is held. 5976

(3) Any person who, while under eighteen years of age, 5977  
commits an act that would be a felony if committed by an adult 5978

and who is not taken into custody or apprehended for that act 5979  
until after the person attains twenty-one years of age is not a 5980  
child in relation to that act. 5981

(4) Except as otherwise provided in divisions (C) (5) and 5982  
(7) of this section, any person whose case is transferred for 5983  
criminal prosecution pursuant to section 2152.12 of the Revised 5984  
Code shall be deemed after the transfer not to be a child in the 5985  
transferred case. 5986

(5) Any person whose case is transferred for criminal 5987  
prosecution pursuant to section 2152.12 of the Revised Code and 5988  
who subsequently is convicted of or pleads guilty to a felony in 5989  
that case, unless a serious youthful offender dispositional 5990  
sentence is imposed on the child for that offense under division 5991  
(B) (2) or (3) of section 2152.121 of the Revised Code and the 5992  
adult portion of that sentence is not invoked pursuant to 5993  
section 2152.14 of the Revised Code, and any person who is 5994  
adjudicated a delinquent child for the commission of an act, who 5995  
has a serious youthful offender dispositional sentence imposed 5996  
for the act pursuant to section 2152.13 of the Revised Code, and 5997  
whose adult portion of the dispositional sentence is invoked 5998  
pursuant to section 2152.14 of the Revised Code, shall be deemed 5999  
after the conviction, plea, or invocation not to be a child in 6000  
any case in which a complaint is filed against the person. 6001

(6) The juvenile court has jurisdiction over a person who 6002  
is adjudicated a delinquent child or juvenile traffic offender 6003  
prior to attaining eighteen years of age until the person 6004  
attains twenty-one years of age, and, for purposes of that 6005  
jurisdiction related to that adjudication, except as otherwise 6006  
provided in this division, a person who is so adjudicated a 6007  
delinquent child or juvenile traffic offender shall be deemed a 6008

"child" until the person attains twenty-one years of age. If a person is so adjudicated a delinquent child or juvenile traffic offender and the court makes a disposition of the person under this chapter, at any time after the person attains twenty-one years of age, the places at which the person may be held under that disposition are not limited to places authorized under this chapter solely for confinement of children, and the person may be confined under that disposition, in accordance with division (F) (2) of section 2152.26 of the Revised Code, in places other than those authorized under this chapter solely for confinement of children.

(7) The juvenile court has jurisdiction over any person whose case is transferred for criminal prosecution solely for the purpose of detaining the person as authorized in division (F) (1) or (4) of section 2152.26 of the Revised Code unless the person is convicted of or pleads guilty to a felony in the adult court.

(8) Any person who, while eighteen years of age, violates division (A) (1) or (2) of section 2919.27 of the Revised Code by violating a protection order issued or consent agreement approved under section 2151.34 or 3113.31 of the Revised Code shall be considered a child for the purposes of that violation of section 2919.27 of the Revised Code.

(D) "Chronic truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for seven or more consecutive school days, ten or more school days in one school month, or fifteen or more school days in a school year.

(E) "Community corrections facility," "public safety beds," "release authority," and "supervised release" have the

same meanings as in section 5139.01 of the Revised Code. 6039

(F) "Delinquent child" includes any of the following: 6040

(1) Any child, except a juvenile traffic offender, who 6041  
violates any law of this state or the United States, or any 6042  
ordinance of a political subdivision of the state, that would be 6043  
an offense if committed by an adult; 6044

(2) Any child who violates any lawful order of the court 6045  
made under this chapter or under Chapter 2151. of the Revised 6046  
Code other than an order issued under section 2151.87 of the 6047  
Revised Code; 6048

(3) Any child who violates division (C) of section 6049  
2907.39, division (A) of section 2923.211, or division (C) (1) or 6050  
(D) of section 2925.55 of the Revised Code; 6051

(4) Any child who is a habitual truant and who previously 6052  
has been adjudicated an unruly child for being a habitual 6053  
truant; 6054

(5) Any child who is a chronic truant. 6055

(G) "Discretionary serious youthful offender" means a 6056  
person who is eligible for a discretionary SYO and who is not 6057  
transferred to adult court under a mandatory or discretionary 6058  
transfer. 6059

(H) "Discretionary SYO" means a case in which the juvenile 6060  
court, in the juvenile court's discretion, may impose a serious 6061  
youthful offender disposition under section 2152.13 of the 6062  
Revised Code. 6063

(I) "Discretionary transfer" means that the juvenile court 6064  
has discretion to transfer a case for criminal prosecution under 6065  
division (B) of section 2152.12 of the Revised Code. 6066

(J) "Drug abuse offense," "felony drug abuse offense," and 6067  
"minor drug possession offense" have the same meanings as in 6068  
section 2925.01 of the Revised Code. 6069

(K) "Electronic monitoring" and "electronic monitoring 6070  
device" have the same meanings as in section 2929.01 of the 6071  
Revised Code. 6072

(L) "Economic loss" means any economic detriment suffered 6073  
by a victim of a delinquent act or juvenile traffic offense as a 6074  
direct and proximate result of the delinquent act or juvenile 6075  
traffic offense and includes any loss of income due to lost time 6076  
at work because of any injury caused to the victim and any 6077  
property loss, medical cost, or funeral expense incurred as a 6078  
result of the delinquent act or juvenile traffic offense. 6079  
"Economic loss" does not include non-economic loss or any 6080  
punitive or exemplary damages. 6081

(M) "Firearm" has the same meaning as in section 2923.11 6082  
of the Revised Code. 6083

(N) "Intellectual disability" has the same meaning as in 6084  
section 5123.01 of the Revised Code. 6085

(O) "Juvenile traffic offender" means any child who 6086  
violates any traffic law, traffic ordinance, or traffic 6087  
regulation of this state, the United States, or any political 6088  
subdivision of this state, other than a resolution, ordinance, 6089  
or regulation of a political subdivision of this state the 6090  
violation of which is required to be handled by a parking 6091  
violations bureau or a joint parking violations bureau pursuant 6092  
to Chapter 4521. of the Revised Code. 6093

~~(O)~~ (P) A "legitimate excuse for absence from the public 6094  
school the child is supposed to attend" has the same meaning as 6095

in section 2151.011 of the Revised Code. 6096

~~(P)~~(Q) "Mandatory serious youthful offender" means a 6097  
person who is eligible for a mandatory SYO and who is not 6098  
transferred to adult court under a mandatory or discretionary 6099  
transfer and also includes, for purposes of imposition of a 6100  
mandatory serious youthful dispositional sentence under section 6101  
2152.13 of the Revised Code, a person upon whom a juvenile court 6102  
is required to impose such a sentence under division (B) (3) of 6103  
section 2152.121 of the Revised Code. 6104

~~(Q)~~(R) "Mandatory SYO" means a case in which the juvenile 6105  
court is required to impose a mandatory serious youthful 6106  
offender disposition under section 2152.13 of the Revised Code. 6107

~~(R)~~(S) "Mandatory transfer" means that a case is required 6108  
to be transferred for criminal prosecution under division (A) of 6109  
section 2152.12 of the Revised Code. 6110

~~(S)~~(T) "Mental illness" has the same meaning as in 6111  
section 5122.01 of the Revised Code. 6112

~~(T)~~ "Mentally retarded person" has the same meaning as in 6113  
~~section 5123.01 of the Revised Code.~~ 6114

(U) "Monitored time" and "repeat violent offender" have 6115  
the same meanings as in section 2929.01 of the Revised Code. 6116

(V) "Of compulsory school age" has the same meaning as in 6117  
section 3321.01 of the Revised Code. 6118

(W) "Public record" has the same meaning as in section 6119  
149.43 of the Revised Code. 6120

(X) "Serious youthful offender" means a person who is 6121  
eligible for a mandatory SYO or discretionary SYO but who is not 6122  
transferred to adult court under a mandatory or discretionary 6123

transfer and also includes, for purposes of imposition of a 6124  
mandatory serious youthful dispositional sentence under section 6125  
2152.13 of the Revised Code, a person upon whom a juvenile court 6126  
is required to impose such a sentence under division (B) (3) of 6127  
section 2152.121 of the Revised Code. 6128

(Y) "Sexually oriented offense," "juvenile offender 6129  
registrant," "child-victim oriented offense," "tier I sex 6130  
offender/child-victim offender," "tier II sex offender/child- 6131  
victim offender," "tier III sex offender/child-victim offender," 6132  
and "public registry-qualified juvenile offender registrant" 6133  
have the same meanings as in section 2950.01 of the Revised 6134  
Code. 6135

(Z) "Traditional juvenile" means a case that is not 6136  
transferred to adult court under a mandatory or discretionary 6137  
transfer, that is eligible for a disposition under sections 6138  
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 6139  
that is not eligible for a disposition under section 2152.13 of 6140  
the Revised Code. 6141

(AA) "Transfer" means the transfer for criminal 6142  
prosecution of a case involving the alleged commission by a 6143  
child of an act that would be an offense if committed by an 6144  
adult from the juvenile court to the appropriate court that has 6145  
jurisdiction of the offense. 6146

(BB) "Category one offense" means any of the following: 6147

(1) A violation of section 2903.01 or 2903.02 of the 6148  
Revised Code; 6149

(2) A violation of section 2923.02 of the Revised Code 6150  
involving an attempt to commit aggravated murder or murder. 6151

(CC) "Category two offense" means any of the following: 6152

(1) A violation of section 2903.03, 2905.01, 2907.02, 6153  
2909.02, 2911.01, or 2911.11 of the Revised Code; 6154

(2) A violation of section 2903.04 of the Revised Code 6155  
that is a felony of the first degree; 6156

(3) A violation of section 2907.12 of the Revised Code as 6157  
it existed prior to September 3, 1996. 6158

(DD) "Non-economic loss" means nonpecuniary harm suffered 6159  
by a victim of a delinquent act or juvenile traffic offense as a 6160  
result of or related to the delinquent act or juvenile traffic 6161  
offense, including, but not limited to, pain and suffering; loss 6162  
of society, consortium, companionship, care, assistance, 6163  
attention, protection, advice, guidance, counsel, instruction, 6164  
training, or education; mental anguish; and any other intangible 6165  
loss. 6166

**Sec. 2152.12.** (A) (1) (a) After a complaint has been filed 6167  
alleging that a child is a delinquent child for committing an 6168  
act that would be aggravated murder, murder, attempted 6169  
aggravated murder, or attempted murder if committed by an adult, 6170  
the juvenile court at a hearing shall transfer the case if 6171  
either of the following applies: 6172

(i) The child was sixteen or seventeen years of age at the 6173  
time of the act charged and there is probable cause to believe 6174  
that the child committed the act charged. 6175

(ii) The child was fourteen or fifteen years of age at the 6176  
time of the act charged, section 2152.10 of the Revised Code 6177  
provides that the child is eligible for mandatory transfer, and 6178  
there is probable cause to believe that the child committed the 6179  
act charged. 6180

(b) After a complaint has been filed alleging that a child 6181

is a delinquent child by reason of committing a category two 6182  
offense, the juvenile court at a hearing shall transfer the case 6183  
if the child was sixteen or seventeen years of age at the time 6184  
of the act charged and either of the following applies: 6185

(i) Division (A) (2) (a) of section 2152.10 of the Revised 6186  
Code requires the mandatory transfer of the case, and there is 6187  
probable cause to believe that the child committed the act 6188  
charged. 6189

(ii) Division (A) (2) (b) of section 2152.10 of the Revised 6190  
Code requires the mandatory transfer of the case, and there is 6191  
probable cause to believe that the child committed the act 6192  
charged. 6193

(2) The juvenile court also shall transfer a case in the 6194  
circumstances described in division (C) (5) of section 2152.02 of 6195  
the Revised Code or if either of the following applies: 6196

(a) A complaint is filed against a child who is eligible 6197  
for a discretionary transfer under section 2152.10 of the 6198  
Revised Code and who previously was convicted of or pleaded 6199  
guilty to a felony in a case that was transferred to a criminal 6200  
court. 6201

(b) A complaint is filed against a child who is domiciled 6202  
in another state alleging that the child is a delinquent child 6203  
for committing an act that would be a felony if committed by an 6204  
adult, and, if the act charged had been committed in that other 6205  
state, the child would be subject to criminal prosecution as an 6206  
adult under the law of that other state without the need for a 6207  
transfer of jurisdiction from a juvenile, family, or similar 6208  
noncriminal court to a criminal court. 6209

(3) If a complaint is filed against a child alleging that 6210

the child is a delinquent child and the case is transferred 6211  
pursuant to division (A) (1) (a) (i) or (A) (1) (b) (ii) of this 6212  
section and if the child subsequently is convicted of or pleads 6213  
guilty to an offense in that case, the sentence to be imposed or 6214  
disposition to be made of the child shall be determined in 6215  
accordance with section 2152.121 of the Revised Code. 6216

(B) Except as provided in division (A) of this section, 6217  
after a complaint has been filed alleging that a child is a 6218  
delinquent child for committing an act that would be a felony if 6219  
committed by an adult, the juvenile court at a hearing may 6220  
transfer the case if the court finds all of the following: 6221

(1) The child was fourteen years of age or older at the 6222  
time of the act charged. 6223

(2) There is probable cause to believe that the child 6224  
committed the act charged. 6225

(3) The child is not amenable to care or rehabilitation 6226  
within the juvenile system, and the safety of the community may 6227  
require that the child be subject to adult sanctions. In making 6228  
its decision under this division, the court shall consider 6229  
whether the applicable factors under division (D) of this 6230  
section indicating that the case should be transferred outweigh 6231  
the applicable factors under division (E) of this section 6232  
indicating that the case should not be transferred. The record 6233  
shall indicate the specific factors that were applicable and 6234  
that the court weighed. 6235

(C) Before considering a transfer under division (B) of 6236  
this section, the juvenile court shall order an investigation 6237  
into the child's social history, education, family situation, 6238  
and any other factor bearing on whether the child is amenable to 6239

juvenile rehabilitation, including a mental examination of the 6240  
child by a public or private agency or a person qualified to 6241  
make the examination. The investigation shall be completed and a 6242  
report on the investigation shall be submitted to the court as 6243  
soon as possible but not more than forty-five calendar days 6244  
after the court orders the investigation. The court may grant 6245  
one or more extensions for a reasonable length of time. The 6246  
child may waive the examination required by this division if the 6247  
court finds that the waiver is competently and intelligently 6248  
made. Refusal to submit to a mental examination by the child 6249  
constitutes a waiver of the examination. 6250

(D) In considering whether to transfer a child under 6251  
division (B) of this section, the juvenile court shall consider 6252  
the following relevant factors, and any other relevant factors, 6253  
in favor of a transfer under that division: 6254

(1) The victim of the act charged suffered physical or 6255  
psychological harm, or serious economic harm, as a result of the 6256  
alleged act. 6257

(2) The physical or psychological harm suffered by the 6258  
victim due to the alleged act of the child was exacerbated 6259  
because of the physical or psychological vulnerability or the 6260  
age of the victim. 6261

(3) The child's relationship with the victim facilitated 6262  
the act charged. 6263

(4) The child allegedly committed the act charged for hire 6264  
or as a part of a gang or other organized criminal activity. 6265

(5) The child had a firearm on or about the child's person 6266  
or under the child's control at the time of the act charged, the 6267  
act charged is not a violation of section 2923.12 of the Revised 6268

Code, and the child, during the commission of the act charged, 6269  
allegedly used or displayed the firearm, brandished the firearm, 6270  
or indicated that the child possessed a firearm. 6271

(6) At the time of the act charged, the child was awaiting 6272  
adjudication or disposition as a delinquent child, was under a 6273  
community control sanction, or was on parole for a prior 6274  
delinquent child adjudication or conviction. 6275

(7) The results of any previous juvenile sanctions and 6276  
programs indicate that rehabilitation of the child will not 6277  
occur in the juvenile system. 6278

(8) The child is emotionally, physically, or 6279  
psychologically mature enough for the transfer. 6280

(9) There is not sufficient time to rehabilitate the child 6281  
within the juvenile system. 6282

(E) In considering whether to transfer a child under 6283  
division (B) of this section, the juvenile court shall consider 6284  
the following relevant factors, and any other relevant factors, 6285  
against a transfer under that division: 6286

(1) The victim induced or facilitated the act charged. 6287

(2) The child acted under provocation in allegedly 6288  
committing the act charged. 6289

(3) The child was not the principal actor in the act 6290  
charged, or, at the time of the act charged, the child was under 6291  
the negative influence or coercion of another person. 6292

(4) The child did not cause physical harm to any person or 6293  
property, or have reasonable cause to believe that harm of that 6294  
nature would occur, in allegedly committing the act charged. 6295

- (5) The child previously has not been adjudicated a delinquent child. 6296  
6297
- (6) The child is not emotionally, physically, or psychologically mature enough for the transfer. 6298  
6299
- (7) The child has a mental illness or ~~is a mentally retarded person~~ intellectual disability. 6300  
6301
- (8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety. 6302  
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- (F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred ~~for~~, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner: 6306  
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- (1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred. 6316  
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- (2) If the court determines that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, the court shall transfer the case or cases in accordance with that division. After the transfer pursuant to division (A) of this section, the 6320  
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court shall decide, in accordance with division (B) of this 6325  
section, whether to grant the motion requesting that the case or 6326  
cases involving one or more of the acts charged be transferred 6327  
pursuant to that division. Notwithstanding division (B) of this 6328  
section, prior to transferring a case pursuant to division (A) 6329  
of this section, the court is not required to consider any 6330  
factor specified in division (D) or (E) of this section or to 6331  
conduct an investigation under division (C) of this section. 6332

(3) If the court determines that division (A) of this 6333  
section does not require that the case or cases involving one or 6334  
more of the acts charged be transferred, the court shall decide 6335  
in accordance with division (B) of this section whether to grant 6336  
the motion requesting that the case or cases involving one or 6337  
more of the acts charged be transferred pursuant to that 6338  
division. 6339

(4) No report on an investigation conducted pursuant to 6340  
division (C) of this section shall include details of the 6341  
alleged offense as reported by the child. 6342

(G) The court shall give notice in writing of the time, 6343  
place, and purpose of any hearing held pursuant to division (A) 6344  
or (B) of this section to the child's parents, guardian, or 6345  
other custodian and to the child's counsel at least three days 6346  
prior to the hearing. 6347

(H) No person, either before or after reaching eighteen 6348  
years of age, shall be prosecuted as an adult for an offense 6349  
committed prior to becoming eighteen years of age, unless the 6350  
person has been transferred as provided in division (A) or (B) 6351  
of this section or unless division (J) of this section applies. 6352  
Any prosecution that is had in a criminal court on the mistaken 6353  
belief that the person who is the subject of the case was 6354

eighteen years of age or older at the time of the commission of 6355  
the offense shall be deemed a nullity, and the person shall not 6356  
be considered to have been in jeopardy on the offense. 6357

(I) Upon the transfer of a case under division (A) or (B) 6358  
of this section, the juvenile court shall state the reasons for 6359  
the transfer on the record, and shall order the child to enter 6360  
into a recognizance with good and sufficient surety for the 6361  
child's appearance before the appropriate court for any 6362  
disposition that the court is authorized to make for a similar 6363  
act committed by an adult. The transfer abates the jurisdiction 6364  
of the juvenile court with respect to the delinquent acts 6365  
alleged in the complaint, and, upon the transfer, all further 6366  
proceedings pertaining to the act charged shall be discontinued 6367  
in the juvenile court, and the case then shall be within the 6368  
jurisdiction of the court to which it is transferred as 6369  
described in division (H) of section 2151.23 of the Revised 6370  
Code. 6371

(J) If a person under eighteen years of age allegedly 6372  
commits an act that would be a felony if committed by an adult 6373  
and if the person is not taken into custody or apprehended for 6374  
that act until after the person attains twenty-one years of age, 6375  
the juvenile court does not have jurisdiction to hear or 6376  
determine any portion of the case charging the person with 6377  
committing that act. In those circumstances, divisions (A) and 6378  
(B) of this section do not apply regarding the act, and the case 6379  
charging the person with committing the act shall be a criminal 6380  
prosecution commenced and heard in the appropriate court having 6381  
jurisdiction of the offense as if the person had been eighteen 6382  
years of age or older when the person committed the act. All 6383  
proceedings pertaining to the act shall be within the 6384  
jurisdiction of the court having jurisdiction of the offense, 6385

and that court has all the authority and duties in the case as 6386  
it has in other criminal cases in that court. 6387

**Sec. 2152.14.** (A) (1) The director of youth services may 6388  
request the prosecuting attorney of the county in which is 6389  
located the juvenile court that imposed a serious youthful 6390  
offender dispositional sentence upon a person under section 6391  
2152.121 or 2152.13 of the Revised Code to file a motion with 6392  
that juvenile court to invoke the adult portion of the 6393  
dispositional sentence if all of the following apply to the 6394  
person: 6395

(a) The person is at least fourteen years of age. 6396

(b) The person is in the institutional custody, or an 6397  
escapee from the custody, of the department of youth services. 6398

(c) The person is serving the juvenile portion of the 6399  
serious youthful offender dispositional sentence. 6400

(2) The motion shall state that there is reasonable cause 6401  
to believe that either of the following misconduct has occurred 6402  
and shall state that at least one incident of misconduct of that 6403  
nature occurred after the person reached fourteen years of age: 6404

(a) The person committed an act that is a violation of the 6405  
rules of the institution and that could be charged as any felony 6406  
or as a first degree misdemeanor offense of violence if 6407  
committed by an adult. 6408

(b) The person has engaged in conduct that creates a 6409  
substantial risk to the safety or security of the institution, 6410  
the community, or the victim. 6411

(B) If a person is at least fourteen years of age, is 6412  
serving the juvenile portion of a serious youthful offender 6413

dispositional sentence imposed under section 2152.121 or 2152.13 6414  
of the Revised Code, and is on parole or aftercare from a 6415  
department of youth services facility, or on community control, 6416  
the director of youth services, the juvenile court that imposed 6417  
the serious youthful offender dispositional sentence on the 6418  
person, or the probation department supervising the person may 6419  
request the prosecuting attorney of the county in which is 6420  
located the juvenile court to file a motion with the juvenile 6421  
court to invoke the adult portion of the dispositional sentence. 6422  
The prosecuting attorney may file a motion to invoke the adult 6423  
portion of the dispositional sentence even if no request is 6424  
made. The motion shall state that there is reasonable cause to 6425  
believe that either of the following occurred and shall state 6426  
that at least one incident of misconduct of that nature occurred 6427  
after the person reached fourteen years of age: 6428

(1) The person committed an act that is a violation of the 6429  
conditions of supervision and that could be charged as any 6430  
felony or as a first degree misdemeanor offense of violence if 6431  
committed by an adult. 6432

(2) The person has engaged in conduct that creates a 6433  
substantial risk to the safety or security of the community or 6434  
of the victim. 6435

(C) If the prosecuting attorney declines a request to file 6436  
a motion that was made by the department of youth services or 6437  
the supervising probation department under division (A) or (B) 6438  
of this section or fails to act on a request made under either 6439  
division by the department within a reasonable time, the 6440  
department of youth services or the supervising probation 6441  
department may file a motion of the type described in division 6442  
(A) or (B) of this section with the juvenile court to invoke the 6443

adult portion of the serious youthful offender dispositional 6444  
sentence. If the prosecuting attorney declines a request to file 6445  
a motion that was made by the juvenile court under division (B) 6446  
of this section or fails to act on a request from the court 6447  
under that division within a reasonable time, the juvenile court 6448  
may hold the hearing described in division (D) of this section 6449  
on its own motion. 6450

(D) Upon the filing of a motion described in division (A), 6451  
(B), or (C) of this section, the juvenile court may hold a 6452  
hearing to determine whether to invoke the adult portion of a 6453  
person's serious juvenile offender dispositional sentence. The 6454  
juvenile court shall not invoke the adult portion of the 6455  
dispositional sentence without a hearing. At the hearing the 6456  
person who is the subject of the serious youthful offender 6457  
disposition has the right to be present, to receive notice of 6458  
the grounds upon which the adult sentence portion is sought to 6459  
be invoked, to be represented by counsel including counsel 6460  
appointed under Juvenile Rule 4(A), to be advised on the 6461  
procedures and protections set forth in the Juvenile Rules, and 6462  
to present evidence on the person's own behalf, including 6463  
evidence that the person has a mental illness or ~~is a mentally-~~ 6464  
~~retarded person~~intellectual disability. The person may not waive 6465  
the right to counsel. The hearing shall be open to the public. 6466  
If the person presents evidence that the person has a mental 6467  
illness or ~~is a mentally retarded person~~ intellectual 6468  
disability, the juvenile court shall consider that evidence in 6469  
determining whether to invoke the adult portion of the serious 6470  
youthful offender dispositional sentence. 6471

(E) (1) The juvenile court may invoke the adult portion of 6472  
a person's serious youthful offender dispositional sentence if 6473  
the juvenile court finds all of the following on the record by 6474

clear and convincing evidence: 6475

(a) The person is serving the juvenile portion of a 6476  
serious youthful offender dispositional sentence. 6477

(b) The person is at least fourteen years of age and has 6478  
been admitted to a department of youth services facility, or 6479  
criminal charges are pending against the person. 6480

(c) The person engaged in the conduct or acts charged 6481  
under division (A), (B), or (C) of this section, and the 6482  
person's conduct demonstrates that the person is unlikely to be 6483  
rehabilitated during the remaining period of juvenile 6484  
jurisdiction. 6485

(2) The court may modify the adult sentence the court 6486  
invokes to consist of any lesser prison term that could be 6487  
imposed for the offense and, in addition to the prison term or 6488  
in lieu of the prison term if the prison term was not mandatory, 6489  
any community control sanction that the offender was eligible to 6490  
receive at sentencing. 6491

(F) If a juvenile court issues an order invoking the adult 6492  
portion of a serious youthful offender dispositional sentence 6493  
under division (E) of this section, the juvenile portion of the 6494  
dispositional sentence shall terminate, and the department of 6495  
youth services shall transfer the person to the department of 6496  
rehabilitation and correction or place the person under another 6497  
sanction imposed as part of the sentence. The juvenile court 6498  
shall state in its order the total number of days that the 6499  
person has been held in detention or in a facility operated by, 6500  
or under contract with, the department of youth services under 6501  
the juvenile portion of the dispositional sentence. The time the 6502  
person must serve on a prison term imposed under the adult 6503

portion of the dispositional sentence shall be reduced by the 6504  
total number of days specified in the order plus any additional 6505  
days the person is held in a juvenile facility or in detention 6506  
after the order is issued and before the person is transferred 6507  
to the custody of the department of rehabilitation and 6508  
correction. In no case shall the total prison term as calculated 6509  
under this division exceed the maximum prison term available for 6510  
an adult who is convicted of violating the same sections of the 6511  
Revised Code. 6512

Any community control imposed as part of the adult 6513  
sentence or as a condition of a judicial release from prison 6514  
shall be under the supervision of the entity that provides adult 6515  
probation services in the county. Any post-release control 6516  
imposed after the offender otherwise is released from prison 6517  
shall be supervised by the adult parole authority. 6518

**Sec. 2152.51.** (A) As used in sections 2152.51 to 2152.59 6519  
of the Revised Code: 6520

(1) "Competent" and "competency" refer to a child's 6521  
ability to understand the nature and objectives of a proceeding 6522  
against the child and to assist in the child's defense. A child 6523  
is incompetent if, due to mental illness, ~~intellectual-~~ 6524  
~~disability, or due to~~ developmental disability, or otherwise due 6525  
to a lack of mental capacity, the child is presently incapable 6526  
of understanding the nature and objective of proceedings against 6527  
the child or of assisting in the child's defense. 6528

(2) "Delinquent child proceeding" means any proceeding 6529  
under this chapter. 6530

(3) ~~"A person who is at least moderately intellectually-~~ 6531  
~~disabled" means "a person who is at least moderately mentally-~~ 6532

~~retarded," as defined in section 5123.01 of the Revised Code.~~ 6533

~~(4) "Person with intellectual disability" has the same~~ 6534  
~~meaning as in section 2951.041 Developmental disability,~~ 6535  
~~"intellectual disability," and "moderate level of intellectual~~ 6536  
~~disability" have the same meanings as in section 5123.01 of the~~ 6537  
~~Revised Code.~~ 6538

(B) Each juvenile court shall adopt rules to expedite 6539  
proceedings under sections 2152.51 to 2152.59 of the Revised 6540  
Code. The rules shall include provisions for giving notice of 6541  
any hearings held under those sections and for staying any 6542  
proceedings on the underlying complaint pending the 6543  
determinations under those sections. 6544

(C) At a competency-related hearing held under section 6545  
2152.53 or 2152.58 of the Revised Code, the child shall be 6546  
represented by an attorney. If the child is indigent and cannot 6547  
obtain counsel, the court shall appoint an attorney under 6548  
Chapter 120. of the Revised Code or the Rules of Juvenile 6549  
Procedure. 6550

**Sec. 2152.52.** (A) (1) In any proceeding under this chapter 6551  
other than a proceeding alleging that a child is an unruly child 6552  
or a juvenile traffic offender, any party or the court may move 6553  
for a determination regarding the child's competency to 6554  
participate in the proceeding. 6555

(2) In any proceeding under this chapter other than a 6556  
proceeding alleging that a child is an unruly child or a 6557  
juvenile traffic offender, if the child who is the subject of 6558  
the proceeding is fourteen years of age or older and if the 6559  
child is not otherwise found to ~~be mentally ill, intellectually~~ 6560  
~~disabled, or developmentally disabled~~have a mental illness or 6561

developmental disability, it is rebuttably presumed that the 6562  
child does not have a lack of mental capacity. This presumption 6563  
applies only in making a determination as to whether the child 6564  
has a lack of mental capacity and shall not be used or 6565  
applicable for any other purpose. 6566

(B) The court may find a child incompetent to proceed 6567  
without ordering an evaluation of the child's competency or 6568  
holding a hearing to determine the child's competency if either 6569  
of the following applies: 6570

(1) The prosecuting attorney, the child's attorney, and at 6571  
least one of the child's parents, guardians, or custodians agree 6572  
to the determination. 6573

(2) The court relies on a prior court determination that 6574  
the child was incompetent and could not attain competency even 6575  
if the child were to participate in competency attainment 6576  
services. 6577

**Sec. 2152.54.** (A) An evaluation of a child who does not 6578  
appear to the court to ~~be a person who is~~ have at least 6579  
~~moderately intellectually disabled~~ a moderate level of 6580  
intellectual disability shall be made by an evaluator who is one 6581  
of the following: 6582

(1) A professional employed by a psychiatric facility or 6583  
center certified by the department of mental health and 6584  
addiction services to provide forensic services and appointed by 6585  
the director of the facility or center to conduct the 6586  
evaluation; 6587

(2) A psychiatrist or a licensed clinical psychologist who 6588  
satisfies the criteria of division (I) of section 5122.01 of the 6589  
Revised Code and has specialized education, training, or 6590

experience in forensic evaluations of children or adolescents. 6591

(B) An evaluation of a child who appears to the court to 6592  
~~be a person who is have~~ at least ~~moderately intellectually~~ 6593  
~~disabled a moderate level of intellectual disability~~ shall be 6594  
made by a psychiatrist or licensed clinical psychologist who 6595  
satisfies the criteria of division (I) of section 5122.01 of the 6596  
Revised Code and has specialized education, training, or 6597  
experience in forensic evaluations of children or adolescents 6598  
~~who have with intellectual disability disabilities.~~ 6599

(C) If an evaluation is conducted by an evaluator of the 6600  
type described in division (A) (1) or (2) of this section and the 6601  
evaluator concludes that the child ~~is a person who is~~ has at 6602  
least ~~moderately intellectually disabled a moderate level of~~ 6603  
intellectual disability, the evaluator shall discontinue the 6604  
evaluation and notify the court within one business day after 6605  
reaching the conclusion. Within two business days after 6606  
receiving notification, the court shall order the child to 6607  
undergo an evaluation by an evaluator of the type described in 6608  
division (B) of this section. Within two business days after the 6609  
appointment of the new evaluator, the original evaluator shall 6610  
deliver to the new evaluator all information relating to the 6611  
child obtained during the original evaluation. 6612

**Sec. 2152.56.** (A) Upon completing an evaluation ordered 6613  
pursuant to section 2152.53 of the Revised Code, an evaluator 6614  
shall submit to the court a written competency assessment 6615  
report. The report shall include the evaluator's opinion as to 6616  
whether the child, due to mental illness, ~~intellectual~~ 6617  
~~disability, or due to~~ developmental disability, or otherwise due 6618  
to a lack of mental capacity, is currently incapable of 6619  
understanding the nature and objective of the proceedings 6620

against the child or of assisting in the child's defense. The 6621  
report shall not include any opinion as to the child's sanity at 6622  
the time of the alleged offense, details of the alleged offense 6623  
as reported by the child, or an opinion as to whether the child 6624  
actually committed the offense or could have been culpable for 6625  
committing the offense. 6626

(B) A competency assessment report shall address the 6627  
child's capacity to do all of the following: 6628

(1) Comprehend and appreciate the charges or allegations 6629  
against the child; 6630

(2) Understand the adversarial nature of the proceedings, 6631  
including the role of the judge, defense counsel, prosecuting 6632  
attorney, guardian ad litem or court-appointed special 6633  
assistant, and witnesses; 6634

(3) Assist in the child's defense and communicate with 6635  
counsel; 6636

(4) Comprehend and appreciate the consequences that may be 6637  
imposed or result from the proceedings. 6638

(C) A competency assessment report shall include the 6639  
evaluator's opinion regarding the extent to which the child's 6640  
competency may be impaired by the child's failure to meet one or 6641  
more of the criteria listed in division (B) of this section. If 6642  
the evaluator concludes that the child's competency is impaired 6643  
but that the child may be enabled to understand the nature and 6644  
objectives of the proceeding against the child and to assist in 6645  
the child's defense with reasonable accommodations, the report 6646  
shall include recommendations for those reasonable 6647  
accommodations that the court might make. If the evaluator 6648  
concludes that the child's competency is so impaired that the 6649

child would not be able to understand the nature and objectives 6650  
of the proceeding against the child or to assist in the child's 6651  
defense, the report shall include an opinion as to the 6652  
likelihood that the child could attain competency within the 6653  
periods set forth in division (D) (2) of section 2152.59 of the 6654  
Revised Code. 6655

(D) If the evaluator concludes that the child could likely 6656  
attain competency within the periods set forth in division (D) 6657  
(2) of section 2152.59 of the Revised Code, the competency 6658  
assessment report shall include both of the following: 6659

(1) A recommendation as to the least restrictive setting 6660  
for child competency attainment services that is consistent with 6661  
the child's ability to attain competency and the safety of both 6662  
the child and the community; 6663

(2) A list of the providers of child competency attainment 6664  
services known to the evaluator that are located most closely to 6665  
the child's current residence. 6666

(E) If the evaluator is unable, within the maximum 6667  
allowable time for submission of a competency assessment report 6668  
under division (A) of section 2152.57 of the Revised Code, to 6669  
form an opinion regarding the extent to which the child's 6670  
competency may be impaired by the child's failure to meet one or 6671  
more of the criteria listed in division (B) of this section, the 6672  
evaluator shall so state in the report. The evaluator shall also 6673  
include recommendations for services to support the safety of 6674  
the child or the community. 6675

**Sec. 2152.811.** (A) As used in this section: 6676

(1) ~~"Mentally retarded person" and "developmentally~~ 6677  
~~disabled person~~Developmental disability ~~have~~has the same 6678

~~meanings~~ meaning as in section 5123.01 of the Revised Code. 6679

(2) "~~Mentally retarded or developmentally disabled~~  
~~victim~~ Victim with a developmental disability" includes any of 6680  
the following persons: 6681  
6682

(a) A ~~mentally retarded person or developmentally disabled~~  
person with a developmental disability who was a victim of a 6683  
violation identified in division (B) (1) of this section or an 6684  
act that would be an offense of violence if committed by an 6685  
adult; 6686  
6687

(b) A ~~mentally retarded person or developmentally disabled~~  
person with a developmental disability against whom was directed 6688  
any conduct that constitutes, or that is an element of, a 6689  
violation identified in division (B) (1) of this section or an 6690  
act that would be an offense of violence if committed by an 6691  
adult. 6692  
6693

(B) (1) In any proceeding in juvenile court involving a 6694  
complaint, indictment, or information in which a child is 6695  
charged with a violation of section 2903.16, 2903.34, 2903.341, 6696  
2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 6697  
2907.321, 2907.322, or 2907.323 of the Revised Code or an act 6698  
that would be an offense of violence if committed by an adult 6699  
and in which an alleged victim of the violation or act was a 6700  
~~mentally retarded person or developmentally disabled~~ person with 6701  
a developmental disability, the juvenile judge, upon motion of 6702  
the prosecution, shall order that the testimony of the ~~mentally~~ 6703  
~~retarded or developmentally disabled~~ victim with a developmental 6704  
disability be taken by deposition. The prosecution also may 6705  
request that the deposition be videotaped in accordance with 6706  
division (B) (2) of this section. The judge shall notify the 6707  
~~mentally retarded or developmentally disabled~~ victim with a 6708

developmental disability whose deposition is to be taken, the 6709  
prosecution, and the attorney for the child who is charged with 6710  
the violation or act of the date, time, and place for taking the 6711  
deposition. The notice shall identify the ~~mentally retarded or~~ 6712  
~~developmentally disabled~~ victim with a developmental disability 6713  
who is to be examined and shall indicate whether a request that 6714  
the deposition be videotaped has been made. The child who is 6715  
charged with the violation or act shall have the right to attend 6716  
the deposition and the right to be represented by counsel. 6717  
Depositions shall be taken in the manner provided in civil 6718  
cases, except that the judge in the proceeding shall preside at 6719  
the taking of the deposition and shall rule at that time on any 6720  
objections of the prosecution or the attorney for the child 6721  
charged with the violation or act. The prosecution and the 6722  
attorney for the child charged with the violation or act shall 6723  
have the right, as at an adjudication hearing, to full 6724  
examination and cross-examination of the ~~mentally retarded or~~ 6725  
~~developmentally disabled~~ victim with a developmental disability 6726  
whose deposition is to be taken. 6727

If a deposition taken under this division is intended to 6728  
be offered as evidence in the proceeding, it shall be filed in 6729  
the juvenile court in which the action is pending and is 6730  
admissible in the manner described in division (C) of this 6731  
section. If a deposition of a ~~mentally retarded or~~ 6732  
~~developmentally disabled~~ victim with a developmental disability 6733  
taken under this division is admitted as evidence at the 6734  
proceeding under division (C) of this section, the ~~mentally~~ 6735  
~~retarded or developmentally disabled~~ victim with a developmental 6736  
disability shall not be required to testify in person at the 6737  
proceeding. 6738

At any time before the conclusion of the proceeding, the 6739

attorney for the child charged with the violation or act may 6740  
file a motion with the judge requesting that another deposition 6741  
of the ~~mentally retarded or developmentally disabled~~ victim with 6742  
a developmental disability be taken because new evidence 6743  
material to the defense of the child charged has been discovered 6744  
that the attorney for the child charged could not with 6745  
reasonable diligence have discovered prior to the taking of the 6746  
admitted deposition. Any motion requesting another deposition 6747  
shall be accompanied by supporting affidavits. Upon the filing 6748  
of the motion and affidavits, the court may order that 6749  
additional testimony of the ~~mentally retarded or developmentally~~ 6750  
~~disabled~~ victim with a developmental disability relative to the 6751  
new evidence be taken by another deposition. If the court orders 6752  
the taking of another deposition under this provision, the 6753  
deposition shall be taken in accordance with this division. If 6754  
the admitted deposition was a videotaped deposition taken in 6755  
accordance with division (B) (2) of this section, the new 6756  
deposition also shall be videotaped in accordance with that 6757  
division. In other cases, the new deposition may be videotaped 6758  
in accordance with that division. 6759

(2) If the prosecution requests that a deposition to be 6760  
taken under division (B) (1) of this section be videotaped, the 6761  
juvenile judge shall order that the deposition be videotaped in 6762  
accordance with this division. If a juvenile judge issues an 6763  
order to video tape the deposition, the judge shall exclude from 6764  
the room in which the deposition is to be taken every person 6765  
except the ~~mentally retarded or developmentally disabled~~ victim 6766  
with a developmental disability giving the testimony, the judge, 6767  
one or more interpreters if needed, the attorneys for the 6768  
prosecution and the child who is charged with the violation or 6769  
act, any person needed to operate the equipment to be used, one 6770

person chosen by the ~~mentally retarded or developmentally~~ 6771  
~~disabled~~ victim with a developmental disability giving the 6772  
deposition, and any person whose presence the judge determines 6773  
would contribute to the welfare and well-being of the ~~mentally~~ 6774  
~~retarded or developmentally disabled~~ victim with a developmental 6775  
disability giving the deposition. The person chosen by the 6776  
~~mentally retarded or developmentally disabled~~ victim with a 6777  
developmental disability shall not be a witness in the 6778  
proceeding and, both before and during the deposition, shall not 6779  
discuss the testimony of the victim with any other witness in 6780  
the proceeding. To the extent feasible, any person operating the 6781  
recording equipment shall be restricted to a room adjacent to 6782  
the room in which the deposition is being taken, or to a 6783  
location in the room in which the deposition is being taken that 6784  
is behind a screen or mirror so that the person operating the 6785  
recording equipment can see and hear, but cannot be seen or 6786  
heard by, the ~~mentally retarded or developmentally disabled~~ 6787  
~~victim with a developmental disability~~ giving the deposition 6788  
during the deposition. 6789

The child who is charged with the violation or act shall 6790  
be permitted to observe and hear the testimony of the ~~mentally~~ 6791  
~~retarded or developmentally disabled~~ victim with a developmental 6792  
disability giving the deposition on a monitor, shall be provided 6793  
with an electronic means of immediate communication with the 6794  
attorney of the child who is charged with the violation or act 6795  
during the testimony, and shall be restricted to a location from 6796  
which the child who is charged with the violation or act cannot 6797  
be seen or heard by the ~~mentally retarded or developmentally~~ 6798  
~~disabled~~ victim with a developmental disability giving the 6799  
deposition, except on a monitor provided for that purpose. The 6800  
~~mentally retarded or developmentally disabled~~ victim with a 6801

developmental disability giving the deposition shall be provided 6802  
with a monitor on which the ~~mentally retarded or developmentally~~ 6803  
~~disabled~~ victim with a developmental disability can observe, 6804  
while giving testimony, the child who is charged with the 6805  
violation or act. The judge, at the judge's discretion, may 6806  
preside at the deposition by electronic means from outside the 6807  
room in which the deposition is to be taken; if the judge 6808  
presides by electronic means, the judge shall be provided with 6809  
monitors on which the judge can see each person in the room in 6810  
which the deposition is to be taken and with an electronic means 6811  
of communication with each person in that room, and each person 6812  
in the room shall be provided with a monitor on which that 6813  
person can see the judge and with an electronic means of 6814  
communication with the judge. A deposition that is videotaped 6815  
under this division shall be taken and filed in the manner 6816  
described in division (B) (1) of this section and is admissible 6817  
in the manner described in this division and division (C) of 6818  
this section. If a deposition that is videotaped under this 6819  
division is admitted as evidence at the proceeding, the ~~mentally~~ 6820  
~~retarded or developmentally disabled~~ victim with a developmental 6821  
disability shall not be required to testify in person at the 6822  
proceeding. No deposition videotaped under this division shall 6823  
be admitted as evidence at any proceeding unless division (C) of 6824  
this section is satisfied relative to the deposition and all of 6825  
the following apply relative to the recording: 6826

(a) The recording is both aural and visual and is recorded 6827  
on film or videotape, or by other electronic means. 6828

(b) The recording is authenticated under the Rules of 6829  
Evidence and the Rules of Criminal Procedure as a fair and 6830  
accurate representation of what occurred, and the recording is 6831  
not altered other than at the direction and under the 6832

supervision of the judge in the proceeding. 6833

(c) Each voice on the recording that is material to the 6834  
testimony on the recording or the making of the recording, as 6835  
determined by the judge, is identified. 6836

(d) Both the prosecution and the child who is charged with 6837  
the violation or act are afforded an opportunity to view the 6838  
recording before it is shown in the proceeding. 6839

(C) (1) At any proceeding in relation to which a deposition 6840  
was taken under division (B) of this section, the deposition or 6841  
a part of it is admissible in evidence upon motion of the 6842  
prosecution if the testimony in the deposition or the part to be 6843  
admitted is not excluded by the hearsay rule and if the 6844  
deposition or the part to be admitted otherwise is admissible 6845  
under the Rules of Evidence. For purposes of this division, 6846  
testimony is not excluded by the hearsay rule if the testimony 6847  
is not hearsay under Evidence Rule 801; the testimony is within 6848  
an exception to the hearsay rule set forth in Evidence Rule 803; 6849  
the ~~mentally retarded or developmentally disabled~~ victim with a 6850  
developmental disability who gave the testimony is unavailable 6851  
as a witness, as defined in Evidence Rule 804, and the testimony 6852  
is admissible under that rule; or both of the following apply: 6853

(a) The child who is charged with the violation or act had 6854  
an opportunity and similar motive at the time of the taking of 6855  
the deposition to develop the testimony by direct, cross, or 6856  
redirect examination. 6857

(b) The judge determines that there is reasonable cause to 6858  
believe that, if the ~~mentally retarded or developmentally~~ 6859  
~~disabled~~ victim with a developmental disability who gave the 6860  
testimony in the deposition were to testify in person at the 6861

proceeding, the ~~mentally retarded or developmentally disabled~~ 6862  
victim with a developmental disability would experience serious 6863  
emotional trauma as a result of the ~~mentally retarded or~~ 6864  
~~developmentally disabled victim's~~ participation of the victim 6865  
with a developmental disability at the proceeding. 6866

(2) Objections to receiving in evidence a deposition or a 6867  
part of it under division (C) of this section shall be made as 6868  
provided in civil actions. 6869

(3) The provisions of divisions (B) and (C) of this 6870  
section are in addition to any other provisions of the Revised 6871  
Code, the Rules of Juvenile Procedure, the Rules of Criminal 6872  
Procedure, or the Rules of Evidence that pertain to the taking 6873  
or admission of depositions in a juvenile court proceeding and 6874  
do not limit the admissibility under any of those other 6875  
provisions of any deposition taken under division (B) of this 6876  
section or otherwise taken. 6877

(D) In any proceeding in juvenile court involving a 6878  
complaint, indictment, or information in which a child is 6879  
charged with a violation listed in division (B)(1) of this 6880  
section or an act that would be an offense of violence if 6881  
committed by an adult and in which an alleged victim of the 6882  
violation or offense was a ~~mentally retarded or developmentally~~ 6883  
~~disabled~~ person with a developmental disability, the prosecution 6884  
may file a motion with the juvenile judge requesting the judge 6885  
to order the testimony of the ~~mentally retarded or~~ 6886  
~~developmentally disabled~~ victim with a developmental disability 6887  
to be taken in a room other than the room in which the 6888  
proceeding is being conducted and be televised, by closed 6889  
circuit equipment, into the room in which the proceeding is 6890  
being conducted to be viewed by the child who is charged with 6891

the violation or act and any other persons who are not permitted 6892  
in the room in which the testimony is to be taken but who would 6893  
have been present during the testimony of the ~~mentally retarded-~~ 6894  
~~or developmentally disabled~~ victim with a developmental 6895  
disability had it been given in the room in which the proceeding 6896  
is being conducted. Except for good cause shown, the prosecution 6897  
shall file a motion under this division at least seven days 6898  
before the date of the proceeding. The juvenile judge may issue 6899  
the order upon the motion of the prosecution filed under this 6900  
division, if the judge determines that the ~~mentally retarded or-~~ 6901  
~~developmentally disabled~~ victim with a developmental disability 6902  
is unavailable to testify in the room in which the proceeding is 6903  
being conducted in the physical presence of the child charged 6904  
with the violation or act for one or more of the reasons set 6905  
forth in division (F) of this section. If a juvenile judge 6906  
issues an order of that nature, the judge shall exclude from the 6907  
room in which the testimony is to be taken every person except a 6908  
person described in division (B) (2) of this section. The judge, 6909  
at the judge's discretion, may preside during the giving of the 6910  
testimony by electronic means from outside the room in which it 6911  
is being given, subject to the limitations set forth in division 6912  
(B) (2) of this section. To the extent feasible, any person 6913  
operating the televising equipment shall be hidden from the 6914  
sight and hearing of the ~~mentally retarded or developmentally-~~ 6915  
~~disabled~~ victim with a developmental disability giving the 6916  
testimony, in a manner similar to that described in division (B) 6917  
(2) of this section. The child who is charged with the violation 6918  
or act shall be permitted to observe and hear the testimony of 6919  
the ~~mentally retarded or developmentally disabled~~ victim with a 6920  
developmental disability giving the testimony on a monitor, 6921  
shall be provided with an electronic means of immediate 6922  
communication with the attorney of the child who is charged with 6923

the violation or act during the testimony, and shall be 6924  
restricted to a location from which the child who is charged 6925  
with the violation or act cannot be seen or heard by the 6926  
~~mentally retarded or developmentally disabled~~ victim with a 6927  
developmental disability giving the testimony, except on a 6928  
monitor provided for that purpose. The ~~mentally retarded or~~ 6929  
~~developmentally disabled~~ victim with a developmental disability 6930  
giving the testimony shall be provided with a monitor on which 6931  
the ~~mentally retarded or developmentally disabled~~ victim with a 6932  
developmental disability can observe, while giving testimony, 6933  
the child who is charged with the violation or act. 6934

(E) In any proceeding in juvenile court involving a 6935  
complaint, indictment, or information in which a child is 6936  
charged with a violation listed in division (B)(1) of this 6937  
section or an act that would be an offense of violence if 6938  
committed by an adult and in which an alleged victim of the 6939  
violation or offense was a ~~mentally retarded or developmentally~~ 6940  
~~disabled~~ person with a developmental disability, the prosecution 6941  
may file a motion with the juvenile judge requesting the judge 6942  
to order the testimony of the ~~mentally retarded or~~ 6943  
~~developmentally disabled~~ victim with a developmental disability 6944  
to be taken outside of the room in which the proceeding is being 6945  
conducted and be recorded for showing in the room in which the 6946  
proceeding is being conducted before the judge, the child who is 6947  
charged with the violation or act, and any other persons who 6948  
would have been present during the testimony of the ~~mentally~~ 6949  
~~retarded or developmentally disabled~~ victim with a developmental 6950  
disability had it been given in the room in which the proceeding 6951  
is being conducted. Except for good cause shown, the prosecution 6952  
shall file a motion under this division at least seven days 6953  
before the date of the proceeding. The juvenile judge may issue 6954

the order upon the motion of the prosecution filed under this 6955  
division, if the judge determines that the ~~mentally retarded or~~ 6956  
~~developmentally disabled~~ victim with a developmental disability 6957  
is unavailable to testify in the room in which the proceeding is 6958  
being conducted in the physical presence of the child charged 6959  
with the violation or act, due to one or more of the reasons set 6960  
forth in division (F) of this section. If a juvenile judge 6961  
issues an order of that nature, the judge shall exclude from the 6962  
room in which the testimony is to be taken every person except a 6963  
person described in division (B) (2) of this section. To the 6964  
extent feasible, any person operating the recording equipment 6965  
shall be hidden from the sight and hearing of the ~~mentally~~ 6966  
~~retarded or developmentally disabled~~ victim with a developmental 6967  
disability giving the testimony, in a manner similar to that 6968  
described in division (B) (2) of this section. The child who is 6969  
charged with the violation or act shall be permitted to observe 6970  
and hear the testimony of the ~~mentally retarded or~~ 6971  
~~developmentally disabled~~ victim with a developmental disability 6972  
giving the testimony on a monitor, shall be provided with an 6973  
electronic means of immediate communication with the attorney of 6974  
the child who is charged with the violation or act during the 6975  
testimony, and shall be restricted to a location from which the 6976  
child who is charged with the violation or act cannot be seen or 6977  
heard by the ~~mentally retarded or developmentally disabled~~ 6978  
victim with a developmental disability giving the testimony, 6979  
except on a monitor provided for that purpose. The ~~mentally~~ 6980  
~~retarded or developmentally disabled~~ victim with a developmental 6981  
disability giving the testimony shall be provided with a monitor 6982  
on which the ~~mentally retarded or developmentally disabled~~ 6983  
victim with a developmental disability can observe, while giving 6984  
testimony, the child who is charged with the violation or act. 6985  
No order for the taking of testimony by recording shall be 6986

issued under this division unless the provisions set forth in 6987  
divisions (B) (2) (a), (b), (c), and (d) of this section apply to 6988  
the recording of the testimony. 6989

(F) For purposes of divisions (D) and (E) of this section, 6990  
a juvenile judge may order the testimony of a ~~mentally retarded-~~ 6991  
~~or developmentally disabled victim~~ with a developmental 6992  
disability to be taken outside of the room in which a proceeding 6993  
is being conducted if the judge determines that the ~~mentally-~~ 6994  
~~retarded or developmentally disabled victim~~ with a developmental 6995  
disability is unavailable to testify in the room in the physical 6996  
presence of the child charged with the violation or act due to 6997  
one or more of the following circumstances: 6998

(1) The persistent refusal of the ~~mentally retarded or-~~ 6999  
~~developmentally disabled victim~~ with a developmental disability 7000  
to testify despite judicial requests to do so; 7001

(2) The inability of the ~~mentally retarded or-~~ 7002  
~~developmentally disabled victim~~ with a developmental disability 7003  
to communicate about the alleged violation or offense because of 7004  
extreme fear, failure of memory, or another similar reason; 7005

(3) The substantial likelihood that the ~~mentally retarded-~~ 7006  
~~or developmentally disabled victim~~ with a developmental 7007  
disability will suffer serious emotional trauma from so 7008  
testifying. 7009

(G) (1) If a juvenile judge issues an order pursuant to 7010  
division (D) or (E) of this section that requires the testimony 7011  
of a ~~mentally retarded or developmentally disabled victim~~ with a 7012  
developmental disability in a juvenile court proceeding to be 7013  
taken outside of the room in which the proceeding is being 7014  
conducted, the order shall specifically identify the ~~mentally-~~ 7015

~~retarded or developmentally disabled~~ victim with a developmental 7016  
disability to whose testimony it applies, the order applies only 7017  
during the testimony of the specified ~~mentally retarded or~~ 7018  
~~developmentally disabled~~ victim with a developmental disability, 7019  
and the ~~mentally retarded or developmentally disabled~~ victim 7020  
with a developmental disability giving the testimony shall not 7021  
be required to testify at the proceeding other than in 7022  
accordance with the order. The authority of a judge to close the 7023  
taking of a deposition under division (B) (2) of this section or 7024  
a proceeding under division (D) or (E) of this section is in 7025  
addition to the authority of a judge to close a hearing pursuant 7026  
to section 2151.35 of the Revised Code. 7027

(2) A juvenile judge who makes any determination regarding 7028  
the admissibility of a deposition under divisions (B) and (C) of 7029  
this section, the videotaping of a deposition under division (B) 7030  
(2) of this section, or the taking of testimony outside of the 7031  
room in which a proceeding is being conducted under division (D) 7032  
or (E) of this section shall enter the determination and 7033  
findings on the record in the proceeding. 7034

**Sec. 2305.111.** (A) As used in this section: 7035

(1) "Childhood sexual abuse" means any conduct that 7036  
constitutes any of the violations identified in division (A) (1) 7037  
(a) or (b) of this section and would constitute a criminal 7038  
offense under the specified section or division of the Revised 7039  
Code, if the victim of the violation is at the time of the 7040  
violation a child under eighteen years of age or a ~~mentally-~~ 7041  
~~retarded, developmentally disabled, or physically impaired~~ child 7042  
with a developmental disability or physical impairment under 7043  
twenty-one years of age. The court need not find that any person 7044  
has been convicted of or pleaded guilty to the offense under the 7045

specified section or division of the Revised Code in order for 7046  
the conduct that is the violation constituting the offense to be 7047  
childhood sexual abuse for purposes of this division. This 7048  
division applies to any of the following violations committed in 7049  
the following specified circumstances: 7050

(a) A violation of section 2907.02 or of division (A) (1), 7051  
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 7052  
of the Revised Code; 7053

(b) A violation of section 2907.05 or 2907.06 of the 7054  
Revised Code if, at the time of the violation, any of the 7055  
following apply: 7056

(i) The actor is the victim's natural parent, adoptive 7057  
parent, or stepparent or the guardian, custodian, or person in 7058  
loco parentis of the victim. 7059

(ii) The victim is in custody of law or a patient in a 7060  
hospital or other institution, and the actor has supervisory or 7061  
disciplinary authority over the victim. 7062

(iii) The actor is a teacher, administrator, coach, or 7063  
other person in authority employed by or serving in a school for 7064  
which the state board of education prescribes minimum standards 7065  
pursuant to division (D) of section 3301.07 of the Revised Code, 7066  
the victim is enrolled in or attends that school, and the actor 7067  
is not enrolled in and does not attend that school. 7068

(iv) The actor is a teacher, administrator, coach, or 7069  
other person in authority employed by or serving in an 7070  
institution of higher education, and the victim is enrolled in 7071  
or attends that institution. 7072

(v) The actor is the victim's athletic or other type of 7073  
coach, is the victim's instructor, is the leader of a scouting 7074

troop of which the victim is a member, or is a person with 7075  
temporary or occasional disciplinary control over the victim. 7076

(vi) The actor is a mental health professional, the victim 7077  
is a mental health client or patient of the actor, and the actor 7078  
induces the victim to submit by falsely representing to the 7079  
victim that the sexual contact involved in the violation is 7080  
necessary for mental health treatment purposes. 7081

(vii) The victim is confined in a detention facility, and 7082  
the actor is an employee of that detention facility. 7083

(viii) The actor is a cleric, and the victim is a member 7084  
of, or attends, the church or congregation served by the cleric. 7085

(2) "Cleric" has the same meaning as in section 2317.02 of 7086  
the Revised Code. 7087

(3) "Mental health client or patient" has the same meaning 7088  
as in section 2305.51 of the Revised Code. 7089

(4) "Mental health professional" has the same meaning as 7090  
in section 2305.115 of the Revised Code. 7091

(5) "Sexual contact" has the same meaning as in section 7092  
2907.01 of the Revised Code. 7093

(6) "Victim" means, except as provided in division (B) of 7094  
this section, a victim of childhood sexual abuse. 7095

(B) Except as provided in section 2305.115 of the Revised 7096  
Code and subject to division (C) of this section, an action for 7097  
assault or battery shall be brought within one year after the 7098  
cause of the action accrues. For purposes of this section, a 7099  
cause of action for assault or battery accrues upon the later of 7100  
the following: 7101

(1) The date on which the alleged assault or battery  
occurred; 7102  
7103

(2) If the plaintiff did not know the identity of the  
person who allegedly committed the assault or battery on the  
date on which it allegedly occurred, the earlier of the  
following dates: 7104  
7105  
7106  
7107

(a) The date on which the plaintiff learns the identity of  
that person; 7108  
7109

(b) The date on which, by the exercise of reasonable  
diligence, the plaintiff should have learned the identity of  
that person. 7110  
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(C) An action for assault or battery brought by a victim  
of childhood sexual abuse based on childhood sexual abuse, or an  
action brought by a victim of childhood sexual abuse asserting  
any claim resulting from childhood sexual abuse, shall be  
brought within twelve years after the cause of action accrues.  
For purposes of this section, a cause of action for assault or  
battery based on childhood sexual abuse, or a cause of action  
for a claim resulting from childhood sexual abuse, accrues upon  
the date on which the victim reaches the age of majority. If the  
defendant in an action brought by a victim of childhood sexual  
abuse asserting a claim resulting from childhood sexual abuse  
that occurs on or after ~~the effective date of this act~~ August 3,  
2006, has fraudulently concealed from the plaintiff facts that  
form the basis of the claim, the running of the limitations  
period with regard to that claim is tolled until the time when  
the plaintiff discovers or in the exercise of due diligence  
should have discovered those facts. 7113  
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**Sec. 2311.14.** (A) (1) Whenever because of a hearing, 7130

speech, or other impairment a party to or witness in a legal proceeding cannot readily understand or communicate, the court shall appoint a qualified interpreter to assist such person.

(2) This section is not limited to a person who speaks a language other than English. It also applies to the language and descriptions of any ~~mentally retarded person or developmentally disabled person~~ with a developmental disability who cannot be reasonably understood, or who cannot understand questioning, without the aid of an interpreter. The interpreter may aid the parties in formulating methods of questioning the person with ~~mental retardation or~~ a developmental disability and in interpreting the answers of the person.

(B) Before entering upon official duties, the interpreter shall take an oath that the interpreter will make a true interpretation of the proceedings to the party or witness, and that the interpreter will truly repeat the statements made by such party or witness to the court, to the best of the interpreter's ability. If the interpreter is appointed to assist a ~~mentally retarded person or developmentally disabled person~~ with a developmental disability as described in division (A) (2) of this section, the oath also shall include an oath that the interpreter will not prompt, lead, suggest, or otherwise improperly influence the testimony of the witness or party.

(C) The court shall determine a reasonable fee for all such interpreter service which shall be paid out of the same funds as witness fees. If the party taxed with costs is indigent, the court shall not tax the interpreter's fees as costs, and the county or, if the court is a municipal court that is not a county-operated municipal court, the municipal corporation in which the court is located shall pay the

interpreter's fees. 7161

(D) As used in this section, "~~mentally retarded person~~" 7162  
and "~~developmentally disabled person~~developmental disability" 7163  
~~have~~has the same ~~meanings~~meaning as in section 5123.01 of the 7164  
Revised Code. 7165

**Sec. 2317.021.** (A) As used in division (A) of section 7166  
2317.02 of the Revised Code: 7167

"Client" means a person, firm, partnership, corporation, 7168  
or other association that, directly or through any 7169  
representative, consults an attorney for the purpose of 7170  
retaining the attorney or securing legal service or advice from 7171  
the attorney in the attorney's professional capacity, or 7172  
consults an attorney employee for legal service or advice, and 7173  
who communicates, either directly or through an agent, employee, 7174  
or other representative, with such attorney; and includes an 7175  
incompetent person whose guardian so consults the attorney in 7176  
behalf of the incompetent person. 7177

Where a corporation or association is a client having the 7178  
privilege and it has been dissolved, the privilege shall extend 7179  
to the last board of directors, their successors or assigns, or 7180  
to the trustees, their successors or assigns. 7181

This section shall be construed as in addition to, and not 7182  
in limitation of, other laws affording protection to 7183  
communications under the attorney-client privilege. 7184

(B) As used in this section and in sections 2317.02 and 7185  
2317.03 of the Revised Code, "incompetent" or "incompetent 7186  
person" means a person who is so mentally impaired, as a result 7187  
of a mental or physical illness or disability, ~~or mental~~ 7188  
~~retardation~~ as a result of an intellectual disability, or as a 7189

result of chronic substance abuse, that the person is incapable 7190  
of taking proper care of the person's self or property or fails 7191  
to provide for the person's family or other persons for whom the 7192  
person is charged by law to provide. 7193

**Sec. 2503.37.** Cases commenced in or taken to the supreme 7194  
court shall be entered on the docket in the order in which they 7195  
are commenced, received, or filed. They shall be disposed of in 7196  
the same order, except that the court may dispose of the 7197  
following classes of cases in advance of their order on the 7198  
docket: 7199

(A) Proceedings in quo warranto, mandamus, procedendo, 7200  
prohibition, or habeas corpus; 7201

(B) Cases in which the person seeking relief has been 7202  
convicted of felony; 7203

(C) Cases involving the validity of a tax levy or 7204  
assessment; 7205

(D) Cases involving the construction or constitutionality 7206  
of a statute, or a question of practice, in which the questions 7207  
arising are of general public interest; 7208

(E) Cases of general interest to the public, if two or 7209  
more of the courts of appeals have held the law directly 7210  
opposite upon like facts; 7211

(F) Cases in which the relief sought is damages for 7212  
personal injury, or for death caused by negligence, and in which 7213  
the person injured makes affidavit that the person's livelihood 7214  
is dependent upon daily labor, or, in case of death, in which 7215  
the surviving spouse or any of the next of kin of the deceased 7216  
makes an affidavit that the surviving spouse or next of kin was 7217  
dependent for livelihood upon the person's or the decedent's 7218

daily labor; 7219

(G) Cases in which a trust fund for the care, support, or 7220  
education of a minor, or care or support of a ~~mentally retarded~~ 7221  
person with an intellectual disability, is in question; 7222

(H) Cases involving controversies or questions arising in 7223  
the administration of the estate of a deceased person under the 7224  
laws of this state; 7225

(I) Cases involving the construction of a statute for the 7226  
annexation of territory to a municipal corporation. 7227

**Sec. 2721.05.** As used in this section, "incompetent 7228  
person" means a person who is so mentally impaired, as a result 7229  
of a mental or physical illness or disability, ~~or mental~~ 7230  
retardation as a result of an intellectual disability, or as a 7231  
result of chronic substance abuse, that the person is incapable 7232  
of taking proper care of the person's self or property or fails 7233  
to provide for the person's family or other persons for whom the 7234  
person is charged by law to provide. 7235

Any person interested as or through an executor, 7236  
administrator, trustee, guardian, or other fiduciary, creditor, 7237  
devisee, legatee, heir, next of kin, or cestui que trust, in the 7238  
administration of a trust, or of the estate of a decedent, an 7239  
infant, an incompetent person, or an insolvent person, may have 7240  
a declaration of rights or legal relations in respect thereto in 7241  
any of the following cases: 7242

(A) To ascertain any class of creditors, devisees, 7243  
legatees, heirs, next of kin, or others; 7244

(B) To direct the executors, administrators, trustees, or 7245  
other fiduciaries to do or abstain from doing any particular act 7246  
in their fiduciary capacity; 7247

(C) To determine any question arising in the 7248  
administration of the estate or trust, including questions of 7249  
construction of wills and other writings. 7250

**Sec. 2744.01.** As used in this chapter: 7251

(A) "Emergency call" means a call to duty, including, but 7252  
not limited to, communications from citizens, police dispatches, 7253  
and personal observations by peace officers of inherently 7254  
dangerous situations that demand an immediate response on the 7255  
part of a peace officer. 7256

(B) "Employee" means an officer, agent, employee, or 7257  
servant, whether or not compensated or full-time or part-time, 7258  
who is authorized to act and is acting within the scope of the 7259  
officer's, agent's, employee's, or servant's employment for a 7260  
political subdivision. "Employee" does not include an 7261  
independent contractor and does not include any individual 7262  
engaged by a school district pursuant to section 3319.301 of the 7263  
Revised Code. "Employee" includes any elected or appointed 7264  
official of a political subdivision. "Employee" also includes a 7265  
person who has been convicted of or pleaded guilty to a criminal 7266  
offense and who has been sentenced to perform community service 7267  
work in a political subdivision whether pursuant to section 7268  
2951.02 of the Revised Code or otherwise, and a child who is 7269  
found to be a delinquent child and who is ordered by a juvenile 7270  
court pursuant to section 2152.19 or 2152.20 of the Revised Code 7271  
to perform community service or community work in a political 7272  
subdivision. 7273

(C) (1) "Governmental function" means a function of a 7274  
political subdivision that is specified in division (C) (2) of 7275  
this section or that satisfies any of the following: 7276

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;	7277 7278 7279
(b) A function that is for the common good of all citizens of the state;	7280 7281
(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in division (G) (2) of this section as a proprietary function.	7282 7283 7284 7285 7286
(2) A "governmental function" includes, but is not limited to, the following:	7287 7288
(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;	7289 7290
(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property;	7291 7292 7293 7294 7295
(c) The provision of a system of public education;	7296
(d) The provision of a free public library system;	7297
(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;	7298 7299 7300
(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;	7301 7302
(g) The construction, reconstruction, repair, renovation,	7303

maintenance, and operation of buildings that are used in 7304  
connection with the performance of a governmental function, 7305  
including, but not limited to, office buildings and courthouses; 7306

(h) The design, construction, reconstruction, renovation, 7307  
repair, maintenance, and operation of jails, places of juvenile 7308  
detention, workhouses, or any other detention facility, as 7309  
defined in section 2921.01 of the Revised Code; 7310

(i) The enforcement or nonperformance of any law; 7311

(j) The regulation of traffic, and the erection or 7312  
nonerection of traffic signs, signals, or control devices; 7313

(k) The collection and disposal of solid wastes, as 7314  
defined in section 3734.01 of the Revised Code, including, but 7315  
not limited to, the operation of solid waste disposal 7316  
facilities, as "facilities" is defined in that section, and the 7317  
collection and management of hazardous waste generated by 7318  
households. As used in division (C) (2) (k) of this section, 7319  
"hazardous waste generated by households" means solid waste 7320  
originally generated by individual households that is listed 7321  
specifically as hazardous waste in or exhibits one or more 7322  
characteristics of hazardous waste as defined by rules adopted 7323  
under section 3734.12 of the Revised Code, but that is excluded 7324  
from regulation as a hazardous waste by those rules. 7325

(l) The provision or nonprovision, planning or design, 7326  
construction, or reconstruction of a public improvement, 7327  
including, but not limited to, a sewer system; 7328

(m) The operation of a job and family services department 7329  
or agency, including, but not limited to, the provision of 7330  
assistance to aged and infirm persons and to persons who are 7331  
indigent; 7332

- (n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine; 7333  
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- (o) The operation of mental health facilities, ~~mental-retardation or~~ developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies; 7342  
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- (p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures; 7345  
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- (q) Urban renewal projects and the elimination of slum conditions, including the performance of any activity that a county land reutilization corporation is authorized to perform under Chapter 1724. or 5722. of the Revised Code; 7353  
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7356
- (r) Flood control measures; 7357
- (s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery; 7358  
7359
- (t) The issuance of revenue obligations under section 140.06 of the Revised Code; 7360  
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(u) The design, construction, reconstruction, renovation, 7362  
repair, maintenance, and operation of any school athletic 7363  
facility, school auditorium, or gymnasium or any recreational 7364  
area or facility, including, but not limited to, any of the 7365  
following: 7366

(i) A park, playground, or playfield; 7367

(ii) An indoor recreational facility; 7368

(iii) A zoo or zoological park; 7369

(iv) A bath, swimming pool, pond, water park, wading pool, 7370  
wave pool, water slide, or other type of aquatic facility; 7371

(v) A golf course; 7372

(vi) A bicycle motocross facility or other type of 7373  
recreational area or facility in which bicycling, skating, skate 7374  
boarding, or scooter riding is engaged; 7375

(vii) A rope course or climbing walls; 7376

(viii) An all-purpose vehicle facility in which all- 7377  
purpose vehicles, as defined in section 4519.01 of the Revised 7378  
Code, are contained, maintained, or operated for recreational 7379  
activities. 7380

(v) The provision of public defender services by a county 7381  
or joint county public defender's office pursuant to Chapter 7382  
120. of the Revised Code; 7383

(w) (i) At any time before regulations prescribed pursuant 7384  
to 49 U.S.C.A 20153 become effective, the designation, 7385  
establishment, design, construction, implementation, operation, 7386  
repair, or maintenance of a public road rail crossing in a zone 7387  
within a municipal corporation in which, by ordinance, the 7388

legislative authority of the municipal corporation regulates the 7389  
sounding of locomotive horns, whistles, or bells; 7390

(ii) On and after the effective date of regulations 7391  
prescribed pursuant to 49 U.S.C.A. 20153, the designation, 7392  
establishment, design, construction, implementation, operation, 7393  
repair, or maintenance of a public road rail crossing in such a 7394  
zone or of a supplementary safety measure, as defined in 49 7395  
U.S.C.A 20153, at or for a public road rail crossing, if and to 7396  
the extent that the public road rail crossing is excepted, 7397  
pursuant to subsection (c) of that section, from the requirement 7398  
of the regulations prescribed under subsection (b) of that 7399  
section. 7400

(x) A function that the general assembly mandates a 7401  
political subdivision to perform. 7402

(D) "Law" means any provision of the constitution, 7403  
statutes, or rules of the United States or of this state; 7404  
provisions of charters, ordinances, resolutions, and rules of 7405  
political subdivisions; and written policies adopted by boards 7406  
of education. When used in connection with the "common law," 7407  
this definition does not apply. 7408

(E) "Motor vehicle" has the same meaning as in section 7409  
4511.01 of the Revised Code. 7410

(F) "Political subdivision" or "subdivision" means a 7411  
municipal corporation, township, county, school district, or 7412  
other body corporate and politic responsible for governmental 7413  
activities in a geographic area smaller than that of the state. 7414  
"Political subdivision" includes, but is not limited to, a 7415  
county hospital commission appointed under section 339.14 of the 7416  
Revised Code, board of hospital commissioners appointed for a 7417

municipal hospital under section 749.04 of the Revised Code, 7418  
board of hospital trustees appointed for a municipal hospital 7419  
under section 749.22 of the Revised Code, regional planning 7420  
commission created pursuant to section 713.21 of the Revised 7421  
Code, county planning commission created pursuant to section 7422  
713.22 of the Revised Code, joint planning council created 7423  
pursuant to section 713.231 of the Revised Code, interstate 7424  
regional planning commission created pursuant to section 713.30 7425  
of the Revised Code, port authority created pursuant to section 7426  
4582.02 or 4582.26 of the Revised Code or in existence on 7427  
December 16, 1964, regional council established by political 7428  
subdivisions pursuant to Chapter 167. of the Revised Code, 7429  
emergency planning district and joint emergency planning 7430  
district designated under section 3750.03 of the Revised Code, 7431  
joint emergency medical services district created pursuant to 7432  
section 307.052 of the Revised Code, fire and ambulance district 7433  
created pursuant to section 505.375 of the Revised Code, joint 7434  
interstate emergency planning district established by an 7435  
agreement entered into under that section, county solid waste 7436  
management district and joint solid waste management district 7437  
established under section 343.01 or 343.012 of the Revised Code, 7438  
community school established under Chapter 3314. of the Revised 7439  
Code, county land reutilization corporation organized under 7440  
Chapter 1724. of the Revised Code, the county or counties served 7441  
by a community-based correctional facility and program or 7442  
district community-based correctional facility and program 7443  
established and operated under sections 2301.51 to 2301.58 of 7444  
the Revised Code, a community-based correctional facility and 7445  
program or district community-based correctional facility and 7446  
program that is so established and operated, and the facility 7447  
governing board of a community-based correctional facility and 7448  
program or district community-based correctional facility and 7449

program that is so established and operated. 7450

(G) (1) "Proprietary function" means a function of a 7451  
political subdivision that is specified in division (G) (2) of 7452  
this section or that satisfies both of the following: 7453

(a) The function is not one described in division (C) (1) 7454  
(a) or (b) of this section and is not one specified in division 7455  
(C) (2) of this section; 7456

(b) The function is one that promotes or preserves the 7457  
public peace, health, safety, or welfare and that involves 7458  
activities that are customarily engaged in by nongovernmental 7459  
persons. 7460

(2) A "proprietary function" includes, but is not limited 7461  
to, the following: 7462

(a) The operation of a hospital by one or more political 7463  
subdivisions; 7464

(b) The design, construction, reconstruction, renovation, 7465  
repair, maintenance, and operation of a public cemetery other 7466  
than a township cemetery; 7467

(c) The establishment, maintenance, and operation of a 7468  
utility, including, but not limited to, a light, gas, power, or 7469  
heat plant, a railroad, a busline or other transit company, an 7470  
airport, and a municipal corporation water supply system; 7471

(d) The maintenance, destruction, operation, and upkeep of 7472  
a sewer system; 7473

(e) The operation and control of a public stadium, 7474  
auditorium, civic or social center, exhibition hall, arts and 7475  
crafts center, band or orchestra, or off-street parking 7476  
facility. 7477

(H) "Public roads" means public roads, highways, streets, 7478  
avenues, alleys, and bridges within a political subdivision. 7479  
"Public roads" does not include berms, shoulders, rights-of-way, 7480  
or traffic control devices unless the traffic control devices 7481  
are mandated by the Ohio manual of uniform traffic control 7482  
devices. 7483

(I) "State" means the state of Ohio, including, but not 7484  
limited to, the general assembly, the supreme court, the offices 7485  
of all elected state officers, and all departments, boards, 7486  
offices, commissions, agencies, colleges and universities, 7487  
institutions, and other instrumentalities of the state of Ohio. 7488  
"State" does not include political subdivisions. 7489

**Sec. 2901.13.** (A) (1) Except as provided in division (A) 7490  
(2), (3), or (4) of this section or as otherwise provided in 7491  
this section, a prosecution shall be barred unless it is 7492  
commenced within the following periods after an offense is 7493  
committed: 7494

(a) For a felony, six years; 7495

(b) For a misdemeanor other than a minor misdemeanor, two 7496  
years; 7497

(c) For a minor misdemeanor, six months. 7498

(2) There is no period of limitation for the prosecution 7499  
of a violation of section 2903.01 or 2903.02 of the Revised 7500  
Code. 7501

(3) Except as otherwise provided in divisions (B) to (J) 7502  
of this section, a prosecution of any of the following offenses 7503  
shall be barred unless it is commenced within twenty years after 7504  
the offense is committed: 7505

(a) A violation of section 2903.03, 2903.04, 2905.01, 7506  
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 7507  
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 7508  
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 7509  
section 2903.11 or 2903.12 of the Revised Code if the victim is 7510  
a peace officer, a violation of section 2903.13 of the Revised 7511  
Code that is a felony, or a violation of former section 2907.12 7512  
of the Revised Code; 7513

(b) A conspiracy to commit, attempt to commit, or 7514  
complicity in committing a violation set forth in division (A) 7515  
(3)(a) of this section. 7516

(4) Except as otherwise provided in divisions (D) to (L) 7517  
of this section, a prosecution of a violation of section 2907.02 7518  
or 2907.03 of the Revised Code or a conspiracy to commit, 7519  
attempt to commit, or complicity in committing a violation of 7520  
either section shall be barred unless it is commenced within 7521  
twenty-five years after the offense is committed. 7522

(B)(1) Except as otherwise provided in division (B)(2) of 7523  
this section, if the period of limitation provided in division 7524  
(A)(1) or (3) of this section has expired, prosecution shall be 7525  
commenced for an offense of which an element is fraud or breach 7526  
of a fiduciary duty, within one year after discovery of the 7527  
offense either by an aggrieved person, or by the aggrieved 7528  
person's legal representative who is not a party to the offense. 7529

(2) If the period of limitation provided in division (A) 7530  
(1) or (3) of this section has expired, prosecution for a 7531  
violation of section 2913.49 of the Revised Code shall be 7532  
commenced within five years after discovery of the offense 7533  
either by an aggrieved person or the aggrieved person's legal 7534  
representative who is not a party to the offense. 7535

(C) (1) If the period of limitation provided in division 7536  
(A) (1) or (3) of this section has expired, prosecution shall be 7537  
commenced for the following offenses during the following 7538  
specified periods of time: 7539

(a) For an offense involving misconduct in office by a 7540  
public servant, at any time while the accused remains a public 7541  
servant, or within two years thereafter; 7542

(b) For an offense by a person who is not a public servant 7543  
but whose offense is directly related to the misconduct in 7544  
office of a public servant, at any time while that public 7545  
servant remains a public servant, or within two years 7546  
thereafter. 7547

(2) As used in this division: 7548

(a) An "offense is directly related to the misconduct in 7549  
office of a public servant" includes, but is not limited to, a 7550  
violation of section 101.71, 101.91, 121.61 or 2921.13, division 7551  
(F) or (H) of section 102.03, division (A) of section 2921.02, 7552  
division (A) or (B) of section 2921.43, or division (F) or (G) 7553  
of section 3517.13 of the Revised Code, that is directly related 7554  
to an offense involving misconduct in office of a public 7555  
servant. 7556

(b) "Public servant" has the same meaning as in section 7557  
2921.01 of the Revised Code. 7558

(D) (1) If a DNA record made in connection with the 7559  
criminal investigation of the commission of a violation of 7560  
section 2907.02 or 2907.03 of the Revised Code is determined to 7561  
match another DNA record that is of an identifiable person and 7562  
if the time of the determination is later than twenty-five years 7563  
after the offense is committed, prosecution of that person for a 7564

violation of the section may be commenced within five years 7565  
after the determination is complete. 7566

(2) If a DNA record made in connection with the criminal 7567  
investigation of the commission of a violation of section 7568  
2907.02 or 2907.03 of the Revised Code is determined to match 7569  
another DNA record that is of an identifiable person and if the 7570  
time of the determination is within twenty-five years after the 7571  
offense is committed, prosecution of that person for a violation 7572  
of the section may be commenced within the longer of twenty-five 7573  
years after the offense is committed or five years after the 7574  
determination is complete. 7575

(3) As used in this division, "DNA record" has the same 7576  
meaning as in section 109.573 of the Revised Code. 7577

(E) An offense is committed when every element of the 7578  
offense occurs. In the case of an offense of which an element is 7579  
a continuing course of conduct, the period of limitation does 7580  
not begin to run until such course of conduct or the accused's 7581  
accountability for it terminates, whichever occurs first. 7582

(F) A prosecution is commenced on the date an indictment 7583  
is returned or an information filed, or on the date a lawful 7584  
arrest without a warrant is made, or on the date a warrant, 7585  
summons, citation, or other process is issued, whichever occurs 7586  
first. A prosecution is not commenced by the return of an 7587  
indictment or the filing of an information unless reasonable 7588  
diligence is exercised to issue and execute process on the same. 7589  
A prosecution is not commenced upon issuance of a warrant, 7590  
summons, citation, or other process, unless reasonable diligence 7591  
is exercised to execute the same. 7592

(G) The period of limitation shall not run during any time 7593

when the corpus delicti remains undiscovered. 7594

(H) The period of limitation shall not run during any time 7595  
when the accused purposely avoids prosecution. Proof that the 7596  
accused departed this state or concealed the accused's identity 7597  
or whereabouts is prima-facie evidence of the accused's purpose 7598  
to avoid prosecution. 7599

(I) The period of limitation shall not run during any time 7600  
a prosecution against the accused based on the same conduct is 7601  
pending in this state, even though the indictment, information, 7602  
or process that commenced the prosecution is quashed or the 7603  
proceedings on the indictment, information, or process are set 7604  
aside or reversed on appeal. 7605

(J) The period of limitation for a violation of any 7606  
provision of Title XXIX of the Revised Code that involves a 7607  
physical or mental wound, injury, disability, or condition of a 7608  
nature that reasonably indicates abuse or neglect of a child 7609  
under eighteen years of age or of a ~~mentally retarded,~~ 7610  
~~developmentally disabled, or physically impaired~~ child with a 7611  
developmental disability or physical impairment under twenty-one 7612  
years of age shall not begin to run until either of the 7613  
following occurs: 7614

(1) The victim of the offense reaches the age of majority. 7615

(2) A public children services agency, or a municipal or 7616  
county peace officer that is not the parent or guardian of the 7617  
child, in the county in which the child resides or in which the 7618  
abuse or neglect is occurring or has occurred has been notified 7619  
that abuse or neglect is known, suspected, or believed to have 7620  
occurred. 7621

(K) As used in this section, "peace officer" has the same 7622

meaning as in section 2935.01 of the Revised Code. 7623

(L) The amendments to divisions (A) and (D) of this 7624  
section apply to a violation of section 2907.02 or 2907.03 of 7625  
the Revised Code committed on and after ~~the effective date of~~ 7626  
~~those amendments July 16, 2015,~~ and apply to a violation of 7627  
either of those sections committed prior to ~~the effective date~~ 7628  
~~of the amendments July 16, 2015,~~ if prosecution for that 7629  
violation was not barred under this section as it existed on the 7630  
day prior to ~~the effective date of the amendments July 16, 2015.~~ 7631

**Sec. 2903.341.** (A) As used in this section: 7632

(1) "~~MR/DD~~ Developmental disabilities caretaker" means any 7633  
~~MR/DD~~ developmental disabilities employee or any person who 7634  
assumes the duty to provide for the care and protection of a 7635  
~~mentally retarded person or a developmentally disabled person~~ 7636  
with a developmental disability on a voluntary basis, by 7637  
contract, through receipt of payment for care and protection, as 7638  
a result of a family relationship, or by order of a court of 7639  
competent jurisdiction. "~~MR/DD~~ Developmental disabilities 7640  
caretaker" includes a person who is an employee of a care 7641  
facility and a person who is an employee of an entity under 7642  
contract with a provider. "~~MR/DD~~ Developmental disabilities 7643  
caretaker" does not include a person who owns, operates, or 7644  
administers a care facility or who is an agent of a care 7645  
facility unless that person also personally provides care to 7646  
~~persons~~ a person with mental retardation or a developmental 7647  
disability. 7648

(2) "~~Mentally retarded person~~" and "~~developmentally~~ 7649  
~~disabled person~~" have the same meanings as in section 5123.01 of 7650  
the Revised Code. 7651

~~(3) "MR/DD-Developmental disabilities employee"~~ has the 7652  
same meaning as in section 5123.50 of the Revised Code. 7653

(3) "Developmental disability" has the same meaning as in 7654  
section 5123.01 of the Revised Code. 7655

(B) No ~~MR/DD-developmental disabilities~~ caretaker shall 7656  
create a substantial risk to the health or safety of a ~~mentally-~~ 7657  
~~retarded person or a developmentally disabled person with a~~ 7658  
developmental disability. ~~An MR/DD-~~ A developmental disabilities 7659  
caretaker does not create a substantial risk to the health or 7660  
safety of a ~~mentally retarded person or a developmentally-~~ 7661  
~~disabled person with a developmental disability~~ under this 7662  
division when the ~~MR/DD-developmental disabilities~~ caretaker 7663  
treats a physical or mental illness or defect of the ~~mentally-~~ 7664  
~~retarded person or developmentally disabled person with a~~ 7665  
developmental disability by spiritual means through prayer 7666  
alone, in accordance with the tenets of a recognized religious 7667  
body. 7668

(C) No person who owns, operates, or administers a care 7669  
facility or who is an agent of a care facility shall condone, or 7670  
knowingly permit, any conduct by ~~an MR/DD-~~ a developmental 7671  
disabilities caretaker who is employed by or under the control 7672  
of the owner, operator, administrator, or agent that is in 7673  
violation of division (B) of this section and that involves a 7674  
~~mentally retarded person or a developmentally disabled person~~ 7675  
with a developmental disability who is under the care of the 7676  
owner, operator, administrator, or agent. A person who relies 7677  
upon treatment by spiritual means through prayer alone, in 7678  
accordance with the tenets of a recognized religious 7679  
denomination, shall not be considered endangered under this 7680  
division for that reason alone. 7681

(D) (1) It is an affirmative defense to a charge of a violation of division (B) or (C) of this section that the actor's conduct was committed in good faith solely because the actor was ordered to commit the conduct by a person to whom one of the following applies:

(a) The person has supervisory authority over the actor.

(b) The person has authority over the actor's conduct pursuant to a contract for the provision of services.

(2) It is an affirmative defense to a charge of a violation of division (C) of this section that the person who owns, operates, or administers a care facility or who is an agent of a care facility and who is charged with the violation is following the individual service plan for the involved ~~mentally retarded person or a developmentally disabled person~~ with a developmental disability or that the admission, discharge, and transfer rule set forth in the Administrative Code is being followed.

(3) It is an affirmative defense to a charge of a violation of division (C) of this section that the actor did not have readily available a means to prevent either the harm to the person with ~~mental retardation~~ ~~or~~ a developmental disability or the death of such a person and the actor took reasonable steps to summon aid.

(E) (1) Except as provided in division (E) (2) or (E) (3) of this section, whoever violates division (B) or (C) of this section is guilty of patient endangerment, a misdemeanor of the first degree.

(2) If the offender previously has been convicted of, or pleaded guilty to, a violation of this section, patient

endangerment is a felony of the fourth degree. 7711

(3) If the violation results in serious physical harm to 7712  
the person with ~~mental retardation or~~ a developmental 7713  
disability, patient endangerment is a felony of the third 7714  
degree. 7715

**Sec. 2905.32.** (A) No person shall knowingly recruit, lure, 7716  
entice, isolate, harbor, transport, provide, obtain, or 7717  
maintain, or knowingly attempt to recruit, lure, entice, 7718  
isolate, harbor, transport, provide, obtain, or maintain, 7719  
another person if any of the following applies: 7720

(1) The offender knows that the other person will be 7721  
subjected to involuntary servitude or be compelled to engage in 7722  
sexual activity for hire, engage in a performance that is 7723  
obscene, sexually oriented, or nudity oriented, or be a model or 7724  
participant in the production of material that is obscene, 7725  
sexually oriented, or nudity oriented. 7726

(2) The other person is less than sixteen years of age or 7727  
is a ~~developmentally disabled person~~ with a developmental 7728  
disability whom the offender knows or has reasonable cause to 7729  
believe is a ~~developmentally disabled person~~ with a 7730  
developmental disability, and either the offender knows that the 7731  
other person will be subjected to involuntary servitude or the 7732  
offender's knowing recruitment, luring, enticement, isolation, 7733  
harboring, transportation, provision, obtaining, or maintenance 7734  
of the other person or knowing attempt to recruit, lure, entice, 7735  
isolate, harbor, transport, provide, obtain, or maintain the 7736  
other person is for any of the following purposes: 7737

(a) To engage in sexual activity for hire; 7738

(b) To engage in a performance for hire that is obscene, 7739

sexually oriented, or nudity oriented; 7740

(c) To be a model or participant for hire in the 7741  
production of material that is obscene, sexually oriented, or 7742  
nudity oriented. 7743

(3) The other person is sixteen or seventeen years of age, 7744  
either the offender knows that the other person will be 7745  
subjected to involuntary servitude or the offender's knowing 7746  
recruitment, luring, enticement, isolation, harboring, 7747  
transportation, provision, obtaining, or maintenance of the 7748  
other person or knowing attempt to recruit, lure, entice, 7749  
isolate, harbor, transport, provide, obtain, or maintain the 7750  
other person is for any purpose described in divisions (A) (2) (a) 7751  
to (c) of this section, and the circumstances described in 7752  
division (A) (5), (6), (7), (8), (9), (10), (11), (12), or (13) 7753  
of section 2907.03 of the Revised Code apply with respect to the 7754  
offender and the other person. 7755

(B) For a prosecution under division (A) (1) of this 7756  
section, the element "compelled" does not require that the 7757  
compulsion be openly displayed or physically exerted. The 7758  
element "compelled" has been established if the state proves 7759  
that the victim's will was overcome by force, fear, duress, 7760  
intimidation, or fraud. 7761

(C) In a prosecution under this section, proof that the 7762  
defendant engaged in sexual activity with any person, or 7763  
solicited sexual activity with any person, whether or not for 7764  
hire, without more, does not constitute a violation of this 7765  
section. 7766

(D) A prosecution for a violation of this section does not 7767  
preclude a prosecution of a violation of any other section of 7768

the Revised Code. One or more acts, a series of acts, or a 7769  
course of behavior that can be prosecuted under this section or 7770  
any other section of the Revised Code may be prosecuted under 7771  
this section, the other section of the Revised Code, or both 7772  
sections. However, if an offender is convicted of or pleads 7773  
guilty to a violation of this section and also is convicted of 7774  
or pleads guilty to a violation of section 2907.21 of the 7775  
Revised Code based on the same conduct involving the same victim 7776  
that was the basis of the violation of this section, or is 7777  
convicted of or pleads guilty to any other violation of Chapter 7778  
2907. of the Revised Code based on the same conduct involving 7779  
the same victim that was the basis of the violation of this 7780  
section, the two offenses are allied offenses of similar import 7781  
under section 2941.25 of the Revised Code. 7782

(E) Whoever violates this section is guilty of trafficking 7783  
in persons, a felony of the first degree. Notwithstanding 7784  
division (A)(1) of section 2929.14 of the Revised Code, the 7785  
court shall sentence the offender to a definite prison term of 7786  
ten, eleven, twelve, thirteen, fourteen, or fifteen years. 7787

(F) As used in this section: 7788

(1) "~~Developmentally disabled person~~Person with a 7789  
developmental disability" means a person whose ability to resist 7790  
or consent to an act is substantially impaired because of a 7791  
mental or physical condition or because of advanced age. 7792

(2) "Sexual activity for hire," "performance for hire," 7793  
and "model or participant for hire" mean an implicit or explicit 7794  
agreement to provide sexual activity, engage in an obscene, 7795  
sexually oriented, or nudity oriented performance, or be a model 7796  
or participant in the production of obscene, sexually oriented, 7797  
or nudity oriented material, whichever is applicable, in 7798

exchange for anything of value paid to any of the following: 7799

(a) The person engaging in such sexual activity, 7800  
performance, or modeling or participation; 7801

(b) Any person who recruits, lures, entices, isolates, 7802  
harbors, transports, provides, obtains, or maintains, or 7803  
attempts to recruit, lure, entice, isolate, harbor, transport, 7804  
provide, obtain, or maintain the person described in division 7805  
(F) (2) (a) of this section; 7806

(c) Any person associated with a person described in 7807  
division (F) (2) (a) or (b) of this section. 7808

(3) "Material that is obscene, sexually oriented, or 7809  
nudity oriented" and "performance that is obscene, sexually 7810  
oriented, or nudity oriented" have the same meanings as in 7811  
section 2929.01 of the Revised Code. 7812

**Sec. 2907.24.** (A) (1) No person shall solicit another who 7813  
is eighteen years of age or older to engage with such other 7814  
person in sexual activity for hire. 7815

(2) No person shall solicit another to engage with such 7816  
other person in sexual activity for hire if the other person is 7817  
sixteen or seventeen years of age and the offender knows that 7818  
the other person is sixteen or seventeen years of age or is 7819  
reckless in that regard. 7820

(3) No person shall solicit another to engage with such 7821  
other person in sexual activity for hire if either of the 7822  
following applies: 7823

(a) The other person is less than sixteen years of age, 7824  
whether or not the offender knows the age of the other person. 7825

(b) The other person is a ~~developmentally disabled~~ person 7826

with a developmental disability and the offender knows or has 7827  
reasonable cause to believe the other person is a 7828  
~~developmentally disabled person~~ with a developmental disability. 7829

(B) No person, with knowledge that the person has tested 7830  
positive as a carrier of a virus that causes acquired 7831  
immunodeficiency syndrome, shall engage in conduct in violation 7832  
of division (A) of this section. 7833

(C) (1) Whoever violates division (A) of this section is 7834  
guilty of soliciting. A violation of division (A) (1) of this 7835  
section is a misdemeanor of the third degree. A violation of 7836  
division (A) (2) of this section is a felony of the fifth degree. 7837  
A violation of division (A) (3) of this section is a felony of 7838  
the third degree. 7839

(2) Whoever violates division (B) of this section is 7840  
guilty of engaging in solicitation after a positive HIV test. If 7841  
the offender commits the violation prior to July 1, 1996, 7842  
engaging in solicitation after a positive HIV test is a felony 7843  
of the second degree. If the offender commits the violation on 7844  
or after July 1, 1996, engaging in solicitation after a positive 7845  
HIV test is a felony of the third degree. 7846

(D) If a person is convicted of or pleads guilty to a 7847  
violation of any provision of this section, an attempt to commit 7848  
a violation of any provision of this section, or a violation of 7849  
or an attempt to commit a violation of a municipal ordinance 7850  
that is substantially equivalent to any provision of this 7851  
section and if the person, in committing or attempting to commit 7852  
the violation, was in, was on, or used a motor vehicle, the 7853  
court, in addition to or independent of all other penalties 7854  
imposed for the violation, may impose upon the offender a class 7855  
six suspension of the person's driver's license, commercial 7856

driver's license, temporary instruction permit, probationary 7857  
license, or nonresident operating privilege from the range 7858  
specified in division (A) (6) of section 4510.02 of the Revised 7859  
Code. In lieu of imposing upon the offender the class six 7860  
suspension, the court instead may require the offender to 7861  
perform community service for a number of hours determined by 7862  
the court. 7863

(E) As used in this section: 7864

(1) "~~Developmentally disabled person~~Person with a 7865  
developmental disability" has the same meaning as in section 7866  
2905.32 of the Revised Code. 7867

(2) "Sexual activity for hire" means an implicit or 7868  
explicit agreement to provide sexual activity in exchange for 7869  
anything of value paid to the person engaging in such sexual 7870  
activity, to any person trafficking that person, or to any 7871  
person associated with either such person. 7872

**Sec. 2919.23.** (A) No person, knowing the person is without 7873  
privilege to do so or being reckless in that regard, shall 7874  
entice, take, keep, or harbor a person identified in division 7875  
(A) (1), (2), or (3) of this section from the parent, guardian, 7876  
or custodian of the person identified in division (A) (1), (2), 7877  
or (3) of this section: 7878

(1) A child under the age of eighteen, or a mentally or 7879  
physically handicapped child under the age of twenty-one; 7880

(2) A person committed by law to an institution for 7881  
delinquent, unruly, neglected, abused, or dependent children; 7882

(3) A person committed by law to an institution for the 7883  
mentally ill or ~~mentally retarded~~ an institution for persons 7884  
with developmental disabilities. 7885

(B) No person shall aid, abet, induce, cause, or encourage 7886  
a child or a ward of the juvenile court who has been committed 7887  
to the custody of any person, department, or public or private 7888  
institution to leave the custody of that person, department, or 7889  
institution without legal consent. 7890

(C) It is an affirmative defense to a charge of enticing 7891  
or taking under division (A) (1) of this section, that the actor 7892  
reasonably believed that the actor's conduct was necessary to 7893  
preserve the child's health or safety. It is an affirmative 7894  
defense to a charge of keeping or harboring under division (A) 7895  
of this section, that the actor in good faith gave notice to law 7896  
enforcement or judicial authorities within a reasonable time 7897  
after the child or committed person came under the actor's 7898  
shelter, protection, or influence. 7899

(D) (1) Whoever violates this section is guilty of 7900  
interference with custody. 7901

(2) Except as otherwise provided in this division, a 7902  
violation of division (A) (1) of this section is a misdemeanor of 7903  
the first degree. If the child who is the subject of a violation 7904  
of division (A) (1) of this section is removed from the state or 7905  
if the offender previously has been convicted of an offense 7906  
under this section, a violation of division (A) (1) of this 7907  
section is a felony of the fifth degree. If the child who is the 7908  
subject of a violation of division (A) (1) of this section 7909  
suffers physical harm as a result of the violation, a violation 7910  
of division (A) (1) of this section is a felony of the fourth 7911  
degree. 7912

(3) A violation of division (A) (2) or (3) of this section 7913  
is a misdemeanor of the third degree. 7914

(4) A violation of division (B) of this section is a 7915  
misdemeanor of the first degree. Each day of violation of 7916  
division (B) of this section is a separate offense. 7917

**Sec. 2929.01.** As used in this chapter: 7918

(A) (1) "Alternative residential facility" means, subject 7919  
to division (A) (2) of this section, any facility other than an 7920  
offender's home or residence in which an offender is assigned to 7921  
live and that satisfies all of the following criteria: 7922

(a) It provides programs through which the offender may 7923  
seek or maintain employment or may receive education, training, 7924  
treatment, or habilitation. 7925

(b) It has received the appropriate license or certificate 7926  
for any specialized education, training, treatment, 7927  
habilitation, or other service that it provides from the 7928  
government agency that is responsible for licensing or 7929  
certifying that type of education, training, treatment, 7930  
habilitation, or service. 7931

(2) "Alternative residential facility" does not include a 7932  
community-based correctional facility, jail, halfway house, or 7933  
prison. 7934

(B) "Basic probation supervision" means a requirement that 7935  
the offender maintain contact with a person appointed to 7936  
supervise the offender in accordance with sanctions imposed by 7937  
the court or imposed by the parole board pursuant to section 7938  
2967.28 of the Revised Code. "Basic probation supervision" 7939  
includes basic parole supervision and basic post-release control 7940  
supervision. 7941

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have 7942  
the same meanings as in section 2925.01 of the Revised Code. 7943

(D) "Community-based correctional facility" means a 7944  
community-based correctional facility and program or district 7945  
community-based correctional facility and program developed 7946  
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 7947

(E) "Community control sanction" means a sanction that is 7948  
not a prison term and that is described in section 2929.15, 7949  
2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction 7950  
that is not a jail term and that is described in section 7951  
2929.26, 2929.27, or 2929.28 of the Revised Code. "Community 7952  
control sanction" includes probation if the sentence involved 7953  
was imposed for a felony that was committed prior to July 1, 7954  
1996, or if the sentence involved was imposed for a misdemeanor 7955  
that was committed prior to January 1, 2004. 7956

(F) "Controlled substance," "marihuana," "schedule I," and 7957  
"schedule II" have the same meanings as in section 3719.01 of 7958  
the Revised Code. 7959

(G) "Curfew" means a requirement that an offender during a 7960  
specified period of time be at a designated place. 7961

(H) "Day reporting" means a sanction pursuant to which an 7962  
offender is required each day to report to and leave a center or 7963  
other approved reporting location at specified times in order to 7964  
participate in work, education or training, treatment, and other 7965  
approved programs at the center or outside the center. 7966

(I) "Deadly weapon" has the same meaning as in section 7967  
2923.11 of the Revised Code. 7968

(J) "Drug and alcohol use monitoring" means a program 7969  
under which an offender agrees to submit to random chemical 7970  
analysis of the offender's blood, breath, or urine to determine 7971  
whether the offender has ingested any alcohol or other drugs. 7972

(K) "Drug treatment program" means any program under which 7973  
a person undergoes assessment and treatment designed to reduce 7974  
or completely eliminate the person's physical or emotional 7975  
reliance upon alcohol, another drug, or alcohol and another drug 7976  
and under which the person may be required to receive assessment 7977  
and treatment on an outpatient basis or may be required to 7978  
reside at a facility other than the person's home or residence 7979  
while undergoing assessment and treatment. 7980

(L) "Economic loss" means any economic detriment suffered 7981  
by a victim as a direct and proximate result of the commission 7982  
of an offense and includes any loss of income due to lost time 7983  
at work because of any injury caused to the victim, and any 7984  
property loss, medical cost, or funeral expense incurred as a 7985  
result of the commission of the offense. "Economic loss" does 7986  
not include non-economic loss or any punitive or exemplary 7987  
damages. 7988

(M) "Education or training" includes study at, or in 7989  
conjunction with a program offered by, a university, college, or 7990  
technical college or vocational study and also includes the 7991  
completion of primary school, secondary school, and literacy 7992  
curricula or their equivalent. 7993

(N) "Firearm" has the same meaning as in section 2923.11 7994  
of the Revised Code. 7995

(O) "Halfway house" means a facility licensed by the 7996  
division of parole and community services of the department of 7997  
rehabilitation and correction pursuant to section 2967.14 of the 7998  
Revised Code as a suitable facility for the care and treatment 7999  
of adult offenders. 8000

(P) "House arrest" means a period of confinement of an 8001

offender that is in the offender's home or in other premises 8002  
specified by the sentencing court or by the parole board 8003  
pursuant to section 2967.28 of the Revised Code and during which 8004  
all of the following apply: 8005

(1) The offender is required to remain in the offender's 8006  
home or other specified premises for the specified period of 8007  
confinement, except for periods of time during which the 8008  
offender is at the offender's place of employment or at other 8009  
premises as authorized by the sentencing court or by the parole 8010  
board. 8011

(2) The offender is required to report periodically to a 8012  
person designated by the court or parole board. 8013

(3) The offender is subject to any other restrictions and 8014  
requirements that may be imposed by the sentencing court or by 8015  
the parole board. 8016

(Q) "Intensive probation supervision" means a requirement 8017  
that an offender maintain frequent contact with a person 8018  
appointed by the court, or by the parole board pursuant to 8019  
section 2967.28 of the Revised Code, to supervise the offender 8020  
while the offender is seeking or maintaining necessary 8021  
employment and participating in training, education, and 8022  
treatment programs as required in the court's or parole board's 8023  
order. "Intensive probation supervision" includes intensive 8024  
parole supervision and intensive post-release control 8025  
supervision. 8026

(R) "Jail" means a jail, workhouse, minimum security jail, 8027  
or other residential facility used for the confinement of 8028  
alleged or convicted offenders that is operated by a political 8029  
subdivision or a combination of political subdivisions of this 8030

state. 8031

(S) "Jail term" means the term in a jail that a sentencing 8032  
court imposes or is authorized to impose pursuant to section 8033  
2929.24 or 2929.25 of the Revised Code or pursuant to any other 8034  
provision of the Revised Code that authorizes a term in a jail 8035  
for a misdemeanor conviction. 8036

(T) "Mandatory jail term" means the term in a jail that a 8037  
sentencing court is required to impose pursuant to division (G) 8038  
of section 1547.99 of the Revised Code, division (E) of section 8039  
2903.06 or division (D) of section 2903.08 of the Revised Code, 8040  
division (E) or (G) of section 2929.24 of the Revised Code, 8041  
division (B) of section 4510.14 of the Revised Code, or division 8042  
(G) of section 4511.19 of the Revised Code or pursuant to any 8043  
other provision of the Revised Code that requires a term in a 8044  
jail for a misdemeanor conviction. 8045

(U) "Delinquent child" has the same meaning as in section 8046  
2152.02 of the Revised Code. 8047

(V) "License violation report" means a report that is made 8048  
by a sentencing court, or by the parole board pursuant to 8049  
section 2967.28 of the Revised Code, to the regulatory or 8050  
licensing board or agency that issued an offender a professional 8051  
license or a license or permit to do business in this state and 8052  
that specifies that the offender has been convicted of or 8053  
pleaded guilty to an offense that may violate the conditions 8054  
under which the offender's professional license or license or 8055  
permit to do business in this state was granted or an offense 8056  
for which the offender's professional license or license or 8057  
permit to do business in this state may be revoked or suspended. 8058

(W) "Major drug offender" means an offender who is 8059

convicted of or pleads guilty to the possession of, sale of, or 8060  
offer to sell any drug, compound, mixture, preparation, or 8061  
substance that consists of or contains at least one thousand 8062  
grams of hashish; at least one hundred grams of cocaine; at 8063  
least two thousand five hundred unit doses or two hundred fifty 8064  
grams of heroin; at least five thousand unit doses of L.S.D. or 8065  
five hundred grams of L.S.D. in a liquid concentrate, liquid 8066  
extract, or liquid distillate form; at least fifty grams of a 8067  
controlled substance analog; or at least one hundred times the 8068  
amount of any other schedule I or II controlled substance other 8069  
than marihuana that is necessary to commit a felony of the third 8070  
degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 8071  
of the Revised Code that is based on the possession of, sale of, 8072  
or offer to sell the controlled substance. 8073

(X) "Mandatory prison term" means any of the following: 8074

(1) Subject to division (X) (2) of this section, the term 8075  
in prison that must be imposed for the offenses or circumstances 8076  
set forth in divisions (F) (1) to (8) or (F) (12) to (18) of 8077  
section 2929.13 and division (B) of section 2929.14 of the 8078  
Revised Code. Except as provided in sections 2925.02, 2925.03, 8079  
2925.04, 2925.05, and 2925.11 of the Revised Code, unless the 8080  
maximum or another specific term is required under section 8081  
2929.14 or 2929.142 of the Revised Code, a mandatory prison term 8082  
described in this division may be any prison term authorized for 8083  
the level of offense. 8084

(2) The term of sixty or one hundred twenty days in prison 8085  
that a sentencing court is required to impose for a third or 8086  
fourth degree felony OVI offense pursuant to division (G) (2) of 8087  
section 2929.13 and division (G) (1) (d) or (e) of section 4511.19 8088  
of the Revised Code or the term of one, two, three, four, or 8089

five years in prison that a sentencing court is required to 8090  
impose pursuant to division (G) (2) of section 2929.13 of the 8091  
Revised Code. 8092

(3) The term in prison imposed pursuant to division (A) of 8093  
section 2971.03 of the Revised Code for the offenses and in the 8094  
circumstances described in division (F) (11) of section 2929.13 8095  
of the Revised Code or pursuant to division (B) (1) (a), (b), or 8096  
(c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of 8097  
section 2971.03 of the Revised Code and that term as modified or 8098  
terminated pursuant to section 2971.05 of the Revised Code. 8099

(Y) "Monitored time" means a period of time during which 8100  
an offender continues to be under the control of the sentencing 8101  
court or parole board, subject to no conditions other than 8102  
leading a law-abiding life. 8103

(Z) "Offender" means a person who, in this state, is 8104  
convicted of or pleads guilty to a felony or a misdemeanor. 8105

(AA) "Prison" means a residential facility used for the 8106  
confinement of convicted felony offenders that is under the 8107  
control of the department of rehabilitation and correction but 8108  
does not include a violation sanction center operated under 8109  
authority of section 2967.141 of the Revised Code. 8110

(BB) "Prison term" includes either of the following 8111  
sanctions for an offender: 8112

(1) A stated prison term; 8113

(2) A term in a prison shortened by, or with the approval 8114  
of, the sentencing court pursuant to section 2929.143, 2929.20, 8115  
2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code. 8116

(CC) "Repeat violent offender" means a person about whom 8117

both of the following apply: 8118

(1) The person is being sentenced for committing or for 8119  
complicity in committing any of the following: 8120

(a) Aggravated murder, murder, any felony of the first or 8121  
second degree that is an offense of violence, or an attempt to 8122  
commit any of these offenses if the attempt is a felony of the 8123  
first or second degree; 8124

(b) An offense under an existing or former law of this 8125  
state, another state, or the United States that is or was 8126  
substantially equivalent to an offense described in division 8127  
(CC) (1) (a) of this section. 8128

(2) The person previously was convicted of or pleaded 8129  
guilty to an offense described in division (CC) (1) (a) or (b) of 8130  
this section. 8131

(DD) "Sanction" means any penalty imposed upon an offender 8132  
who is convicted of or pleads guilty to an offense, as 8133  
punishment for the offense. "Sanction" includes any sanction 8134  
imposed pursuant to any provision of sections 2929.14 to 2929.18 8135  
or 2929.24 to 2929.28 of the Revised Code. 8136

(EE) "Sentence" means the sanction or combination of 8137  
sanctions imposed by the sentencing court on an offender who is 8138  
convicted of or pleads guilty to an offense. 8139

(FF) "Stated prison term" means the prison term, mandatory 8140  
prison term, or combination of all prison terms and mandatory 8141  
prison terms imposed by the sentencing court pursuant to section 8142  
2929.14, 2929.142, or 2971.03 of the Revised Code or under 8143  
section 2919.25 of the Revised Code. "Stated prison term" 8144  
includes any credit received by the offender for time spent in 8145  
jail awaiting trial, sentencing, or transfer to prison for the 8146

offense and any time spent under house arrest or house arrest 8147  
with electronic monitoring imposed after earning credits 8148  
pursuant to section 2967.193 of the Revised Code. If an offender 8149  
is serving a prison term as a risk reduction sentence under 8150  
sections 2929.143 and 5120.036 of the Revised Code, "stated 8151  
prison term" includes any period of time by which the prison 8152  
term imposed upon the offender is shortened by the offender's 8153  
successful completion of all assessment and treatment or 8154  
programming pursuant to those sections. 8155

(GG) "Victim-offender mediation" means a reconciliation or 8156  
mediation program that involves an offender and the victim of 8157  
the offense committed by the offender and that includes a 8158  
meeting in which the offender and the victim may discuss the 8159  
offense, discuss restitution, and consider other sanctions for 8160  
the offense. 8161

(HH) "Fourth degree felony OVI offense" means a violation 8162  
of division (A) of section 4511.19 of the Revised Code that, 8163  
under division (G) of that section, is a felony of the fourth 8164  
degree. 8165

(II) "Mandatory term of local incarceration" means the 8166  
term of sixty or one hundred twenty days in a jail, a community- 8167  
based correctional facility, a halfway house, or an alternative 8168  
residential facility that a sentencing court may impose upon a 8169  
person who is convicted of or pleads guilty to a fourth degree 8170  
felony OVI offense pursuant to division (G) (1) of section 8171  
2929.13 of the Revised Code and division (G) (1) (d) or (e) of 8172  
section 4511.19 of the Revised Code. 8173

(JJ) "Designated homicide, assault, or kidnapping 8174  
offense," "violent sex offense," "sexual motivation 8175  
specification," "sexually violent offense," "sexually violent 8176

predator," and "sexually violent predator specification" have 8177  
the same meanings as in section 2971.01 of the Revised Code. 8178

(KK) "Sexually oriented offense," "child-victim oriented 8179  
offense," and "tier III sex offender/child-victim offender" have 8180  
the same meanings as in section 2950.01 of the Revised Code. 8181

(LL) An offense is "committed in the vicinity of a child" 8182  
if the offender commits the offense within thirty feet of or 8183  
within the same residential unit as a child who is under 8184  
eighteen years of age, regardless of whether the offender knows 8185  
the age of the child or whether the offender knows the offense 8186  
is being committed within thirty feet of or within the same 8187  
residential unit as the child and regardless of whether the 8188  
child actually views the commission of the offense. 8189

(MM) "Family or household member" has the same meaning as 8190  
in section 2919.25 of the Revised Code. 8191

(NN) "Motor vehicle" and "manufactured home" have the same 8192  
meanings as in section 4501.01 of the Revised Code. 8193

(OO) "Detention" and "detention facility" have the same 8194  
meanings as in section 2921.01 of the Revised Code. 8195

(PP) "Third degree felony OVI offense" means a violation 8196  
of division (A) of section 4511.19 of the Revised Code that, 8197  
under division (G) of that section, is a felony of the third 8198  
degree. 8199

(QQ) "Random drug testing" has the same meaning as in 8200  
section 5120.63 of the Revised Code. 8201

(RR) "Felony sex offense" has the same meaning as in 8202  
section 2967.28 of the Revised Code. 8203

(SS) "Body armor" has the same meaning as in section 8204

2941.1411 of the Revised Code. 8205

(TT) "Electronic monitoring" means monitoring through the 8206  
use of an electronic monitoring device. 8207

(UU) "Electronic monitoring device" means any of the 8208  
following: 8209

(1) Any device that can be operated by electrical or 8210  
battery power and that conforms with all of the following: 8211

(a) The device has a transmitter that can be attached to a 8212  
person, that will transmit a specified signal to a receiver of 8213  
the type described in division (UU) (1) (b) of this section if the 8214  
transmitter is removed from the person, turned off, or altered 8215  
in any manner without prior court approval in relation to 8216  
electronic monitoring or without prior approval of the 8217  
department of rehabilitation and correction in relation to the 8218  
use of an electronic monitoring device for an inmate on 8219  
transitional control or otherwise is tampered with, that can 8220  
transmit continuously and periodically a signal to that receiver 8221  
when the person is within a specified distance from the 8222  
receiver, and that can transmit an appropriate signal to that 8223  
receiver if the person to whom it is attached travels a 8224  
specified distance from that receiver. 8225

(b) The device has a receiver that can receive 8226  
continuously the signals transmitted by a transmitter of the 8227  
type described in division (UU) (1) (a) of this section, can 8228  
transmit continuously those signals by a wireless or landline 8229  
telephone connection to a central monitoring computer of the 8230  
type described in division (UU) (1) (c) of this section, and can 8231  
transmit continuously an appropriate signal to that central 8232  
monitoring computer if the device has been turned off or altered 8233

without prior court approval or otherwise tampered with. The 8234  
device is designed specifically for use in electronic 8235  
monitoring, is not a converted wireless phone or another 8236  
tracking device that is clearly not designed for electronic 8237  
monitoring, and provides a means of text-based or voice 8238  
communication with the person. 8239

(c) The device has a central monitoring computer that can 8240  
receive continuously the signals transmitted by a wireless or 8241  
landline telephone connection by a receiver of the type 8242  
described in division (UU) (1) (b) of this section and can monitor 8243  
continuously the person to whom an electronic monitoring device 8244  
of the type described in division (UU) (1) (a) of this section is 8245  
attached. 8246

(2) Any device that is not a device of the type described 8247  
in division (UU) (1) of this section and that conforms with all 8248  
of the following: 8249

(a) The device includes a transmitter and receiver that 8250  
can monitor and determine the location of a subject person at 8251  
any time, or at a designated point in time, through the use of a 8252  
central monitoring computer or through other electronic means. 8253

(b) The device includes a transmitter and receiver that 8254  
can determine at any time, or at a designated point in time, 8255  
through the use of a central monitoring computer or other 8256  
electronic means the fact that the transmitter is turned off or 8257  
altered in any manner without prior approval of the court in 8258  
relation to the electronic monitoring or without prior approval 8259  
of the department of rehabilitation and correction in relation 8260  
to the use of an electronic monitoring device for an inmate on 8261  
transitional control or otherwise is tampered with. 8262

(3) Any type of technology that can adequately track or 8263  
determine the location of a subject person at any time and that 8264  
is approved by the director of rehabilitation and correction, 8265  
including, but not limited to, any satellite technology, voice 8266  
tracking system, or retinal scanning system that is so approved. 8267

(VV) "Non-economic loss" means nonpecuniary harm suffered 8268  
by a victim of an offense as a result of or related to the 8269  
commission of the offense, including, but not limited to, pain 8270  
and suffering; loss of society, consortium, companionship, care, 8271  
assistance, attention, protection, advice, guidance, counsel, 8272  
instruction, training, or education; mental anguish; and any 8273  
other intangible loss. 8274

(WW) "Prosecutor" has the same meaning as in section 8275  
2935.01 of the Revised Code. 8276

(XX) "Continuous alcohol monitoring" means the ability to 8277  
automatically test and periodically transmit alcohol consumption 8278  
levels and tamper attempts at least every hour, regardless of 8279  
the location of the person who is being monitored. 8280

(YY) A person is "adjudicated a sexually violent predator" 8281  
if the person is convicted of or pleads guilty to a violent sex 8282  
offense and also is convicted of or pleads guilty to a sexually 8283  
violent predator specification that was included in the 8284  
indictment, count in the indictment, or information charging 8285  
that violent sex offense or if the person is convicted of or 8286  
pleads guilty to a designated homicide, assault, or kidnapping 8287  
offense and also is convicted of or pleads guilty to both a 8288  
sexual motivation specification and a sexually violent predator 8289  
specification that were included in the indictment, count in the 8290  
indictment, or information charging that designated homicide, 8291  
assault, or kidnapping offense. 8292

(ZZ) An offense is "committed in proximity to a school" if 8293  
the offender commits the offense in a school safety zone or 8294  
within five hundred feet of any school building or the 8295  
boundaries of any school premises, regardless of whether the 8296  
offender knows the offense is being committed in a school safety 8297  
zone or within five hundred feet of any school building or the 8298  
boundaries of any school premises. 8299

(AAA) "Human trafficking" means a scheme or plan to which 8300  
all of the following apply: 8301

(1) Its object is one or more of the following: 8302

(a) To subject a victim or victims to involuntary 8303  
servitude, as defined in section 2905.31 of the Revised Code or 8304  
to compel a victim or victims to engage in sexual activity for 8305  
hire, to engage in a performance that is obscene, sexually 8306  
oriented, or nudity oriented, or to be a model or participant in 8307  
the production of material that is obscene, sexually oriented, 8308  
or nudity oriented; 8309

(b) To facilitate, encourage, or recruit a victim who is 8310  
less than sixteen years of age or is a ~~developmentally disabled~~ 8311  
person with a developmental disability, or victims who are less 8312  
than sixteen years of age or are ~~developmentally disabled~~ 8313  
persons with developmental disabilities, for any purpose listed 8314  
in divisions (A) (2) (a) to (c) of section 2905.32 of the Revised 8315  
Code; 8316

(c) To facilitate, encourage, or recruit a victim who is 8317  
sixteen or seventeen years of age, or victims who are sixteen or 8318  
seventeen years of age, for any purpose listed in divisions (A) 8319  
(2) (a) to (c) of section 2905.32 of the Revised Code, if the 8320  
circumstances described in division (A) (5), (6), (7), (8), (9), 8321

(10), (11), (12), or (13) of section 2907.03 of the Revised Code 8322  
apply with respect to the person engaging in the conduct and the 8323  
victim or victims. 8324

(2) It involves at least two felony offenses, whether or 8325  
not there has been a prior conviction for any of the felony 8326  
offenses, to which all of the following apply: 8327

(a) Each of the felony offenses is a violation of section 8328  
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, 8329  
division (A) (1) or (2) of section 2907.323, or division (B) (1), 8330  
(2), (3), (4), or (5) of section 2919.22 of the Revised Code or 8331  
is a violation of a law of any state other than this state that 8332  
is substantially similar to any of the sections or divisions of 8333  
the Revised Code identified in this division. 8334

(b) At least one of the felony offenses was committed in 8335  
this state. 8336

(c) The felony offenses are related to the same scheme or 8337  
plan and are not isolated instances. 8338

(BBB) "Material," "nudity," "obscene," "performance," and 8339  
"sexual activity" have the same meanings as in section 2907.01 8340  
of the Revised Code. 8341

(CCC) "Material that is obscene, sexually oriented, or 8342  
nudity oriented" means any material that is obscene, that shows 8343  
a person participating or engaging in sexual activity, 8344  
masturbation, or bestiality, or that shows a person in a state 8345  
of nudity. 8346

(DDD) "Performance that is obscene, sexually oriented, or 8347  
nudity oriented" means any performance that is obscene, that 8348  
shows a person participating or engaging in sexual activity, 8349  
masturbation, or bestiality, or that shows a person in a state 8350

of nudity. 8351

**Sec. 2929.04.** (A) Imposition of the death penalty for 8352  
aggravated murder is precluded unless one or more of the 8353  
following is specified in the indictment or count in the 8354  
indictment pursuant to section 2941.14 of the Revised Code and 8355  
proved beyond a reasonable doubt: 8356

(1) The offense was the assassination of the president of 8357  
the United States or a person in line of succession to the 8358  
presidency, the governor or lieutenant governor of this state, 8359  
the president-elect or vice president-elect of the United 8360  
States, the governor-elect or lieutenant governor-elect of this 8361  
state, or a candidate for any of the offices described in this 8362  
division. For purposes of this division, a person is a candidate 8363  
if the person has been nominated for election according to law, 8364  
if the person has filed a petition or petitions according to law 8365  
to have the person's name placed on the ballot in a primary or 8366  
general election, or if the person campaigns as a write-in 8367  
candidate in a primary or general election. 8368

(2) The offense was committed for hire. 8369

(3) The offense was committed for the purpose of escaping 8370  
detection, apprehension, trial, or punishment for another 8371  
offense committed by the offender. 8372

(4) The offense was committed while the offender was under 8373  
detention or while the offender was at large after having broken 8374  
detention. As used in division (A) (4) of this section, 8375  
"detention" has the same meaning as in section 2921.01 of the 8376  
Revised Code, except that detention does not include 8377  
hospitalization, institutionalization, or confinement in a 8378  
mental health facility or ~~mental retardation and developmentally~~ 8379

~~disabled developmental disabilities~~ facility unless at the time 8380  
of the commission of the offense either of the following 8381  
circumstances apply: 8382

(a) The offender was in the facility as a result of being 8383  
charged with a violation of a section of the Revised Code. 8384

(b) The offender was under detention as a result of being 8385  
convicted of or pleading guilty to a violation of a section of 8386  
the Revised Code. 8387

(5) Prior to the offense at bar, the offender was 8388  
convicted of an offense an essential element of which was the 8389  
purposeful killing of or attempt to kill another, or the offense 8390  
at bar was part of a course of conduct involving the purposeful 8391  
killing of or attempt to kill two or more persons by the 8392  
offender. 8393

(6) The victim of the offense was a law enforcement 8394  
officer, as defined in section 2911.01 of the Revised Code, whom 8395  
the offender had reasonable cause to know or knew to be a law 8396  
enforcement officer as so defined, and either the victim, at the 8397  
time of the commission of the offense, was engaged in the 8398  
victim's duties, or it was the offender's specific purpose to 8399  
kill a law enforcement officer as so defined. 8400

(7) The offense was committed while the offender was 8401  
committing, attempting to commit, or fleeing immediately after 8402  
committing or attempting to commit kidnapping, rape, aggravated 8403  
arson, aggravated robbery, or aggravated burglary, and either 8404  
the offender was the principal offender in the commission of the 8405  
aggravated murder or, if not the principal offender, committed 8406  
the aggravated murder with prior calculation and design. 8407

(8) The victim of the aggravated murder was a witness to 8408

an offense who was purposely killed to prevent the victim's 8409  
testimony in any criminal proceeding and the aggravated murder 8410  
was not committed during the commission, attempted commission, 8411  
or flight immediately after the commission or attempted 8412  
commission of the offense to which the victim was a witness, or 8413  
the victim of the aggravated murder was a witness to an offense 8414  
and was purposely killed in retaliation for the victim's 8415  
testimony in any criminal proceeding. 8416

(9) The offender, in the commission of the offense, 8417  
purposefully caused the death of another who was under thirteen 8418  
years of age at the time of the commission of the offense, and 8419  
either the offender was the principal offender in the commission 8420  
of the offense or, if not the principal offender, committed the 8421  
offense with prior calculation and design. 8422

(10) The offense was committed while the offender was 8423  
committing, attempting to commit, or fleeing immediately after 8424  
committing or attempting to commit terrorism. 8425

(B) If one or more of the aggravating circumstances listed 8426  
in division (A) of this section is specified in the indictment 8427  
or count in the indictment and proved beyond a reasonable doubt, 8428  
and if the offender did not raise the matter of age pursuant to 8429  
section 2929.023 of the Revised Code or if the offender, after 8430  
raising the matter of age, was found at trial to have been 8431  
eighteen years of age or older at the time of the commission of 8432  
the offense, the court, trial jury, or panel of three judges 8433  
shall consider, and weigh against the aggravating circumstances 8434  
proved beyond a reasonable doubt, the nature and circumstances 8435  
of the offense, the history, character, and background of the 8436  
offender, and all of the following factors: 8437

(1) Whether the victim of the offense induced or 8438

facilitated it; 8439

(2) Whether it is unlikely that the offense would have 8440  
been committed, but for the fact that the offender was under 8441  
duress, coercion, or strong provocation; 8442

(3) Whether, at the time of committing the offense, the 8443  
offender, because of a mental disease or defect, lacked 8444  
substantial capacity to appreciate the criminality of the 8445  
offender's conduct or to conform the offender's conduct to the 8446  
requirements of the law; 8447

(4) The youth of the offender; 8448

(5) The offender's lack of a significant history of prior 8449  
criminal convictions and delinquency adjudications; 8450

(6) If the offender was a participant in the offense but 8451  
not the principal offender, the degree of the offender's 8452  
participation in the offense and the degree of the offender's 8453  
participation in the acts that led to the death of the victim; 8454

(7) Any other factors that are relevant to the issue of 8455  
whether the offender should be sentenced to death. 8456

(C) The defendant shall be given great latitude in the 8457  
presentation of evidence of the factors listed in division (B) 8458  
of this section and of any other factors in mitigation of the 8459  
imposition of the sentence of death. 8460

The existence of any of the mitigating factors listed in 8461  
division (B) of this section does not preclude the imposition of 8462  
a sentence of death on the offender but shall be weighed 8463  
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 8464  
Revised Code by the trial court, trial jury, or the panel of 8465  
three judges against the aggravating circumstances the offender 8466

was found guilty of committing. 8467

**Sec. 2929.06.** (A) If a sentence of death imposed upon an 8468  
offender is set aside, nullified, or vacated because the court 8469  
of appeals, in a case in which a sentence of death was imposed 8470  
for an offense committed before January 1, 1995, or the supreme 8471  
court, in cases in which the supreme court reviews the sentence 8472  
upon appeal, could not affirm the sentence of death under the 8473  
standards imposed by section 2929.05 of the Revised Code, is set 8474  
aside, nullified, or vacated for the sole reason that the 8475  
statutory procedure for imposing the sentence of death that is 8476  
set forth in sections 2929.03 and 2929.04 of the Revised Code is 8477  
unconstitutional, is set aside, nullified, or vacated pursuant 8478  
to division (C) of section 2929.05 of the Revised Code, or is 8479  
set aside, nullified, or vacated because a court has determined 8480  
that the offender is ~~mentally retarded~~ a person with an 8481  
intellectual disability under standards set forth in decisions 8482  
of the supreme court of this state or the United States supreme 8483  
court, the trial court that sentenced the offender shall conduct 8484  
a hearing to resentence the offender. At the resentencing 8485  
hearing, the court shall impose upon the offender a sentence of 8486  
life imprisonment or an indefinite term consisting of a minimum 8487  
term of thirty years and a maximum term of life imprisonment 8488  
that is determined as specified in this division. If division 8489  
(D) of section 2929.03 of the Revised Code, at the time the 8490  
offender committed the aggravated murder for which the sentence 8491  
of death was imposed, required the imposition when a sentence of 8492  
death was not imposed of a sentence of life imprisonment without 8493  
parole or a sentence of an indefinite term consisting of a 8494  
minimum term of thirty years and a maximum term of life 8495  
imprisonment to be imposed pursuant to division (A) or (B) (3) of 8496  
section 2971.03 of the Revised Code and served pursuant to that 8497

section, the court shall impose the sentence so required. In all 8498  
other cases, the sentences of life imprisonment that are 8499  
available at the hearing, and from which the court shall impose 8500  
sentence, shall be the same sentences of life imprisonment that 8501  
were available under division (D) of section 2929.03 or under 8502  
section 2909.24 of the Revised Code at the time the offender 8503  
committed the offense for which the sentence of death was 8504  
imposed. Nothing in this division regarding the resentencing of 8505  
an offender shall affect the operation of section 2971.03 of the 8506  
Revised Code. 8507

(B) Whenever any court of this state or any federal court 8508  
sets aside, nullifies, or vacates a sentence of death imposed 8509  
upon an offender because of error that occurred in the 8510  
sentencing phase of the trial and if division (A) of this 8511  
section does not apply, the trial court that sentenced the 8512  
offender shall conduct a new hearing to resentence the offender. 8513  
If the offender was tried by a jury, the trial court shall 8514  
impanel a new jury for the hearing. If the offender was tried by 8515  
a panel of three judges, that panel or, if necessary, a new 8516  
panel of three judges shall conduct the hearing. At the hearing, 8517  
the court or panel shall follow the procedure set forth in 8518  
division (D) of section 2929.03 of the Revised Code in 8519  
determining whether to impose upon the offender a sentence of 8520  
death, a sentence of life imprisonment, or an indefinite term 8521  
consisting of a minimum term of thirty years and a maximum term 8522  
of life imprisonment. If, pursuant to that procedure, the court 8523  
or panel determines that it will impose a sentence other than a 8524  
sentence of death, the court or panel shall impose upon the 8525  
offender one of the sentences of life imprisonment that could 8526  
have been imposed at the time the offender committed the offense 8527  
for which the sentence of death was imposed, determined as 8528

specified in this division, or an indefinite term consisting of 8529  
a minimum term of thirty years and a maximum term of life 8530  
imprisonment that is determined as specified in this division. 8531  
If division (D) of section 2929.03 of the Revised Code, at the 8532  
time the offender committed the aggravated murder for which the 8533  
sentence of death was imposed, required the imposition when a 8534  
sentence of death was not imposed of a sentence of life 8535  
imprisonment without parole or a sentence of an indefinite term 8536  
consisting of a minimum term of thirty years and a maximum term 8537  
of life imprisonment to be imposed pursuant to division (A) or 8538  
(B) (3) of section 2971.03 of the Revised Code and served 8539  
pursuant to that section, the court or panel shall impose the 8540  
sentence so required. In all other cases, the sentences of life 8541  
imprisonment that are available at the hearing, and from which 8542  
the court or panel shall impose sentence, shall be the same 8543  
sentences of life imprisonment that were available under 8544  
division (D) of section 2929.03 or under section 2909.24 of the 8545  
Revised Code at the time the offender committed the offense for 8546  
which the sentence of death was imposed. 8547

(C) If a sentence of life imprisonment without parole 8548  
imposed upon an offender pursuant to section 2929.021 or 2929.03 8549  
of the Revised Code is set aside, nullified, or vacated for the 8550  
sole reason that the statutory procedure for imposing the 8551  
sentence of life imprisonment without parole that is set forth 8552  
in sections 2929.03 and 2929.04 of the Revised Code is 8553  
unconstitutional, the trial court that sentenced the offender 8554  
shall conduct a hearing to resentence the offender to life 8555  
imprisonment with parole eligibility after serving twenty-five 8556  
full years of imprisonment or to life imprisonment with parole 8557  
eligibility after serving thirty full years of imprisonment. 8558

(D) Nothing in this section limits or restricts the rights 8559

of the state to appeal any order setting aside, nullifying, or 8560  
vacating a conviction or sentence of death, when an appeal of 8561  
that nature otherwise would be available. 8562

(E) This section, as amended by H.B. 184 of the 125th 8563  
general assembly, shall apply to all offenders who have been 8564  
sentenced to death for an aggravated murder that was committed 8565  
on or after October 19, 1981, or for terrorism that was 8566  
committed on or after May 15, 2002. This section, as amended by 8567  
H.B. 184 of the 125th general assembly, shall apply equally to 8568  
all such offenders sentenced to death prior to, on, or after 8569  
March 23, 2005, including offenders who, on March 23, 2005, are 8570  
challenging their sentence of death and offenders whose sentence 8571  
of death has been set aside, nullified, or vacated by any court 8572  
of this state or any federal court but who, as of March 23, 8573  
2005, have not yet been resentenced. 8574

**Sec. 2930.061.** (A) If a person is charged in a complaint, 8575  
indictment, or information with any crime or specified 8576  
delinquent act or with any other violation of law, and if the 8577  
case involves a victim that the prosecutor in the case knows is 8578  
a ~~mentally retarded person or a developmentally disabled person~~ 8579  
with a developmental disability, in addition to any other 8580  
notices required under this chapter or under any other provision 8581  
of law, the prosecutor in the case shall send written notice of 8582  
the charges to the department of developmental disabilities. The 8583  
written notice shall specifically identify the person so 8584  
charged. 8585

(B) As used in this section, "~~mentally retarded person~~" 8586  
and "~~developmentally disabled person~~developmental disability" 8587  
~~have~~has the same ~~meanings~~meaning as in section 5123.01 of the 8588  
Revised Code. 8589

**Sec. 2930.16.** (A) If a defendant is incarcerated, a victim 8590  
in a case who has requested to receive notice under this section 8591  
shall be given notice of the incarceration of the defendant. If 8592  
an alleged juvenile offender is committed to the temporary 8593  
custody of a school, camp, institution, or other facility 8594  
operated for the care of delinquent children or to the legal 8595  
custody of the department of youth services, a victim in a case 8596  
who has requested to receive notice under this section shall be 8597  
given notice of the commitment. Promptly after sentence is 8598  
imposed upon the defendant or the commitment of the alleged 8599  
juvenile offender is ordered, the prosecutor in the case shall 8600  
notify the victim of the date on which the defendant will be 8601  
released from confinement or the prosecutor's reasonable 8602  
estimate of that date or the date on which the alleged juvenile 8603  
offender will have served the minimum period of commitment or 8604  
the prosecutor's reasonable estimate of that date. The 8605  
prosecutor also shall notify the victim of the name of the 8606  
custodial agency of the defendant or alleged juvenile offender 8607  
and tell the victim how to contact that custodial agency. If the 8608  
custodial agency is the department of rehabilitation and 8609  
correction, the prosecutor shall notify the victim of the 8610  
services offered by the office of victims' services pursuant to 8611  
section 5120.60 of the Revised Code. If the custodial agency is 8612  
the department of youth services, the prosecutor shall notify 8613  
the victim of the services provided by the office of victims' 8614  
services within the release authority of the department pursuant 8615  
to section 5139.55 of the Revised Code and the victim's right 8616  
pursuant to section 5139.56 of the Revised Code to submit a 8617  
written request to the release authority to be notified of 8618  
actions the release authority takes with respect to the alleged 8619  
juvenile offender. The victim shall keep the custodial agency 8620  
informed of the victim's current address and telephone number. 8621

(B) (1) Upon the victim's request or in accordance with 8622  
division (D) of this section, the prosecutor promptly shall 8623  
notify the victim of any hearing for judicial release of the 8624  
defendant pursuant to section 2929.20 of the Revised Code, of 8625  
any hearing for release of the defendant pursuant to section 8626  
2967.19 of the Revised Code, or of any hearing for judicial 8627  
release or early release of the alleged juvenile offender 8628  
pursuant to section 2151.38 of the Revised Code and of the 8629  
victim's right to make a statement under those sections. The 8630  
court shall notify the victim of its ruling in each of those 8631  
hearings and on each of those applications. 8632

(2) If an offender is sentenced to a prison term pursuant 8633  
to division (A) (3) or (B) of section 2971.03 of the Revised 8634  
Code, upon the request of the victim of the crime or in 8635  
accordance with division (D) of this section, the prosecutor 8636  
promptly shall notify the victim of any hearing to be conducted 8637  
pursuant to section 2971.05 of the Revised Code to determine 8638  
whether to modify the requirement that the offender serve the 8639  
entire prison term in a state correctional facility in 8640  
accordance with division (C) of that section, whether to 8641  
continue, revise, or revoke any existing modification of that 8642  
requirement, or whether to terminate the prison term in 8643  
accordance with division (D) of that section. The court shall 8644  
notify the victim of any order issued at the conclusion of the 8645  
hearing. 8646

(C) Upon the victim's request made at any time before the 8647  
particular notice would be due or in accordance with division 8648  
(D) of this section, the custodial agency of a defendant or 8649  
alleged juvenile offender shall give the victim any of the 8650  
following notices that is applicable: 8651

(1) At least sixty days before the adult parole authority 8652  
recommends a pardon or commutation of sentence for the defendant 8653  
or at least sixty days prior to a hearing before the adult 8654  
parole authority regarding a grant of parole to the defendant, 8655  
notice of the victim's right to submit a statement regarding the 8656  
impact of the defendant's release in accordance with section 8657  
2967.12 of the Revised Code and, if applicable, of the victim's 8658  
right to appear at a full board hearing of the parole board to 8659  
give testimony as authorized by section 5149.101 of the Revised 8660  
Code; 8661

(2) At least sixty days before the defendant is 8662  
transferred to transitional control under section 2967.26 of the 8663  
Revised Code, notice of the pendency of the transfer and of the 8664  
victim's right under that section to submit a statement 8665  
regarding the impact of the transfer; 8666

(3) At least sixty days before the release authority of 8667  
the department of youth services holds a release review, release 8668  
hearing, or discharge review for the alleged juvenile offender, 8669  
notice of the pendency of the review or hearing, of the victim's 8670  
right to make an oral or written statement regarding the impact 8671  
of the crime upon the victim or regarding the possible release 8672  
or discharge, and, if the notice pertains to a hearing, of the 8673  
victim's right to attend and make statements or comments at the 8674  
hearing as authorized by section 5139.56 of the Revised Code; 8675

(4) Prompt notice of the defendant's or alleged juvenile 8676  
offender's escape from a facility of the custodial agency in 8677  
which the defendant was incarcerated or in which the alleged 8678  
juvenile offender was placed after commitment, of the 8679  
defendant's or alleged juvenile offender's absence without leave 8680  
from a mental health or ~~mental retardation and~~ developmental 8681

disabilities facility or from other custody, and of the capture 8682  
of the defendant or alleged juvenile offender after an escape or 8683  
absence; 8684

(5) Notice of the defendant's or alleged juvenile 8685  
offender's death while in confinement or custody; 8686

(6) Notice of the filing of a petition by the director of 8687  
rehabilitation and correction pursuant to section 2967.19 of the 8688  
Revised Code requesting the early release under that section of 8689  
the defendant; 8690

(7) Notice of the defendant's or alleged juvenile 8691  
offender's release from confinement or custody and the terms and 8692  
conditions of the release. 8693

(D) (1) If a defendant is incarcerated for the commission 8694  
of aggravated murder, murder, or an offense of violence that is 8695  
a felony of the first, second, or third degree or is under a 8696  
sentence of life imprisonment or if an alleged juvenile offender 8697  
has been charged with the commission of an act that would be 8698  
aggravated murder, murder, or an offense of violence that is a 8699  
felony of the first, second, or third degree or be subject to a 8700  
sentence of life imprisonment if committed by an adult, except 8701  
as otherwise provided in this division, the notices described in 8702  
divisions (B) and (C) of this section shall be given regardless 8703  
of whether the victim has requested the notification. The 8704  
notices described in divisions (B) and (C) of this section shall 8705  
not be given under this division to a victim if the victim has 8706  
requested pursuant to division (B) (2) of section 2930.03 of the 8707  
Revised Code that the victim not be provided the notice. 8708  
Regardless of whether the victim has requested that the notices 8709  
described in division (C) of this section be provided or not be 8710  
provided, the custodial agency shall give notice similar to 8711

those notices to the prosecutor in the case, to the sentencing 8712  
court, to the law enforcement agency that arrested the defendant 8713  
or alleged juvenile offender if any officer of that agency was a 8714  
victim of the offense, and to any member of the victim's 8715  
immediate family who requests notification. If the notice given 8716  
under this division to the victim is based on an offense 8717  
committed prior to ~~the effective date of this amendment~~ March 8718  
22, 2013, and if the prosecutor or custodial agency has not 8719  
previously successfully provided any notice to the victim under 8720  
this division or division (B) or (C) of this section with 8721  
respect to that offense and the offender who committed it, the 8722  
notice also shall inform the victim that the victim may request 8723  
that the victim not be provided any further notices with respect 8724  
to that offense and the offender who committed it and shall 8725  
describe the procedure for making that request. If the notice 8726  
given under this division to the victim pertains to a hearing 8727  
regarding a grant of a parole to the defendant, the notice also 8728  
shall inform the victim that the victim, a member of the 8729  
victim's immediate family, or the victim's representative may 8730  
request a victim conference, as described in division (E) of 8731  
this section, and shall provide an explanation of a victim 8732  
conference. 8733

The prosecutor or custodial agency may give the notices to 8734  
which this division applies by any reasonable means, including 8735  
regular mail, telephone, and electronic mail. If the prosecutor 8736  
or custodial agency attempts to provide notice to a victim under 8737  
this division but the attempt is unsuccessful because the 8738  
prosecutor or custodial agency is unable to locate the victim, 8739  
is unable to provide the notice by its chosen method because it 8740  
cannot determine the mailing address, telephone number, or 8741  
electronic mail address at which to provide the notice, or, if 8742

the notice is sent by mail, the notice is returned, the 8743  
prosecutor or custodial agency shall make another attempt to 8744  
provide the notice to the victim. If the second attempt is 8745  
unsuccessful, the prosecutor or custodial agency shall make at 8746  
least one more attempt to provide the notice. If the notice is 8747  
based on an offense committed prior to ~~the effective date of~~ 8748  
~~this amendment~~ March 22, 2013, in each attempt to provide the 8749  
notice to the victim, the notice shall include the opt-out 8750  
information described in the preceding paragraph. The prosecutor 8751  
or custodial agency, in accordance with division (D) (2) of this 8752  
section, shall keep a record of all attempts to provide the 8753  
notice, and of all notices provided, under this division. 8754

Division (D) (1) of this section, and the notice-related 8755  
provisions of divisions (E) (2) and (K) of section 2929.20, 8756  
division (H) of section 2967.12, division (E) (1) (b) of section 8757  
2967.19, division (A) (3) (b) of section 2967.26, division (D) (1) 8758  
of section 2967.28, and division (A) (2) of section 5149.101 of 8759  
the Revised Code enacted in the act in which division (D) (1) of 8760  
this section was enacted, shall be known as "Roberta's Law." 8761

(2) Each prosecutor and custodial agency that attempts to 8762  
give any notice to which division (D) (1) of this section applies 8763  
shall keep a record of all attempts to give the notice. The 8764  
record shall indicate the person who was to be the recipient of 8765  
the notice, the date on which the attempt was made, the manner 8766  
in which the attempt was made, and the person who made the 8767  
attempt. If the attempt is successful and the notice is given, 8768  
the record shall indicate that fact. The record shall be kept in 8769  
a manner that allows public inspection of attempts and notices 8770  
given to persons other than victims without revealing the names, 8771  
addresses, or other identifying information relating to victims. 8772  
The record of attempts and notices given to victims is not a 8773

public record, but the prosecutor or custodial agency shall 8774  
provide upon request a copy of that record to a prosecuting 8775  
attorney, judge, law enforcement agency, or member of the 8776  
general assembly. The record of attempts and notices given to 8777  
persons other than victims is a public record. A record kept 8778  
under this division may be indexed by offender name, or in any 8779  
other manner determined by the prosecutor or the custodial 8780  
agency. Each prosecutor or custodial agency that is required to 8781  
keep a record under this division shall determine the procedures 8782  
for keeping the record and the manner in which it is to be kept, 8783  
subject to the requirements of this division. 8784

(E) The adult parole authority shall adopt rules under 8785  
Chapter 119. of the Revised Code providing for a victim 8786  
conference, upon request of the victim, a member of the victim's 8787  
immediate family, or the victim's representative, prior to a 8788  
parole hearing in the case of a prisoner who is incarcerated for 8789  
the commission of aggravated murder, murder, or an offense of 8790  
violence that is a felony of the first, second, or third degree 8791  
or is under a sentence of life imprisonment. The rules shall 8792  
provide for, but not be limited to, all of the following: 8793

(1) Subject to division (E)(3) of this section, attendance 8794  
by the victim, members of the victim's immediate family, the 8795  
victim's representative, and, if practicable, other individuals; 8796

(2) Allotment of up to one hour for the conference; 8797

(3) A specification of the number of persons specified in 8798  
division (E)(1) of this section who may be present at any single 8799  
victim conference, if limited by the department pursuant to 8800  
division (F) of this section. 8801

(F) The department may limit the number of persons 8802

specified in division (E) (1) of this section who may be present 8803  
at any single victim conference, provided that the department 8804  
shall not limit the number of persons who may be present at any 8805  
single conference to fewer than three. If the department limits 8806  
the number of persons who may be present at any single victim 8807  
conference, the department shall permit and schedule, upon 8808  
request of the victim, a member of the victim's immediate 8809  
family, or the victim's representative, multiple victim 8810  
conferences for the persons specified in division (E) (1) of this 8811  
section. 8812

(G) As used in this section, "victim's immediate family" 8813  
has the same meaning as in section 2967.12 of the Revised Code. 8814

**Sec. 2945.37.** (A) As used in sections 2945.37 to 2945.402 8815  
of the Revised Code: 8816

(1) "Prosecutor" means a prosecuting attorney or a city 8817  
director of law, village solicitor, or similar chief legal 8818  
officer of a municipal corporation who has authority to 8819  
prosecute a criminal case that is before the court or the 8820  
criminal case in which a defendant in a criminal case has been 8821  
found incompetent to stand trial or not guilty by reason of 8822  
insanity. 8823

(2) "Examiner" means either of the following: 8824

(a) A psychiatrist or a licensed clinical psychologist who 8825  
satisfies the criteria of division (I) of section 5122.01 of the 8826  
Revised Code or is employed by a certified forensic center 8827  
designated by the department of mental health and addiction 8828  
services to conduct examinations or evaluations. 8829

(b) For purposes of a separate ~~mental retardation~~ 8830  
intellectual disability evaluation that is ordered by a court 8831

pursuant to division (H) of section 2945.371 of the Revised Code, a psychologist designated by the director of developmental disabilities pursuant to that section to conduct that separate ~~mental retardation~~ intellectual disability evaluation.

(3) "Nonsecured status" means any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any conditional release, that is granted to a person who is found incompetent to stand trial and is committed pursuant to section 2945.39 of the Revised Code or to a person who is found not guilty by reason of insanity and is committed pursuant to section 2945.40 of the Revised Code.

(4) "Unsupervised, off-grounds movement" includes only off-grounds privileges that are unsupervised and that have an expectation of return to the hospital or institution on a daily basis.

(5) "Trial visit" means a patient privilege of a longer stated duration of unsupervised community contact with an expectation of return to the hospital or institution at designated times.

(6) "Conditional release" means a commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitization or reinstitutionalization of the person as described in division (A) of section 2945.402 of the Revised Code and pursuant to which a person who is found incompetent to stand trial or a person who is found not guilty by reason of insanity lives and receives treatment in the community for a period of time that does not exceed the maximum prison term or term of imprisonment that the person could have received for the offense in question had the person been convicted of the offense instead of being

found incompetent to stand trial on the charge of the offense or 8862  
being found not guilty by reason of insanity relative to the 8863  
offense. 8864

(7) "Licensed clinical psychologist," "mentally ill person 8865  
subject to court order," and "psychiatrist" have the same 8866  
meanings as in section 5122.01 of the Revised Code. 8867

(8) "~~Mentally retarded person~~ Person with an intellectual 8868  
disability subject to institutionalization by court order" has 8869  
the same meaning as in section 5123.01 of the Revised Code. 8870

(B) In a criminal action in a court of common pleas, a 8871  
county court, or a municipal court, the court, prosecutor, or 8872  
defense may raise the issue of the defendant's competence to 8873  
stand trial. If the issue is raised before the trial has 8874  
commenced, the court shall hold a hearing on the issue as 8875  
provided in this section. If the issue is raised after the trial 8876  
has commenced, the court shall hold a hearing on the issue only 8877  
for good cause shown or on the court's own motion. 8878

(C) The court shall conduct the hearing required or 8879  
authorized under division (B) of this section within thirty days 8880  
after the issue is raised, unless the defendant has been 8881  
referred for evaluation in which case the court shall conduct 8882  
the hearing within ten days after the filing of the report of 8883  
the evaluation or, in the case of a defendant who is ordered by 8884  
the court pursuant to division (H) of section 2945.371 of the 8885  
Revised Code to undergo a separate ~~mental retardation~~ 8886  
intellectual disability evaluation conducted by a psychologist 8887  
designated by the director of developmental disabilities, within 8888  
ten days after the filing of the report of the separate ~~mental~~ 8889  
~~retardation~~ intellectual disability evaluation under that 8890  
division. A hearing may be continued for good cause. 8891

(D) The defendant shall be represented by counsel at the hearing conducted under division (C) of this section. If the defendant is unable to obtain counsel, the court shall appoint counsel under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code before proceeding with the hearing.

(E) The prosecutor and defense counsel may submit evidence on the issue of the defendant's competence to stand trial. A written report of the evaluation of the defendant may be admitted into evidence at the hearing by stipulation, but, if either the prosecution or defense objects to its admission, the report may be admitted under sections 2317.36 to 2317.38 of the Revised Code or any other applicable statute or rule.

(F) The court shall not find a defendant incompetent to stand trial solely because the defendant is receiving or has received treatment as a voluntary or involuntary mentally ill patient under Chapter 5122. or a voluntary or involuntary ~~mentally retarded~~ resident with an intellectual disability under Chapter 5123. of the Revised Code or because the defendant is receiving or has received psychotropic drugs or other medication, even if the defendant might become incompetent to stand trial without the drugs or medication.

(G) A defendant is presumed to be competent to stand trial. If, after a hearing, the court finds by a preponderance of the evidence that, because of the defendant's present mental condition, the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the court shall find

the defendant incompetent to stand trial and shall enter an 8922  
order authorized by section 2945.38 of the Revised Code. 8923

(H) Municipal courts shall follow the procedures set forth 8924  
in sections 2945.37 to 2945.402 of the Revised Code. Except as 8925  
provided in section 2945.371 of the Revised Code, a municipal 8926  
court shall not order an evaluation of the defendant's 8927  
competence to stand trial or the defendant's mental condition at 8928  
the time of the commission of the offense to be conducted at any 8929  
hospital operated by the department of mental health and 8930  
addiction services. Those evaluations shall be performed through 8931  
community resources including, but not limited to, certified 8932  
forensic centers, court probation departments, and community 8933  
mental health services providers. All expenses of the 8934  
evaluations shall be borne by the legislative authority of the 8935  
municipal court, as defined in section 1901.03 of the Revised 8936  
Code, and shall be taxed as costs in the case. If a defendant is 8937  
found incompetent to stand trial or not guilty by reason of 8938  
insanity, a municipal court may commit the defendant as provided 8939  
in sections 2945.38 to 2945.402 of the Revised Code. 8940

**Sec. 2945.371.** (A) If the issue of a defendant's 8941  
competence to stand trial is raised or if a defendant enters a 8942  
plea of not guilty by reason of insanity, the court may order 8943  
one or more evaluations of the defendant's present mental 8944  
condition or, in the case of a plea of not guilty by reason of 8945  
insanity, of the defendant's mental condition at the time of the 8946  
offense charged. An examiner shall conduct the evaluation. 8947

(B) If the court orders more than one evaluation under 8948  
division (A) of this section, the prosecutor and the defendant 8949  
may recommend to the court an examiner whom each prefers to 8950  
perform one of the evaluations. If a defendant enters a plea of 8951

not guilty by reason of insanity and if the court does not 8952  
designate an examiner recommended by the defendant, the court 8953  
shall inform the defendant that the defendant may have 8954  
independent expert evaluation and that, if the defendant is 8955  
unable to obtain independent expert evaluation, it will be 8956  
obtained for the defendant at public expense if the defendant is 8957  
indigent. 8958

(C) If the court orders an evaluation under division (A) 8959  
of this section, the defendant shall be available at the times 8960  
and places established by the examiners who are to conduct the 8961  
evaluation. The court may order a defendant who has been 8962  
released on bail or recognizance to submit to an evaluation 8963  
under this section. If a defendant who has been released on bail 8964  
or recognizance refuses to submit to a complete evaluation, the 8965  
court may amend the conditions of bail or recognizance and order 8966  
the sheriff to take the defendant into custody and deliver the 8967  
defendant to a center, program, or facility operated or 8968  
certified by the department of mental health and addiction 8969  
services or the department of developmental disabilities where 8970  
the defendant may be held for evaluation for a reasonable period 8971  
of time not to exceed twenty days. 8972

(D) A defendant who has not been released on bail or 8973  
recognizance may be evaluated at the defendant's place of 8974  
detention. Upon the request of the examiner, the court may order 8975  
the sheriff to transport the defendant to a program or facility 8976  
operated or certified by the department of mental health and 8977  
addiction services or the department of developmental 8978  
disabilities, where the defendant may be held for evaluation for 8979  
a reasonable period of time not to exceed twenty days, and to 8980  
return the defendant to the place of detention after the 8981  
evaluation. A municipal court may make an order under this 8982

division only upon the request of a certified forensic center 8983  
examiner. 8984

(E) If a court orders the evaluation to determine a 8985  
defendant's mental condition at the time of the offense charged, 8986  
the court shall inform the examiner of the offense with which 8987  
the defendant is charged. 8988

(F) In conducting an evaluation of a defendant's mental 8989  
condition at the time of the offense charged, the examiner shall 8990  
consider all relevant evidence. If the offense charged involves 8991  
the use of force against another person, the relevant evidence 8992  
to be considered includes, but is not limited to, any evidence 8993  
that the defendant suffered, at the time of the commission of 8994  
the offense, from the "battered woman syndrome." 8995

(G) The examiner shall file a written report with the 8996  
court within thirty days after entry of a court order for 8997  
evaluation, and the court shall provide copies of the report to 8998  
the prosecutor and defense counsel. The report shall include all 8999  
of the following: 9000

(1) The examiner's findings; 9001

(2) The facts in reasonable detail on which the findings 9002  
are based; 9003

(3) If the evaluation was ordered to determine the 9004  
defendant's competence to stand trial, all of the following 9005  
findings or recommendations that are applicable: 9006

(a) Whether the defendant is capable of understanding the 9007  
nature and objective of the proceedings against the defendant or 9008  
of assisting in the defendant's defense; 9009

(b) If the examiner's opinion is that the defendant is 9010

incapable of understanding the nature and objective of the 9011  
proceedings against the defendant or of assisting in the 9012  
defendant's defense, whether the defendant presently is mentally 9013  
ill or ~~mentally retarded~~ has an intellectual disability and, if 9014  
the examiner's opinion is that the defendant presently ~~is~~ 9015  
~~mentally retarded~~ has an intellectual disability, whether the 9016  
defendant appears to be a ~~mentally retarded~~ person with an 9017  
intellectual disability subject to institutionalization by court 9018  
order; 9019

(c) If the examiner's opinion is that the defendant is 9020  
incapable of understanding the nature and objective of the 9021  
proceedings against the defendant or of assisting in the 9022  
defendant's defense, the examiner's opinion as to the likelihood 9023  
of the defendant becoming capable of understanding the nature 9024  
and objective of the proceedings against the defendant and of 9025  
assisting in the defendant's defense within one year if the 9026  
defendant is provided with a course of treatment; 9027

(d) If the examiner's opinion is that the defendant is 9028  
incapable of understanding the nature and objective of the 9029  
proceedings against the defendant or of assisting in the 9030  
defendant's defense and that the defendant presently is mentally 9031  
ill or ~~mentally retarded~~ has an intellectual disability, the 9032  
examiner's recommendation as to the least restrictive placement 9033  
or commitment alternative, consistent with the defendant's 9034  
treatment needs for restoration to competency and with the 9035  
safety of the community. 9036

(4) If the evaluation was ordered to determine the 9037  
defendant's mental condition at the time of the offense charged, 9038  
the examiner's findings as to whether the defendant, at the time 9039  
of the offense charged, did not know, as a result of a severe 9040

mental disease or defect, the wrongfulness of the defendant's 9041  
acts charged. 9042

(H) If the examiner's report filed under division (G) of 9043  
this section indicates that in the examiner's opinion the 9044  
defendant is incapable of understanding the nature and objective 9045  
of the proceedings against the defendant or of assisting in the 9046  
defendant's defense and that in the examiner's opinion the 9047  
defendant appears to be a ~~mentally retarded~~ person with an 9048  
intellectual disability subject to institutionalization by court 9049  
order, the court shall order the defendant to undergo a separate 9050  
~~mental retardation~~ intellectual disability evaluation conducted 9051  
by a psychologist designated by the director of developmental 9052  
disabilities. Divisions (C) to (F) of this section apply in 9053  
relation to a separate ~~mental retardation~~ intellectual 9054  
disability evaluation conducted under this division. The 9055  
psychologist appointed under this division to conduct the 9056  
separate ~~mental retardation~~ intellectual disability evaluation 9057  
shall file a written report with the court within thirty days 9058  
after the entry of the court order requiring the separate ~~mental~~ 9059  
~~retardation~~ intellectual disability evaluation, and the court 9060  
shall provide copies of the report to the prosecutor and defense 9061  
counsel. The report shall include all of the information 9062  
described in divisions (G) (1) to (4) of this section. If the 9063  
court orders a separate ~~mental retardation~~ intellectual 9064  
disability evaluation of a defendant under this division, the 9065  
court shall not conduct a hearing under divisions (B) to (H) of 9066  
section 2945.37 of the Revised Code regarding that defendant 9067  
until a report of the separate ~~mental retardation~~ intellectual 9068  
disability evaluation conducted under this division has been 9069  
filed. Upon the filing of that report, the court shall conduct 9070  
the hearing within the period of time specified in division (C) 9071

of section 2945.37 of the Revised Code. 9072

(I) An examiner appointed under divisions (A) and (B) of 9073  
this section or under division (H) of this section to evaluate a 9074  
defendant to determine the defendant's competence to stand trial 9075  
also may be appointed to evaluate a defendant who has entered a 9076  
plea of not guilty by reason of insanity, but an examiner of 9077  
that nature shall prepare separate reports on the issue of 9078  
competence to stand trial and the defense of not guilty by 9079  
reason of insanity. 9080

(J) No statement that a defendant makes in an evaluation 9081  
or hearing under divisions (A) to (H) of this section relating 9082  
to the defendant's competence to stand trial or to the 9083  
defendant's mental condition at the time of the offense charged 9084  
shall be used against the defendant on the issue of guilt in any 9085  
criminal action or proceeding, but, in a criminal action or 9086  
proceeding, the prosecutor or defense counsel may call as a 9087  
witness any person who evaluated the defendant or prepared a 9088  
report pursuant to a referral under this section. Neither the 9089  
appointment nor the testimony of an examiner appointed under 9090  
this section precludes the prosecutor or defense counsel from 9091  
calling other witnesses or presenting other evidence on 9092  
competency or insanity issues. 9093

(K) Persons appointed as examiners under divisions (A) and 9094  
(B) of this section or under division (H) of this section shall 9095  
be paid a reasonable amount for their services and expenses, as 9096  
certified by the court. The certified amount shall be paid by 9097  
the county in the case of county courts and courts of common 9098  
pleas and by the legislative authority, as defined in section 9099  
1901.03 of the Revised Code, in the case of municipal courts. 9100

**Sec. 2945.38.** (A) If the issue of a defendant's competence 9101

to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B) (1) (a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment. If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment

or continuing evaluation and treatment under division (B) (1) (a) 9133  
of this section shall specify that the defendant, if determined 9134  
to require mental health treatment or continuing evaluation and 9135  
treatment, either shall be committed to the department of mental 9136  
health and addiction services for treatment or continuing 9137  
evaluation and treatment at a hospital, facility, or agency, as 9138  
determined to be clinically appropriate by the department of 9139  
mental health and addiction services or shall be committed to a 9140  
facility certified by the department of mental health and 9141  
addiction services as being qualified to treat mental illness, 9142  
to a public or community mental health facility, or to a 9143  
psychiatrist or another mental health professional for treatment 9144  
or continuing evaluation and treatment. Prior to placing the 9145  
defendant, the department of mental health and addiction 9146  
services shall obtain court approval for that placement 9147  
following a hearing. The court order for the defendant to 9148  
undergo treatment or continuing evaluation and treatment under 9149  
division (B) (1) (a) of this section shall specify that the 9150  
defendant, if determined to require treatment or continuing 9151  
evaluation and treatment for ~~mental retardation~~ an intellectual 9152  
disability, shall receive treatment or continuing evaluation and 9153  
treatment at an institution or facility operated by the 9154  
department of developmental disabilities, at a facility 9155  
certified by the department of developmental disabilities as 9156  
being qualified to treat ~~mental retardation~~ intellectual 9157  
disabilities, at a public or private ~~mental retardation~~ 9158  
developmental disabilities facility, or by a psychiatrist or 9159  
another ~~mental retardation~~ intellectual disabilities 9160  
professional. In any case, the order may restrict the 9161  
defendant's freedom of movement as the court considers 9162  
necessary. The prosecutor in the defendant's case shall send to 9163  
the chief clinical officer of the hospital, facility, or agency 9164

where the defendant is placed by the department of mental health 9165  
and addiction services, or to the managing officer of the 9166  
institution, the director of the program or facility, or the 9167  
person to which the defendant is committed, copies of relevant 9168  
police reports and other background information that pertains to 9169  
the defendant and is available to the prosecutor unless the 9170  
prosecutor determines that the release of any of the information 9171  
in the police reports or any of the other background information 9172  
to unauthorized persons would interfere with the effective 9173  
prosecution of any person or would create a substantial risk of 9174  
harm to any person. 9175

In determining the place of commitment, the court shall 9176  
consider the extent to which the person is a danger to the 9177  
person and to others, the need for security, and the type of 9178  
crime involved and shall order the least restrictive alternative 9179  
available that is consistent with public safety and treatment 9180  
goals. In weighing these factors, the court shall give 9181  
preference to protecting public safety. 9182

(c) If the defendant is found incompetent to stand trial, 9183  
if the chief clinical officer of the hospital, facility, or 9184  
agency where the defendant is placed, or the managing officer of 9185  
the institution, the director of the program or facility, or the 9186  
person to which the defendant is committed for treatment or 9187  
continuing evaluation and treatment under division (B)(1)(b) of 9188  
this section determines that medication is necessary to restore 9189  
the defendant's competency to stand trial, and if the defendant 9190  
lacks the capacity to give informed consent or refuses 9191  
medication, the chief clinical officer of the hospital, 9192  
facility, or agency where the defendant is placed, or the 9193  
managing officer of the institution, the director of the program 9194  
or facility, or the person to which the defendant is committed 9195

for treatment or continuing evaluation and treatment may 9196  
petition the court for authorization for the involuntary 9197  
administration of medication. The court shall hold a hearing on 9198  
the petition within five days of the filing of the petition if 9199  
the petition was filed in a municipal court or a county court 9200  
regarding an incompetent defendant charged with a misdemeanor or 9201  
within ten days of the filing of the petition if the petition 9202  
was filed in a court of common pleas regarding an incompetent 9203  
defendant charged with a felony offense. Following the hearing, 9204  
the court may authorize the involuntary administration of 9205  
medication or may dismiss the petition. 9206

(2) If the court finds that the defendant is incompetent 9207  
to stand trial and that, even if the defendant is provided with 9208  
a course of treatment, there is not a substantial probability 9209  
that the defendant will become competent to stand trial within 9210  
one year, the court shall order the discharge of the defendant, 9211  
unless upon motion of the prosecutor or on its own motion, the 9212  
court either seeks to retain jurisdiction over the defendant 9213  
pursuant to section 2945.39 of the Revised Code or files an 9214  
affidavit in the probate court for the civil commitment of the 9215  
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 9216  
alleging that the defendant is a mentally ill person subject to 9217  
court order or a ~~mentally retarded~~ person with an intellectual 9218  
disability subject to institutionalization by court order. If an 9219  
affidavit is filed in the probate court, the trial court shall 9220  
send to the probate court copies of all written reports of the 9221  
defendant's mental condition that were prepared pursuant to 9222  
section 2945.371 of the Revised Code. 9223

The trial court may issue the temporary order of detention 9224  
that a probate court may issue under section 5122.11 or 5123.71 9225  
of the Revised Code, to remain in effect until the probable 9226

cause or initial hearing in the probate court. Further 9227  
proceedings in the probate court are civil proceedings governed 9228  
by Chapter 5122. or 5123. of the Revised Code. 9229

(C) No defendant shall be required to undergo treatment, 9230  
including any continuing evaluation and treatment, under 9231  
division (B) (1) of this section for longer than whichever of the 9232  
following periods is applicable: 9233

(1) One year, if the most serious offense with which the 9234  
defendant is charged is one of the following offenses: 9235

(a) Aggravated murder, murder, or an offense of violence 9236  
for which a sentence of death or life imprisonment may be 9237  
imposed; 9238

(b) An offense of violence that is a felony of the first 9239  
or second degree; 9240

(c) A conspiracy to commit, an attempt to commit, or 9241  
complicity in the commission of an offense described in division 9242  
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 9243  
complicity is a felony of the first or second degree. 9244

(2) Six months, if the most serious offense with which the 9245  
defendant is charged is a felony other than a felony described 9246  
in division (C) (1) of this section; 9247

(3) Sixty days, if the most serious offense with which the 9248  
defendant is charged is a misdemeanor of the first or second 9249  
degree; 9250

(4) Thirty days, if the most serious offense with which 9251  
the defendant is charged is a misdemeanor of the third or fourth 9252  
degree, a minor misdemeanor, or an unclassified misdemeanor. 9253

(D) Any defendant who is committed pursuant to this 9254

section shall not voluntarily admit the defendant or be 9255  
voluntarily admitted to a hospital or institution pursuant to 9256  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 9257  
Code. 9258

(E) Except as otherwise provided in this division, a 9259  
defendant who is charged with an offense and is committed by the 9260  
court under this section to the department of mental health and 9261  
addiction services or is committed to an institution or facility 9262  
for the treatment of ~~mental retardation~~ developmental 9263  
disabilities shall not be granted unsupervised on-grounds 9264  
movement, supervised off-grounds movement, or nonsecured status 9265  
except in accordance with the court order. The court may grant a 9266  
defendant supervised off-grounds movement to obtain medical 9267  
treatment or specialized habilitation treatment services if the 9268  
person who supervises the treatment or the continuing evaluation 9269  
and treatment of the defendant ordered under division (B) (1) (a) 9270  
of this section informs the court that the treatment or 9271  
continuing evaluation and treatment cannot be provided at the 9272  
hospital or facility where the defendant is placed by the 9273  
department of mental health and addiction services or the 9274  
institution or facility to which the defendant is committed. The 9275  
chief clinical officer of the hospital or facility where the 9276  
defendant is placed by the department of mental health and 9277  
addiction services or the managing officer of the institution or 9278  
director of the facility to which the defendant is committed, or 9279  
a designee of any of those persons, may grant a defendant 9280  
movement to a medical facility for an emergency medical 9281  
situation with appropriate supervision to ensure the safety of 9282  
the defendant, staff, and community during that emergency 9283  
medical situation. The chief clinical officer of the hospital or 9284  
facility where the defendant is placed by the department of 9285

mental health and addiction services or the managing officer of 9286  
the institution or director of the facility to which the 9287  
defendant is committed shall notify the court within twenty-four 9288  
hours of the defendant's movement to the medical facility for an 9289  
emergency medical situation under this division. 9290

(F) The person who supervises the treatment or continuing 9291  
evaluation and treatment of a defendant ordered to undergo 9292  
treatment or continuing evaluation and treatment under division 9293  
(B) (1) (a) of this section shall file a written report with the 9294  
court at the following times: 9295

(1) Whenever the person believes the defendant is capable 9296  
of understanding the nature and objective of the proceedings 9297  
against the defendant and of assisting in the defendant's 9298  
defense; 9299

(2) For a felony offense, fourteen days before expiration 9300  
of the maximum time for treatment as specified in division (C) 9301  
of this section and fourteen days before the expiration of the 9302  
maximum time for continuing evaluation and treatment as 9303  
specified in division (B) (1) (a) of this section, and, for a 9304  
misdemeanor offense, ten days before the expiration of the 9305  
maximum time for treatment, as specified in division (C) of this 9306  
section; 9307

(3) At a minimum, after each six months of treatment; 9308

(4) Whenever the person who supervises the treatment or 9309  
continuing evaluation and treatment of a defendant ordered under 9310  
division (B) (1) (a) of this section believes that there is not a 9311  
substantial probability that the defendant will become capable 9312  
of understanding the nature and objective of the proceedings 9313  
against the defendant or of assisting in the defendant's defense 9314

even if the defendant is provided with a course of treatment. 9315

(G) A report under division (F) of this section shall 9316  
contain the examiner's findings, the facts in reasonable detail 9317  
on which the findings are based, and the examiner's opinion as 9318  
to the defendant's capability of understanding the nature and 9319  
objective of the proceedings against the defendant and of 9320  
assisting in the defendant's defense. If, in the examiner's 9321  
opinion, the defendant remains incapable of understanding the 9322  
nature and objective of the proceedings against the defendant 9323  
and of assisting in the defendant's defense and there is a 9324  
substantial probability that the defendant will become capable 9325  
of understanding the nature and objective of the proceedings 9326  
against the defendant and of assisting in the defendant's 9327  
defense if the defendant is provided with a course of treatment, 9328  
if in the examiner's opinion the defendant remains mentally ill 9329  
~~or mentally retarded~~ continues to have an intellectual 9330  
disability, and if the maximum time for treatment as specified 9331  
in division (C) of this section has not expired, the report also 9332  
shall contain the examiner's recommendation as to the least 9333  
restrictive placement or commitment alternative that is 9334  
consistent with the defendant's treatment needs for restoration 9335  
to competency and with the safety of the community. The court 9336  
shall provide copies of the report to the prosecutor and defense 9337  
counsel. 9338

(H) If a defendant is committed pursuant to division (B) 9339  
(1) of this section, within ten days after the treating 9340  
physician of the defendant or the examiner of the defendant who 9341  
is employed or retained by the treating facility advises that 9342  
there is not a substantial probability that the defendant will 9343  
become capable of understanding the nature and objective of the 9344  
proceedings against the defendant or of assisting in the 9345

defendant's defense even if the defendant is provided with a 9346  
course of treatment, within ten days after the expiration of the 9347  
maximum time for treatment as specified in division (C) of this 9348  
section, within ten days after the expiration of the maximum 9349  
time for continuing evaluation and treatment as specified in 9350  
division (B) (1) (a) of this section, within thirty days after a 9351  
defendant's request for a hearing that is made after six months 9352  
of treatment, or within thirty days after being advised by the 9353  
treating physician or examiner that the defendant is competent 9354  
to stand trial, whichever is the earliest, the court shall 9355  
conduct another hearing to determine if the defendant is 9356  
competent to stand trial and shall do whichever of the following 9357  
is applicable: 9358

(1) If the court finds that the defendant is competent to 9359  
stand trial, the defendant shall be proceeded against as 9360  
provided by law. 9361

(2) If the court finds that the defendant is incompetent 9362  
to stand trial, but that there is a substantial probability that 9363  
the defendant will become competent to stand trial if the 9364  
defendant is provided with a course of treatment, and the 9365  
maximum time for treatment as specified in division (C) of this 9366  
section has not expired, the court, after consideration of the 9367  
examiner's recommendation, shall order that treatment be 9368  
continued, may change the facility or program at which the 9369  
treatment is to be continued, and shall specify whether the 9370  
treatment is to be continued at the same or a different facility 9371  
or program. 9372

(3) If the court finds that the defendant is incompetent 9373  
to stand trial, if the defendant is charged with an offense 9374  
listed in division (C) (1) of this section, and if the court 9375

finds that there is not a substantial probability that the 9376  
defendant will become competent to stand trial even if the 9377  
defendant is provided with a course of treatment, or if the 9378  
maximum time for treatment relative to that offense as specified 9379  
in division (C) of this section has expired, further proceedings 9380  
shall be as provided in sections 2945.39, 2945.401, and 2945.402 9381  
of the Revised Code. 9382

(4) If the court finds that the defendant is incompetent 9383  
to stand trial, if the most serious offense with which the 9384  
defendant is charged is a misdemeanor or a felony other than a 9385  
felony listed in division (C)(1) of this section, and if the 9386  
court finds that there is not a substantial probability that the 9387  
defendant will become competent to stand trial even if the 9388  
defendant is provided with a course of treatment, or if the 9389  
maximum time for treatment relative to that offense as specified 9390  
in division (C) of this section has expired, the court shall 9391  
dismiss the indictment, information, or complaint against the 9392  
defendant. A dismissal under this division is not a bar to 9393  
further prosecution based on the same conduct. The court shall 9394  
discharge the defendant unless the court or prosecutor files an 9395  
affidavit in probate court for civil commitment pursuant to 9396  
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 9397  
civil commitment is filed, the court may detain the defendant 9398  
for ten days pending civil commitment. All of the following 9399  
provisions apply to persons charged with a misdemeanor or a 9400  
felony other than a felony listed in division (C)(1) of this 9401  
section who are committed by the probate court subsequent to the 9402  
court's or prosecutor's filing of an affidavit for civil 9403  
commitment under authority of this division: 9404

(a) The chief clinical officer of the entity, hospital, or 9405  
facility, the managing officer of the institution, the director 9406

of the program, or the person to which the defendant is 9407  
committed or admitted shall do all of the following: 9408

(i) Notify the prosecutor, in writing, of the discharge of 9409  
the defendant, send the notice at least ten days prior to the 9410  
discharge unless the discharge is by the probate court, and 9411  
state in the notice the date on which the defendant will be 9412  
discharged; 9413

(ii) Notify the prosecutor, in writing, when the defendant 9414  
is absent without leave or is granted unsupervised, off-grounds 9415  
movement, and send this notice promptly after the discovery of 9416  
the absence without leave or prior to the granting of the 9417  
unsupervised, off-grounds movement, whichever is applicable; 9418

(iii) Notify the prosecutor, in writing, of the change of 9419  
the defendant's commitment or admission to voluntary status, 9420  
send the notice promptly upon learning of the change to 9421  
voluntary status, and state in the notice the date on which the 9422  
defendant was committed or admitted on a voluntary status. 9423

(b) Upon receiving notice that the defendant will be 9424  
granted unsupervised, off-grounds movement, the prosecutor 9425  
either shall re-indict the defendant or promptly notify the 9426  
court that the prosecutor does not intend to prosecute the 9427  
charges against the defendant. 9428

(I) If a defendant is convicted of a crime and sentenced 9429  
to a jail or workhouse, the defendant's sentence shall be 9430  
reduced by the total number of days the defendant is confined 9431  
for evaluation to determine the defendant's competence to stand 9432  
trial or treatment under this section and sections 2945.37 and 9433  
2945.371 of the Revised Code or by the total number of days the 9434  
defendant is confined for evaluation to determine the 9435

defendant's mental condition at the time of the offense charged. 9436

**Sec. 2945.39.** (A) If a defendant who is charged with an 9437  
offense described in division (C) (1) of section 2945.38 of the 9438  
Revised Code is found incompetent to stand trial, after the 9439  
expiration of the maximum time for treatment as specified in 9440  
division (C) of that section or after the court finds that there 9441  
is not a substantial probability that the defendant will become 9442  
competent to stand trial even if the defendant is provided with 9443  
a course of treatment, one of the following applies: 9444

(1) The court or the prosecutor may file an affidavit in 9445  
probate court for civil commitment of the defendant in the 9446  
manner provided in Chapter 5122. or 5123. of the Revised Code. 9447  
If the court or prosecutor files an affidavit for civil 9448  
commitment, the court may detain the defendant for ten days 9449  
pending civil commitment. If the probate court commits the 9450  
defendant subsequent to the court's or prosecutor's filing of an 9451  
affidavit for civil commitment, the chief clinical officer of 9452  
the entity, hospital, or facility, the managing officer of the 9453  
institution, the director of the program, or the person to which 9454  
the defendant is committed or admitted shall send to the 9455  
prosecutor the notices described in divisions (H) (4) (a) (i) to 9456  
(iii) of section 2945.38 of the Revised Code within the periods 9457  
of time and under the circumstances specified in those 9458  
divisions. 9459

(2) On the motion of the prosecutor or on its own motion, 9460  
the court may retain jurisdiction over the defendant if, at a 9461  
hearing, the court finds both of the following by clear and 9462  
convincing evidence: 9463

(a) The defendant committed the offense with which the 9464  
defendant is charged. 9465

(b) The defendant is a mentally ill person subject to 9466  
court order or a ~~mentally retarded~~ person with an intellectual 9467  
disability subject to institutionalization by court order. 9468

(B) In making its determination under division (A) (2) of 9469  
this section as to whether to retain jurisdiction over the 9470  
defendant, the court may consider all relevant evidence, 9471  
including, but not limited to, any relevant psychiatric, 9472  
psychological, or medical testimony or reports, the acts 9473  
constituting the offense charged, and any history of the 9474  
defendant that is relevant to the defendant's ability to conform 9475  
to the law. 9476

(C) If the court conducts a hearing as described in 9477  
division (A) (2) of this section and if the court does not make 9478  
both findings described in divisions (A) (2) (a) and (b) of this 9479  
section by clear and convincing evidence, the court shall 9480  
dismiss the indictment, information, or complaint against the 9481  
defendant. Upon the dismissal, the court shall discharge the 9482  
defendant unless the court or prosecutor files an affidavit in 9483  
probate court for civil commitment of the defendant pursuant to 9484  
Chapter 5122. or 5123. of the Revised Code. If the court or 9485  
prosecutor files an affidavit for civil commitment, the court 9486  
may order that the defendant be detained for up to ten days 9487  
pending the civil commitment. If the probate court commits the 9488  
defendant subsequent to the court's or prosecutor's filing of an 9489  
affidavit for civil commitment, the chief clinical officer of 9490  
the entity, hospital, or facility, the managing officer of the 9491  
institution, the director of the program, or the person to which 9492  
the defendant is committed or admitted shall send to the 9493  
prosecutor the notices described in divisions (H) (4) (a) (i) to 9494  
(iii) of section 2945.38 of the Revised Code within the periods 9495  
of time and under the circumstances specified in those 9496

divisions. A dismissal of charges under this division is not a 9497  
bar to further criminal proceedings based on the same conduct. 9498

(D) (1) If the court conducts a hearing as described in 9499  
division (A) (2) of this section and if the court makes the 9500  
findings described in divisions (A) (2) (a) and (b) of this 9501  
section by clear and convincing evidence, the court shall commit 9502  
the defendant, if determined to require mental health treatment, 9503  
either to the department of mental health and addiction services 9504  
for treatment at a hospital, facility, or agency as determined 9505  
clinically appropriate by the department of mental health and 9506  
addiction services or to another medical or psychiatric 9507  
facility, as appropriate. Prior to placing the defendant, the 9508  
department of mental health and addiction services shall obtain 9509  
court approval for that placement. If the court conducts such a 9510  
hearing and if it makes those findings by clear and convincing 9511  
evidence, the court shall commit the defendant, if determined to 9512  
require treatment for ~~mental retardation~~ an intellectual 9513  
disability, to a facility operated by the department of 9514  
developmental disabilities, or another facility, as appropriate. 9515  
In determining the place of commitment, the court shall consider 9516  
the extent to which the person is a danger to the person and to 9517  
others, the need for security, and the type of crime involved 9518  
and shall order the least restrictive alternative available that 9519  
is consistent with public safety and the welfare of the 9520  
defendant. In weighing these factors, the court shall give 9521  
preference to protecting public safety. 9522

(2) If a court makes a commitment of a defendant under 9523  
division (D) (1) of this section, the prosecutor shall send to 9524  
the hospital, facility, or agency where the defendant is placed 9525  
by the department of mental health and addiction services or to 9526  
the defendant's place of commitment all reports of the 9527

defendant's current mental condition and, except as otherwise 9528  
provided in this division, any other relevant information, 9529  
including, but not limited to, a transcript of the hearing held 9530  
pursuant to division (A) (2) of this section, copies of relevant 9531  
police reports, and copies of any prior arrest and conviction 9532  
records that pertain to the defendant and that the prosecutor 9533  
possesses. The prosecutor shall send the reports of the 9534  
defendant's current mental condition in every case of 9535  
commitment, and, unless the prosecutor determines that the 9536  
release of any of the other relevant information to unauthorized 9537  
persons would interfere with the effective prosecution of any 9538  
person or would create a substantial risk of harm to any person, 9539  
the prosecutor also shall send the other relevant information. 9540  
Upon admission of a defendant committed under division (D) (1) of 9541  
this section, the place of commitment shall send to the board of 9542  
alcohol, drug addiction, and mental health services or the 9543  
community mental health board serving the county in which the 9544  
charges against the defendant were filed a copy of all reports 9545  
of the defendant's current mental condition and a copy of the 9546  
other relevant information provided by the prosecutor under this 9547  
division, including, if provided, a transcript of the hearing 9548  
held pursuant to division (A) (2) of this section, the relevant 9549  
police reports, and the prior arrest and conviction records that 9550  
pertain to the defendant and that the prosecutor possesses. 9551

(3) If a court makes a commitment under division (D) (1) of 9552  
this section, all further proceedings shall be in accordance 9553  
with sections 2945.401 and 2945.402 of the Revised Code. 9554

**Sec. 2945.40.** (A) If a person is found not guilty by 9555  
reason of insanity, the verdict shall state that finding, and 9556  
the trial court shall conduct a full hearing to determine 9557  
whether the person is a mentally ill person subject to court 9558

order or a ~~mentally retarded~~ person with an intellectual 9559  
disability subject to institutionalization by court order. Prior 9560  
to the hearing, if the trial judge believes that there is 9561  
probable cause that the person found not guilty by reason of 9562  
insanity is a mentally ill person subject to court order or 9563  
~~mentally retarded~~ a person with an intellectual disability 9564  
subject to institutionalization by court order, the trial judge 9565  
may issue a temporary order of detention for that person to 9566  
remain in effect for ten court days or until the hearing, 9567  
whichever occurs first. 9568

Any person detained pursuant to a temporary order of 9569  
detention issued under this division shall be held in a suitable 9570  
facility, taking into consideration the place and type of 9571  
confinement prior to and during trial. 9572

(B) The court shall hold the hearing under division (A) of 9573  
this section to determine whether the person found not guilty by 9574  
reason of insanity is a mentally ill person subject to court 9575  
order or a ~~mentally retarded~~ person with an intellectual 9576  
disability subject to institutionalization by court order within 9577  
ten court days after the finding of not guilty by reason of 9578  
insanity. Failure to conduct the hearing within the ten-day 9579  
period shall cause the immediate discharge of the respondent, 9580  
unless the judge grants a continuance for not longer than ten 9581  
court days for good cause shown or for any period of time upon 9582  
motion of the respondent. 9583

(C) If a person is found not guilty by reason of insanity, 9584  
the person has the right to attend all hearings conducted 9585  
pursuant to sections 2945.37 to 2945.402 of the Revised Code. At 9586  
any hearing conducted pursuant to one of those sections, the 9587  
court shall inform the person that the person has all of the 9588

following rights: 9589

(1) The right to be represented by counsel and to have 9590  
that counsel provided at public expense if the person is 9591  
indigent, with the counsel to be appointed by the court under 9592  
Chapter 120. of the Revised Code or under the authority 9593  
recognized in division (C) of section 120.06, division (E) of 9594  
section 120.16, division (E) of section 120.26, or section 9595  
2941.51 of the Revised Code; 9596

(2) The right to have independent expert evaluation and to 9597  
have that independent expert evaluation provided at public 9598  
expense if the person is indigent; 9599

(3) The right to subpoena witnesses and documents, to 9600  
present evidence on the person's behalf, and to cross-examine 9601  
witnesses against the person; 9602

(4) The right to testify in the person's own behalf and to 9603  
not be compelled to testify; 9604

(5) The right to have copies of any relevant medical or 9605  
mental health document in the custody of the state or of any 9606  
place of commitment other than a document for which the court 9607  
finds that the release to the person of information contained in 9608  
the document would create a substantial risk of harm to any 9609  
person. 9610

(D) The hearing under division (A) of this section shall 9611  
be open to the public, and the court shall conduct the hearing 9612  
in accordance with the Rules of Civil Procedure. The court shall 9613  
make and maintain a full transcript and record of the hearing 9614  
proceedings. The court may consider all relevant evidence, 9615  
including, but not limited to, any relevant psychiatric, 9616  
psychological, or medical testimony or reports, the acts 9617

constituting the offense in relation to which the person was 9618  
found not guilty by reason of insanity, and any history of the 9619  
person that is relevant to the person's ability to conform to 9620  
the law. 9621

(E) Upon completion of the hearing under division (A) of 9622  
this section, if the court finds there is not clear and 9623  
convincing evidence that the person is a mentally ill person 9624  
subject to court order or a ~~mentally retarded~~ person with an 9625  
intellectual disability subject to institutionalization by court 9626  
order, the court shall discharge the person, unless a detainer 9627  
has been placed upon the person by the department of 9628  
rehabilitation and correction, in which case the person shall be 9629  
returned to that department. 9630

(F) If, at the hearing under division (A) of this section, 9631  
the court finds by clear and convincing evidence that the person 9632  
is a mentally ill person subject to court order, the court shall 9633  
commit the person either to the department of mental health and 9634  
addiction services for treatment in a hospital, facility, or 9635  
agency as determined clinically appropriate by the department of 9636  
mental health and addiction services or to another medical or 9637  
psychiatric facility, as appropriate. Prior to placing the 9638  
defendant, the department of mental health and addiction 9639  
services shall obtain court approval for that placement. If, at 9640  
the hearing under division (A) of this section, the court 9641  
determines by clear and convincing evidence that the person 9642  
requires treatment for ~~mental retardation~~ an intellectual 9643  
disability, it shall commit the person to a facility operated by 9644  
the department of developmental disabilities or another 9645  
facility, as appropriate. Further proceedings shall be in 9646  
accordance with sections 2945.401 and 2945.402 of the Revised 9647  
Code. In determining the place of commitment, the court shall 9648

consider the extent to which the person is a danger to the 9649  
person and to others, the need for security, and the type of 9650  
crime involved and shall order the least restrictive alternative 9651  
available that is consistent with public safety and the welfare 9652  
of the person. In weighing these factors, the court shall give 9653  
preference to protecting public safety. 9654

(G) If a court makes a commitment of a person under 9655  
division (F) of this section, the prosecutor shall send to the 9656  
hospital, facility, or agency where the person is placed by the 9657  
department of mental health and addiction services or to the 9658  
defendant's place of commitment all reports of the person's 9659  
current mental condition, and, except as otherwise provided in 9660  
this division, any other relevant information, including, but 9661  
not limited to, a transcript of the hearing held pursuant to 9662  
division (A) of this section, copies of relevant police reports, 9663  
and copies of any prior arrest and conviction records that 9664  
pertain to the person and that the prosecutor possesses. The 9665  
prosecutor shall send the reports of the person's current mental 9666  
condition in every case of commitment, and, unless the 9667  
prosecutor determines that the release of any of the other 9668  
relevant information to unauthorized persons would interfere 9669  
with the effective prosecution of any person or would create a 9670  
substantial risk of harm to any person, the prosecutor also 9671  
shall send the other relevant information. Upon admission of a 9672  
person committed under division (F) of this section, the place 9673  
of commitment shall send to the board of alcohol, drug 9674  
addiction, and mental health services or the community mental 9675  
health board serving the county in which the charges against the 9676  
person were filed a copy of all reports of the person's current 9677  
mental condition and a copy of the other relevant information 9678  
provided by the prosecutor under this division, including, if 9679

provided, a transcript of the hearing held pursuant to division 9680  
(A) of this section, the relevant police reports, and the prior 9681  
arrest and conviction records that pertain to the person and 9682  
that the prosecutor possesses. 9683

(H) A person who is committed pursuant to this section 9684  
shall not voluntarily admit the person or be voluntarily 9685  
admitted to a hospital or institution pursuant to section 9686  
5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 9687

**Sec. 2945.401.** (A) A defendant found incompetent to stand 9688  
trial and committed pursuant to section 2945.39 of the Revised 9689  
Code or a person found not guilty by reason of insanity and 9690  
committed pursuant to section 2945.40 of the Revised Code shall 9691  
remain subject to the jurisdiction of the trial court pursuant 9692  
to that commitment, and to the provisions of this section, until 9693  
the final termination of the commitment as described in division 9694  
(J)(1) of this section. If the jurisdiction is terminated under 9695  
this division because of the final termination of the commitment 9696  
resulting from the expiration of the maximum prison term or term 9697  
of imprisonment described in division (J)(1)(b) of this section, 9698  
the court or prosecutor may file an affidavit for the civil 9699  
commitment of the defendant or person pursuant to Chapter 5122. 9700  
or 5123. of the Revised Code. 9701

(B) A hearing conducted under any provision of sections 9702  
2945.37 to 2945.402 of the Revised Code shall not be conducted 9703  
in accordance with Chapters 5122. and 5123. of the Revised Code. 9704  
Any person who is committed pursuant to section 2945.39 or 9705  
2945.40 of the Revised Code shall not voluntarily admit the 9706  
person or be voluntarily admitted to a hospital or institution 9707  
pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the 9708  
Revised Code. All other provisions of Chapters 5122. and 5123. 9709

of the Revised Code regarding hospitalization or 9710  
institutionalization shall apply to the extent they are not in 9711  
conflict with this chapter. A commitment under section 2945.39 9712  
or 2945.40 of the Revised Code shall not be terminated and the 9713  
conditions of the commitment shall not be changed except as 9714  
otherwise provided in division (D) (2) of this section with 9715  
respect to a ~~mentally retarded~~ person with an intellectual 9716  
disability subject to institutionalization by court order or 9717  
except by order of the trial court. 9718

(C) The department of mental health and addiction services 9719  
or the institution, facility, or program to which a defendant or 9720  
person has been committed under section 2945.39 or 2945.40 of 9721  
the Revised Code shall report in writing to the trial court, at 9722  
the times specified in this division, as to whether the 9723  
defendant or person remains a mentally ill person subject to 9724  
court order or a ~~mentally retarded~~ person with an intellectual 9725  
disability subject to institutionalization by court order and, 9726  
in the case of a defendant committed under section 2945.39 of 9727  
the Revised Code, as to whether the defendant remains 9728  
incompetent to stand trial. The department, institution, 9729  
facility, or program shall make the reports after the initial 9730  
six months of treatment and every two years after the initial 9731  
report is made. The trial court shall provide copies of the 9732  
reports to the prosecutor and to the counsel for the defendant 9733  
or person. Within thirty days after its receipt pursuant to this 9734  
division of a report from the department, institution, facility, 9735  
or program, the trial court shall hold a hearing on the 9736  
continued commitment of the defendant or person or on any 9737  
changes in the conditions of the commitment of the defendant or 9738  
person. The defendant or person may request a change in the 9739  
conditions of confinement, and the trial court shall conduct a 9740

hearing on that request if six months or more have elapsed since 9741  
the most recent hearing was conducted under this section. 9742

(D) (1) Except as otherwise provided in division (D) (2) of 9743  
this section, when a defendant or person has been committed 9744  
under section 2945.39 or 2945.40 of the Revised Code, at any 9745  
time after evaluating the risks to public safety and the welfare 9746  
of the defendant or person, the designee of the department of 9747  
mental health and addiction services or the managing officer of 9748  
the institution or director of the facility or program to which 9749  
the defendant or person is committed may recommend a termination 9750  
of the defendant's or person's commitment or a change in the 9751  
conditions of the defendant's or person's commitment. 9752

Except as otherwise provided in division (D) (2) of this 9753  
section, if the designee of the department of mental health and 9754  
addiction services recommends on-grounds unsupervised movement, 9755  
off-grounds supervised movement, or nonsecured status for the 9756  
defendant or person or termination of the defendant's or 9757  
person's commitment, the following provisions apply: 9758

(a) If the department's designee recommends on-grounds 9759  
unsupervised movement or off-grounds supervised movement, the 9760  
department's designee shall file with the trial court an 9761  
application for approval of the movement and shall send a copy 9762  
of the application to the prosecutor. Within fifteen days after 9763  
receiving the application, the prosecutor may request a hearing 9764  
on the application and, if a hearing is requested, shall so 9765  
inform the department's designee. If the prosecutor does not 9766  
request a hearing within the fifteen-day period, the trial court 9767  
shall approve the application by entering its order approving 9768  
the requested movement or, within five days after the expiration 9769  
of the fifteen-day period, shall set a date for a hearing on the 9770

application. If the prosecutor requests a hearing on the 9771  
application within the fifteen-day period, the trial court shall 9772  
hold a hearing on the application within thirty days after the 9773  
hearing is requested. If the trial court, within five days after 9774  
the expiration of the fifteen-day period, sets a date for a 9775  
hearing on the application, the trial court shall hold the 9776  
hearing within thirty days after setting the hearing date. At 9777  
least fifteen days before any hearing is held under this 9778  
division, the trial court shall give the prosecutor written 9779  
notice of the date, time, and place of the hearing. At the 9780  
conclusion of each hearing conducted under this division, the 9781  
trial court either shall approve or disapprove the application 9782  
and shall enter its order accordingly. 9783

(b) If the department's designee recommends termination of 9784  
the defendant's or person's commitment at any time or if the 9785  
department's designee recommends the first of any nonsecured 9786  
status for the defendant or person, the department's designee 9787  
shall send written notice of this recommendation to the trial 9788  
court and to the local forensic center. The local forensic 9789  
center shall evaluate the committed defendant or person and, 9790  
within thirty days after its receipt of the written notice, 9791  
shall submit to the trial court and the department's designee a 9792  
written report of the evaluation. The trial court shall provide 9793  
a copy of the department's designee's written notice and of the 9794  
local forensic center's written report to the prosecutor and to 9795  
the counsel for the defendant or person. Upon the local forensic 9796  
center's submission of the report to the trial court and the 9797  
department's designee, all of the following apply: 9798

(i) If the forensic center disagrees with the 9799  
recommendation of the department's designee, it shall inform the 9800  
department's designee and the trial court of its decision and 9801

the reasons for the decision. The department's designee, after 9802  
consideration of the forensic center's decision, shall either 9803  
withdraw, proceed with, or modify and proceed with the 9804  
recommendation. If the department's designee proceeds with, or 9805  
modifies and proceeds with, the recommendation, the department's 9806  
designee shall proceed in accordance with division (D) (1) (b) 9807  
(iii) of this section. 9808

(ii) If the forensic center agrees with the recommendation 9809  
of the department's designee, it shall inform the department's 9810  
designee and the trial court of its decision and the reasons for 9811  
the decision, and the department's designee shall proceed in 9812  
accordance with division (D) (1) (b) (iii) of this section. 9813

(iii) If the forensic center disagrees with the 9814  
recommendation of the department's designee and the department's 9815  
designee proceeds with, or modifies and proceeds with, the 9816  
recommendation or if the forensic center agrees with the 9817  
recommendation of the department's designee, the department's 9818  
designee shall work with community mental health services 9819  
providers, programs, facilities, or boards of alcohol, drug 9820  
addiction, and mental health services or community mental health 9821  
boards to develop a plan to implement the recommendation. If the 9822  
defendant or person is on medication, the plan shall include, 9823  
but shall not be limited to, a system to monitor the defendant's 9824  
or person's compliance with the prescribed medication treatment 9825  
plan. The system shall include a schedule that clearly states 9826  
when the defendant or person shall report for a medication 9827  
compliance check. The medication compliance checks shall be 9828  
based upon the effective duration of the prescribed medication, 9829  
taking into account the route by which it is taken, and shall be 9830  
scheduled at intervals sufficiently close together to detect a 9831  
potential increase in mental illness symptoms that the 9832

medication is intended to prevent. 9833

The department's designee, after consultation with the 9834  
board of alcohol, drug addiction, and mental health services or 9835  
the community mental health board serving the area, shall send 9836  
the recommendation and plan developed under division (D) (1) (b) 9837  
(iii) of this section, in writing, to the trial court, the 9838  
prosecutor, and the counsel for the committed defendant or 9839  
person. The trial court shall conduct a hearing on the 9840  
recommendation and plan developed under division (D) (1) (b) (iii) 9841  
of this section. Divisions (D) (1) (c) and (d) and (E) to (J) of 9842  
this section apply regarding the hearing. 9843

(c) If the department's designee's recommendation is for 9844  
nonsecured status or termination of commitment, the prosecutor 9845  
may obtain an independent expert evaluation of the defendant's 9846  
or person's mental condition, and the trial court may continue 9847  
the hearing on the recommendation for a period of not more than 9848  
thirty days to permit time for the evaluation. 9849

The prosecutor may introduce the evaluation report or 9850  
present other evidence at the hearing in accordance with the 9851  
Rules of Evidence. 9852

(d) The trial court shall schedule the hearing on a 9853  
department's designee's recommendation for nonsecured status or 9854  
termination of commitment and shall give reasonable notice to 9855  
the prosecutor and the counsel for the defendant or person. 9856  
Unless continued for independent evaluation at the prosecutor's 9857  
request or for other good cause, the hearing shall be held 9858  
within thirty days after the trial court's receipt of the 9859  
recommendation and plan. 9860

(2) (a) Division (D) (1) of this section does not apply to 9861

on-grounds unsupervised movement of a defendant or person who 9862  
has been committed under section 2945.39 or 2945.40 of the 9863  
Revised Code, who is a ~~mentally retarded~~ person with an 9864  
intellectual disability subject to institutionalization by court 9865  
order, and who is being provided residential habilitation, care, 9866  
and treatment in a facility operated by the department of 9867  
developmental disabilities. 9868

(b) If, pursuant to section 2945.39 of the Revised Code, 9869  
the trial court commits a defendant who is found incompetent to 9870  
stand trial and who is a ~~mentally retarded~~ person with an 9871  
intellectual disability subject to institutionalization by court 9872  
order, if the defendant is being provided residential 9873  
habilitation, care, and treatment in a facility operated by the 9874  
department of developmental disabilities, if an individual who 9875  
is conducting a survey for the department of health to determine 9876  
the facility's compliance with the certification requirements of 9877  
the medicaid program cites the defendant's receipt of the 9878  
residential habilitation, care, and treatment in the facility as 9879  
being inappropriate under the certification requirements, if the 9880  
defendant's receipt of the residential habilitation, care, and 9881  
treatment in the facility potentially jeopardizes the facility's 9882  
continued receipt of federal medicaid moneys, and if as a result 9883  
of the citation the chief clinical officer of the facility 9884  
determines that the conditions of the defendant's commitment 9885  
should be changed, the department of developmental disabilities 9886  
may cause the defendant to be removed from the particular 9887  
facility and, after evaluating the risks to public safety and 9888  
the welfare of the defendant and after determining whether 9889  
another type of placement is consistent with the certification 9890  
requirements, may place the defendant in another facility that 9891  
the department selects as an appropriate facility for the 9892

defendant's continued receipt of residential habilitation, care, 9893  
and treatment and that is a no less secure setting than the 9894  
facility in which the defendant had been placed at the time of 9895  
the citation. Within three days after the defendant's removal 9896  
and alternative placement under the circumstances described in 9897  
division (D)(2)(b) of this section, the department of 9898  
developmental disabilities shall notify the trial court and the 9899  
prosecutor in writing of the removal and alternative placement. 9900

The trial court shall set a date for a hearing on the 9901  
removal and alternative placement, and the hearing shall be held 9902  
within twenty-one days after the trial court's receipt of the 9903  
notice from the department of developmental disabilities. At 9904  
least ten days before the hearing is held, the trial court shall 9905  
give the prosecutor, the department of developmental 9906  
disabilities, and the counsel for the defendant written notice 9907  
of the date, time, and place of the hearing. At the hearing, the 9908  
trial court shall consider the citation issued by the individual 9909  
who conducted the survey for the department of health to be 9910  
prima-facie evidence of the fact that the defendant's commitment 9911  
to the particular facility was inappropriate under the 9912  
certification requirements of the medicaid program and 9913  
potentially jeopardizes the particular facility's continued 9914  
receipt of federal medicaid moneys. At the conclusion of the 9915  
hearing, the trial court may approve or disapprove the 9916  
defendant's removal and alternative placement. If the trial 9917  
court approves the defendant's removal and alternative 9918  
placement, the department of developmental disabilities may 9919  
continue the defendant's alternative placement. If the trial 9920  
court disapproves the defendant's removal and alternative 9921  
placement, it shall enter an order modifying the defendant's 9922  
removal and alternative placement, but that order shall not 9923

require the department of developmental disabilities to replace 9924  
the defendant for purposes of continued residential 9925  
habilitation, care, and treatment in the facility associated 9926  
with the citation issued by the individual who conducted the 9927  
survey for the department of health. 9928

(E) In making a determination under this section regarding 9929  
nonsecured status or termination of commitment, the trial court 9930  
shall consider all relevant factors, including, but not limited 9931  
to, all of the following: 9932

(1) Whether, in the trial court's view, the defendant or 9933  
person currently represents a substantial risk of physical harm 9934  
to the defendant or person or others; 9935

(2) Psychiatric and medical testimony as to the current 9936  
mental and physical condition of the defendant or person; 9937

(3) Whether the defendant or person has insight into the 9938  
defendant's or person's condition so that the defendant or 9939  
person will continue treatment as prescribed or seek 9940  
professional assistance as needed; 9941

(4) The grounds upon which the state relies for the 9942  
proposed commitment; 9943

(5) Any past history that is relevant to establish the 9944  
defendant's or person's degree of conformity to the laws, rules, 9945  
regulations, and values of society; 9946

(6) If there is evidence that the defendant's or person's 9947  
mental illness is in a state of remission, the medically 9948  
suggested cause and degree of the remission and the probability 9949  
that the defendant or person will continue treatment to maintain 9950  
the remissive state of the defendant's or person's illness 9951  
should the defendant's or person's commitment conditions be 9952

altered. 9953

(F) At any hearing held pursuant to division (C) or (D) (1) 9954  
or (2) of this section, the defendant or the person shall have 9955  
all the rights of a defendant or person at a commitment hearing 9956  
as described in section 2945.40 of the Revised Code. 9957

(G) In a hearing held pursuant to division (C) or (D) (1) 9958  
of this section, the prosecutor has the burden of proof as 9959  
follows: 9960

(1) For a recommendation of termination of commitment, to 9961  
show by clear and convincing evidence that the defendant or 9962  
person remains a mentally ill person subject to court order or a 9963  
~~mentally retarded person~~ with an intellectual disability subject 9964  
to institutionalization by court order; 9965

(2) For a recommendation for a change in the conditions of 9966  
the commitment to a less restrictive status, to show by clear 9967  
and convincing evidence that the proposed change represents a 9968  
threat to public safety or a threat to the safety of any person. 9969

(H) In a hearing held pursuant to division (C) or (D) (1) 9970  
or (2) of this section, the prosecutor shall represent the state 9971  
or the public interest. 9972

(I) At the conclusion of a hearing conducted under 9973  
division (D) (1) of this section regarding a recommendation from 9974  
the designee of the department of mental health and addiction 9975  
services, managing officer of the institution, or director of a 9976  
facility or program, the trial court may approve, disapprove, or 9977  
modify the recommendation and shall enter an order accordingly. 9978

(J) (1) A defendant or person who has been committed 9979  
pursuant to section 2945.39 or 2945.40 of the Revised Code 9980  
continues to be under the jurisdiction of the trial court until 9981

the final termination of the commitment. For purposes of 9982  
division (J) of this section, the final termination of a 9983  
commitment occurs upon the earlier of one of the following: 9984

(a) The defendant or person no longer is a mentally ill 9985  
person subject to court order or a ~~mentally retarded~~ person with 9986  
an intellectual disability subject to institutionalization by 9987  
court order, as determined by the trial court; 9988

(b) The expiration of the maximum prison term or term of 9989  
imprisonment that the defendant or person could have received if 9990  
the defendant or person had been convicted of the most serious 9991  
offense with which the defendant or person is charged or in 9992  
relation to which the defendant or person was found not guilty 9993  
by reason of insanity; 9994

(c) The trial court enters an order terminating the 9995  
commitment under the circumstances described in division (J) (2) 9996  
(a) (ii) of this section. 9997

(2) (a) If a defendant is found incompetent to stand trial 9998  
and committed pursuant to section 2945.39 of the Revised Code, 9999  
if neither of the circumstances described in divisions (J) (1) (a) 10000  
and (b) of this section applies to that defendant, and if a 10001  
report filed with the trial court pursuant to division (C) of 10002  
this section indicates that the defendant presently is competent 10003  
to stand trial or if, at any other time during the period of the 10004  
defendant's commitment, the prosecutor, the counsel for the 10005  
defendant, or the designee of the department of mental health 10006  
and addiction services or the managing officer of the 10007  
institution or director of the facility or program to which the 10008  
defendant is committed files an application with the trial court 10009  
alleging that the defendant presently is competent to stand 10010  
trial and requesting a hearing on the competency issue or the 10011

trial court otherwise has reasonable cause to believe that the 10012  
defendant presently is competent to stand trial and determines 10013  
on its own motion to hold a hearing on the competency issue, the 10014  
trial court shall schedule a hearing on the competency of the 10015  
defendant to stand trial, shall give the prosecutor, the counsel 10016  
for the defendant, and the department's designee or the managing 10017  
officer of the institution or the director of the facility to 10018  
which the defendant is committed notice of the date, time, and 10019  
place of the hearing at least fifteen days before the hearing, 10020  
and shall conduct the hearing within thirty days of the filing 10021  
of the application or of its own motion. If, at the conclusion 10022  
of the hearing, the trial court determines that the defendant 10023  
presently is capable of understanding the nature and objective 10024  
of the proceedings against the defendant and of assisting in the 10025  
defendant's defense, the trial court shall order that the 10026  
defendant is competent to stand trial and shall be proceeded 10027  
against as provided by law with respect to the applicable 10028  
offenses described in division (C)(1) of section 2945.38 of the 10029  
Revised Code and shall enter whichever of the following 10030  
additional orders is appropriate: 10031

(i) If the trial court determines that the defendant 10032  
remains a mentally ill person subject to court order or a 10033  
~~mentally retarded~~ person with an intellectual disability subject 10034  
to institutionalization by court order, the trial court shall 10035  
order that the defendant's commitment to the department of 10036  
mental health and addiction services or to an institution, 10037  
facility, or program for the treatment of ~~mental retardation~~ 10038  
developmental disabilities be continued during the pendency of 10039  
the trial on the applicable offenses described in division (C) 10040  
(1) of section 2945.38 of the Revised Code. 10041

(ii) If the trial court determines that the defendant no 10042

longer is a mentally ill person subject to court order or a 10043  
~~mentally retarded person~~ with an intellectual disability subject 10044  
to institutionalization by court order, the trial court shall 10045  
order that the defendant's commitment to the department of 10046  
mental health and addiction services or to an institution, 10047  
facility, or program for the treatment of ~~mental retardation~~ 10048  
developmental disabilities shall not be continued during the 10049  
pendency of the trial on the applicable offenses described in 10050  
division (C) (1) of section 2945.38 of the Revised Code. This 10051  
order shall be a final termination of the commitment for 10052  
purposes of division (J) (1) (c) of this section. 10053

(b) If, at the conclusion of the hearing described in 10054  
division (J) (2) (a) of this section, the trial court determines 10055  
that the defendant remains incapable of understanding the nature 10056  
and objective of the proceedings against the defendant or of 10057  
assisting in the defendant's defense, the trial court shall 10058  
order that the defendant continues to be incompetent to stand 10059  
trial, that the defendant's commitment to the department of 10060  
mental health and addiction services or to an institution, 10061  
facility, or program for the treatment of ~~mental retardation~~ 10062  
developmental disabilities shall be continued, and that the 10063  
defendant remains subject to the jurisdiction of the trial court 10064  
pursuant to that commitment, and to the provisions of this 10065  
section, until the final termination of the commitment as 10066  
described in division (J) (1) of this section. 10067

**Sec. 2945.482.** (A) As used in this section: 10068

(1) "~~Mentally retarded person~~" and "~~developmentally~~ 10069  
~~disabled person~~Developmental disability" ~~have~~ has the same 10070  
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 10071

(2) "~~Mentally retarded or developmentally disabled~~" 10072

~~victim~~Victim with a developmental disability" includes a 10073  
~~mentally retarded or developmentally disabled person with a~~ 10074  
developmental disability who was a victim of a violation 10075  
identified in division (B) (1) of this section or an offense of 10076  
violence or against whom was directed any conduct that 10077  
constitutes, or that is an element of, a violation identified in 10078  
division (B) (1) of this section or an offense of violence. 10079

(B) (1) In any proceeding in the prosecution of a charge of 10080  
a violation of section 2903.16, 2903.34, 2903.341, 2905.03, 10081  
2907.02, 2907.03, 2907.05, 2907.06, 2907.09, 2907.21, 2907.23, 10082  
2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised 10083  
Code or an offense of violence and in which an alleged victim of 10084  
the violation or offense was a ~~mentally retarded or~~ 10085  
~~developmentally disabled person with a developmental disability,~~ 10086  
the judge of the court in which the prosecution is being 10087  
conducted, upon motion of an attorney for the prosecution, shall 10088  
order that the testimony of the ~~mentally retarded or~~ 10089  
~~developmentally disabled victim with a developmental disability~~ 10090  
be taken by deposition. The prosecution also may request that 10091  
the deposition be videotaped in accordance with division (B) (2) 10092  
of this section. The judge shall notify the ~~mentally retarded or~~ 10093  
~~developmentally disabled victim with a developmental disability~~ 10094  
whose deposition is to be taken, the prosecution, and the 10095  
defense of the date, time, and place for taking the deposition. 10096  
The notice shall identify the ~~mentally retarded or~~ 10097  
~~developmentally disabled victim with a developmental disability~~ 10098  
who is to be examined and shall indicate whether a request that 10099  
the deposition be videotaped has been made. The defendant shall 10100  
have the right to attend the deposition and the right to be 10101  
represented by counsel. Depositions shall be taken in the manner 10102  
provided in civil cases, except that the judge shall preside at 10103

the taking of the deposition and shall rule at the time on any 10104  
objections of the prosecution or the attorney for the defense. 10105  
The prosecution and the attorney for the defense shall have the 10106  
right, as at trial, to full examination and cross-examination of 10107  
the ~~mentally retarded or developmentally disabled~~ victim with a 10108  
developmental disability whose deposition is to be taken. If a 10109  
deposition taken under this division is intended to be offered 10110  
as evidence in the proceeding, it shall be filed in the court in 10111  
which the action is pending and is admissible in the manner 10112  
described in division (C) of this section. 10113

If a deposition of a ~~mentally retarded or developmentally~~ 10114  
~~disabled~~ victim with a developmental disability taken under this 10115  
division is admitted as evidence at the proceeding under 10116  
division (C) of this section, the ~~mentally retarded or~~ 10117  
~~developmentally disabled~~ victim with a developmental disability 10118  
shall not be required to testify in person at the proceeding. 10119

At any time before the conclusion of the proceeding, the 10120  
attorney for the defense may file a motion with the judge 10121  
requesting that another deposition of the ~~mentally retarded or~~ 10122  
~~developmentally disabled~~ victim with a developmental disability 10123  
be taken because new evidence material to the defense has been 10124  
discovered that the attorney for the defense could not with 10125  
reasonable diligence have discovered prior to the taking of the 10126  
admitted deposition. If the court orders the taking of another 10127  
deposition under this provision, the deposition shall be taken 10128  
in accordance with this division. If the admitted deposition was 10129  
a videotaped deposition taken in accordance with division (B) (2) 10130  
of this section, the new deposition shall be videotaped in 10131  
accordance with that division. In other cases, the new 10132  
deposition may be videotaped in accordance with that division. 10133

(2) If the prosecution requests that a deposition to be taken under division (B) (2) of this section be videotaped, the judge shall order that the deposition be videotaped in accordance with this division. If a judge issues an order that the deposition be videotaped, the judge shall exclude from the room in which the deposition is to be taken every person except the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the testimony, the judge, one or more interpreters if needed, the attorneys for the prosecution and the defense, any person needed to operate the equipment to be used, one person chosen by the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition, and any person whose presence the judge determines would contribute to the welfare and well-being of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition. The person chosen by the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability shall not be a witness in the proceeding and, both before and during the deposition, shall not discuss the testimony of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability with any other witness in the proceeding. To the extent feasible, any person operating the recording equipment shall be restricted to a room adjacent to the room in which the deposition is being taken, or to a location in the room in which the deposition is being taken that is behind a screen or mirror, so that the person operating the recording equipment can see and hear, but cannot be seen or heard by, the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition during the deposition.

The defendant shall be permitted to observe and hear the

testimony of the ~~mentally retarded or developmentally disabled~~ 10165  
victim with a developmental disability giving the deposition on 10166  
a monitor, shall be provided with an electronic means of 10167  
immediate communication with the defendant's attorney during the 10168  
testimony, and shall be restricted to a location from which the 10169  
defendant cannot be seen or heard by the ~~mentally retarded or~~ 10170  
~~developmentally disabled~~ victim with a developmental disability 10171  
giving the deposition, except on a monitor provided for that 10172  
purpose. The ~~mentally retarded or developmentally disabled~~ 10173  
victim with a developmental disability giving the deposition 10174  
shall be provided with a monitor on which the victim can 10175  
observe, during the testimony, the defendant. The judge, at the 10176  
judge's discretion, may preside at the deposition by electronic 10177  
means from outside the room in which the deposition is to be 10178  
taken. If the judge presides by electronic means, the judge 10179  
shall be provided with monitors on which the judge can see each 10180  
person in the room in which the deposition is to be taken and 10181  
with an electronic means of communication with each person, and 10182  
each person in the room shall be provided with a monitor on 10183  
which that person can see the judge and with an electronic means 10184  
of communication with the judge. A deposition that is videotaped 10185  
under this division shall be taken and filed in the manner 10186  
described in division (B) (1) of this section and is admissible 10187  
in the manner described in this division and division (C) of 10188  
this section, and, if a deposition that is videotaped under this 10189  
division is admitted as evidence at the proceeding, the ~~mentally~~ 10190  
~~retarded or developmentally disabled~~ victim with a developmental 10191  
disability shall not be required to testify in person at the 10192  
proceeding. No deposition videotaped under this division shall 10193  
be admitted as evidence at any proceeding unless division (C) of 10194  
this section is satisfied relative to the deposition and all of 10195  
the following apply relative to the recording: 10196

(a) The recording is both aural and visual and is recorded 10197  
on film or videotape, or by other electronic means. 10198

(b) The recording is authenticated under the Rules of 10199  
Evidence and the Rules of Criminal Procedure as a fair and 10200  
accurate representation of what occurred, and the recording is 10201  
not altered other than at the direction and under the 10202  
supervision of the judge in the proceeding. 10203

(c) Each voice on the recording that is material to the 10204  
testimony on the recording or the making of the recording, as 10205  
determined by the judge, is identified. 10206

(d) Both the prosecution and the defendant are afforded an 10207  
opportunity to view the recording before it is shown in the 10208  
proceeding. 10209

(C) (1) At any proceeding in a prosecution in relation to 10210  
which a deposition was taken under division (B) of this section, 10211  
the deposition or a part of it is admissible in evidence upon 10212  
motion of the prosecution if the testimony in the deposition or 10213  
the part to be admitted is not excluded by the hearsay rule and 10214  
if the deposition or the part to be admitted otherwise is 10215  
admissible under the Rules of Evidence. For purposes of this 10216  
division, testimony is not excluded by the hearsay rule if the 10217  
testimony is not hearsay under Evidence Rule 801; the testimony 10218  
is within an exception to the hearsay rule set forth in Evidence 10219  
Rule 803; the ~~mentally retarded or developmentally disabled~~ 10220  
victim with a developmental disability who gave the testimony is 10221  
unavailable as a witness, as defined in Evidence Rule 804, and 10222  
the testimony is admissible under that rule; or both of the 10223  
following apply: 10224

(a) The defendant had an opportunity and similar motive at 10225

the time of the taking of the deposition to develop the 10226  
testimony by direct, cross, or redirect examination. 10227

(b) The judge determines that there is reasonable cause to 10228  
believe that, if the ~~mentally retarded or developmentally~~ 10229  
~~disabled~~ victim with a developmental disability who gave the 10230  
testimony in the deposition were to testify in person at the 10231  
proceeding, the ~~mentally retarded or developmentally disabled~~ 10232  
victim with a developmental disability would experience serious 10233  
emotional trauma as a result of the ~~mentally retarded or~~ 10234  
~~developmentally disabled victim's~~ participation of the victim 10235  
with a developmental disability at the proceeding. 10236

(2) Objections to receiving in evidence a deposition or a 10237  
part of it under division (C) of this section shall be made as 10238  
provided in civil actions. 10239

(3) The provisions of divisions (B) and (C) of this 10240  
section are in addition to any other provisions of the Revised 10241  
Code, the Rules of Criminal Procedure, or the Rules of Evidence 10242  
that pertain to the taking or admission of depositions in a 10243  
criminal proceeding and do not limit the admissibility under any 10244  
of those other provisions of any deposition taken under division 10245  
(B) of this section or otherwise taken. 10246

(D) In any proceeding in the prosecution of any charge of 10247  
a violation listed in division (B)(1) of this section or an 10248  
offense of violence and in which an alleged victim of the 10249  
violation or offense was a ~~mentally retarded or developmentally~~ 10250  
~~disabled~~ person with a developmental disability, the prosecution 10251  
may file a motion with the judge requesting the judge to order 10252  
the testimony of the ~~mentally retarded or developmentally~~ 10253  
~~disabled~~ victim with a developmental disability to be taken in a 10254  
room other than the room in which the proceeding is being 10255

conducted and be televised, by closed circuit equipment, into 10256  
the room in which the proceeding is being conducted to be viewed 10257  
by the jury, if applicable, the defendant, and any other persons 10258  
who are not permitted in the room in which the testimony is to 10259  
be taken but who would have been present during the testimony of 10260  
the ~~mentally retarded or developmentally disabled~~ victim with a 10261  
developmental disability had it been given in the room in which 10262  
the proceeding is being conducted. Except for good cause shown, 10263  
the prosecution shall file a motion under this division at least 10264  
seven days before the date of the proceeding. The judge may 10265  
issue the order upon the motion of the prosecution filed under 10266  
this section, if the judge determines that the ~~mentally retarded-~~ 10267  
~~or developmentally disabled~~ victim with a developmental 10268  
disability is unavailable to testify in the room in which the 10269  
proceeding is being conducted in the physical presence of the 10270  
defendant for one or more of the reasons set forth in division 10271  
(F) of this section. If a judge issues an order of that nature, 10272  
the judge shall exclude from the room in which the testimony is 10273  
to be taken every person except a person described in division 10274  
(B) (2) of this section. The judge, at the judge's discretion, 10275  
may preside during the giving of the testimony by electronic 10276  
means from outside the room in which it is being given, subject 10277  
to the limitations set forth in division (B) (2) of this section. 10278  
To the extent feasible, any person operating the televising 10279  
equipment shall be hidden from the sight and hearing of the 10280  
~~mentally retarded or developmentally disabled~~ victim with a 10281  
developmental disability giving the testimony, in a manner 10282  
similar to that described in division (B) (2) of this section. 10283  
The defendant shall be permitted to observe and hear the 10284  
testimony of the ~~mentally retarded or developmentally disabled-~~ 10285  
victim with a developmental disability giving the testimony on a 10286  
monitor, shall be provided with an electronic means of immediate 10287

communication with the defendant's attorney during the 10288  
testimony, and shall be restricted to a location from which the 10289  
defendant cannot be seen or heard by the ~~mentally retarded or~~ 10290  
~~developmentally disabled~~ victim with a developmental disability 10291  
giving the testimony, except on a monitor provided for that 10292  
purpose. The ~~mentally retarded or developmentally disabled~~ 10293  
victim with a developmental disability giving the testimony 10294  
shall be provided with a monitor on which the ~~mentally retarded-~~ 10295  
~~or developmentally disabled~~ victim with a developmental 10296  
disability can observe, during the testimony, the defendant. 10297

(E) In any proceeding in the prosecution of any charge of 10298  
a violation listed in division (B)(1) of this section or an 10299  
offense of violence and in which an alleged victim of the 10300  
violation or offense was a ~~mentally retarded or developmentally-~~ 10301  
~~disabled~~ victim with a developmental disability, the prosecution 10302  
may file a motion with the judge requesting the judge to order 10303  
the testimony of the ~~mentally retarded or developmentally-~~ 10304  
~~disabled~~ victim with a developmental disability to be taken 10305  
outside of the room in which the proceeding is being conducted 10306  
and be recorded for showing in the room in which the proceeding 10307  
is being conducted before the judge, the jury, if applicable, 10308  
the defendant, and any other persons who would have been present 10309  
during the testimony of the ~~mentally retarded or developmentally-~~ 10310  
~~disabled~~ victim with a developmental disability had it been 10311  
given in the room in which the proceeding is being conducted. 10312  
Except for good cause shown, the prosecution shall file a motion 10313  
under this division at least seven days before the date of the 10314  
proceeding. The judge may issue the order upon the motion of the 10315  
prosecution filed under this division, if the judge determines 10316  
that the ~~mentally retarded or developmentally disabled~~ victim 10317  
with a developmental disability is unavailable to testify in the 10318

room in which the proceeding is being conducted in the physical 10319  
presence of the defendant, for one or more of the reasons set 10320  
forth in division (F) of this section. If a judge issues an 10321  
order of that nature, the judge shall exclude from the room in 10322  
which the testimony is to be taken every person except a person 10323  
described in division (B) (2) of this section. To the extent 10324  
feasible, any person operating the recording equipment shall be 10325  
hidden from the sight and hearing of the ~~mentally retarded or~~ 10326  
~~developmentally disabled~~ victim with a developmental disability 10327  
giving the testimony, in a manner similar to that described in 10328  
division (B) (2) of this section. The defendant shall be 10329  
permitted to observe and hear the testimony of the ~~mentally~~ 10330  
~~retarded or developmentally disabled~~ victim with a developmental 10331  
disability who is giving the testimony on a monitor, shall be 10332  
provided with an electronic means of immediate communication 10333  
with the defendant's attorney during the testimony, and shall be 10334  
restricted to a location from which the defendant cannot be seen 10335  
or heard by the ~~mentally retarded or developmentally disabled~~ 10336  
victim with a developmental disability giving the testimony, 10337  
except on a monitor provided for that purpose. The ~~mentally~~ 10338  
~~retarded or developmentally disabled~~ victim with a developmental 10339  
disability giving the testimony shall be provided with a monitor 10340  
on which the victim can observe, during the testimony, the 10341  
defendant. No order for the taking of testimony by recording 10342  
shall be issued under this division unless the provisions set 10343  
forth in divisions (B) (2) (a), (b), (c), and (d) of this section 10344  
apply to the recording of the testimony. 10345

(F) For purposes of divisions (D) and (E) of this section, 10346  
a judge may order the testimony of a ~~mentally retarded or~~ 10347  
~~developmentally disabled~~ victim with a developmental disability 10348  
to be taken outside the room in which the proceeding is being 10349

conducted if the judge determines that the ~~mentally retarded or~~ 10350  
~~developmentally disabled~~ victim with a developmental disability 10351  
is unavailable to testify in the room in the physical presence 10352  
of the defendant due to one or more of the following: 10353

(1) The persistent refusal of the ~~mentally retarded or~~ 10354  
~~developmentally disabled~~ victim with a developmental disability 10355  
to testify despite judicial requests to do so; 10356

(2) The inability of the ~~mentally retarded or~~ 10357  
~~developmentally disabled~~ victim with a developmental disability 10358  
to communicate about the alleged violation or offense because of 10359  
extreme fear, failure of memory, or another similar reason; 10360

(3) The substantial likelihood that the ~~mentally retarded~~ 10361  
~~or developmentally disabled~~ victim with a developmental 10362  
disability will suffer serious emotional trauma from so 10363  
testifying. 10364

(G) (1) If a judge issues an order pursuant to division (D) 10365  
or (E) of this section that requires the testimony of a ~~mentally~~ 10366  
~~retarded or developmentally disabled~~ victim with a developmental 10367  
disability in a criminal proceeding to be taken outside of the 10368  
room in which the proceeding is being conducted, the order shall 10369  
specifically identify the ~~mentally retarded or developmentally~~ 10370  
~~disabled~~ victim with a developmental disability to whose 10371  
testimony it applies, the order applies only during the 10372  
testimony of the specified ~~mentally retarded or developmentally~~ 10373  
~~disabled~~ victim with a developmental disability, and the 10374  
~~mentally retarded or developmentally disabled~~ victim with a 10375  
developmental disability giving the testimony shall not be 10376  
required to testify at the proceeding other than in accordance 10377  
with the order. 10378

(2) A judge who makes any determination regarding the 10379  
admissibility of a deposition under divisions (B) and (C) of 10380  
this section, the videotaping of a deposition under division (B) 10381  
(2) of this section, or the taking of testimony outside of the 10382  
room in which a proceeding is being conducted under division (D) 10383  
or (E) of this section shall enter the determination and 10384  
findings on the record in the proceeding. 10385

**Sec. 2945.491.** (A) As used in this section: 10386

(1) "~~Mentally retarded person~~" and "~~developmentally~~  
~~disabled person~~Developmental disability" ~~have~~ has the same 10387  
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 10388  
10389

(2) "~~Mentally retarded or developmentally disabled~~  
~~victim~~Victim with a developmental disability" includes a 10390  
~~mentally retarded or developmentally disabled person~~ with a 10391  
developmental disability who was a victim of a felony violation 10392  
identified in division (B)(1) of this section or a felony 10393  
offense of violence or against whom was directed any conduct 10394  
that constitutes, or that is an element of, a felony violation 10395  
identified in division (B)(1) of this section or a felony 10396  
offense of violence. 10397  
10398

(B) (1) At a trial on a charge of a felony violation of 10399  
section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 10400  
2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 10401  
2907.323 of the Revised Code or an offense of violence and in 10402  
which an alleged victim of the violation or offense was a 10403  
~~mentally retarded or developmentally disabled person~~ with a 10404  
developmental disability, the court, upon motion of the 10405  
prosecutor in the case, may admit videotaped preliminary hearing 10406  
testimony of the ~~mentally retarded or developmentally disabled~~ 10407  
victim with a developmental disability as evidence at the trial, 10408

in lieu of the ~~mentally retarded or developmentally disabled~~ 10409  
victim with a developmental disability appearing as a witness 10410  
and testifying at trial, if all of the following apply: 10411

(a) The videotape of the testimony was made at the 10412  
preliminary hearing at which probable cause of the violation 10413  
charged was found. 10414

(b) The videotape of the testimony was made in accordance 10415  
with division (C) of section 2937.11 of the Revised Code. 10416

(c) The testimony in the videotape is not excluded by the 10417  
hearsay rule and otherwise is admissible under the Rules of 10418  
Evidence. For purposes of this division, testimony is not 10419  
excluded by the hearsay rule if the testimony is not hearsay 10420  
under Evidence Rule 801, the testimony is within an exception to 10421  
the hearsay rule set forth in Evidence Rule 803, the ~~mentally~~ 10422  
~~retarded or developmentally disabled~~ victim with a developmental 10423  
disability who gave the testimony is unavailable as a witness, 10424  
as defined in Evidence Rule 804, and the testimony is admissible 10425  
under that rule, or both of the following apply: 10426

(i) The accused had an opportunity and similar motive at 10427  
the preliminary hearing to develop the testimony of the ~~mentally~~ 10428  
~~retarded or developmentally disabled~~ victim with a developmental 10429  
disability by direct, cross, or redirect examination. 10430

(ii) The court determines that there is reasonable cause 10431  
to believe that if the ~~mentally retarded or developmentally~~ 10432  
~~disabled~~ victim with a developmental disability who gave the 10433  
testimony at the preliminary hearing were to testify in person 10434  
at the trial, the ~~mentally retarded or developmentally disabled~~ 10435  
victim with a developmental disability would experience serious 10436  
emotional trauma as a result of the victim's participation at 10437

the trial. 10438

(2) If a ~~mentally retarded or developmentally disabled~~ 10439  
victim with a developmental disability of an alleged felony 10440  
violation of section 2903.16, 2903.34, 2903.341, 2907.02, 10441  
2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 10442  
2907.322, or 2907.323 of the Revised Code or an alleged felony 10443  
offense of violence testifies at the preliminary hearing in the 10444  
case, if the testimony of the ~~mentally retarded or~~ 10445  
~~developmentally disabled~~ victim with a developmental disability 10446  
at the preliminary hearing was videotaped pursuant to division 10447  
(C) of section 2937.11 of the Revised Code, and if the defendant 10448  
in the case files a written objection to the use, pursuant to 10449  
division (B)(1) of this section, of the videotaped testimony at 10450  
the trial, the court, immediately after the filing of the 10451  
objection, shall hold a hearing to determine whether the 10452  
videotaped testimony of the ~~mentally retarded or developmentally~~ 10453  
~~disabled~~ victim with a developmental disability should be 10454  
admissible at trial under division (B)(1) of this section and, 10455  
if it is admissible, whether the ~~mentally retarded or~~ 10456  
~~developmentally disabled~~ victim with a developmental disability 10457  
should be required to provide limited additional testimony of 10458  
the type described in this division. At the hearing held 10459  
pursuant to this division, the defendant and the prosecutor in 10460  
the case may present any evidence that is relevant to the issues 10461  
to be determined at the hearing, but the ~~mentally retarded or~~ 10462  
~~developmentally disabled~~ victim with a developmental disability 10463  
shall not be required to testify at the hearing. 10464

After the hearing, the court shall not require the 10465  
~~mentally retarded or developmentally disabled~~ victim with a 10466  
developmental disability to testify at the trial, unless it 10467  
determines that both of the following apply: 10468

(a) That the testimony of the ~~mentally retarded or~~ 10469  
~~developmentally disabled~~ victim with a developmental disability 10470  
at trial is necessary for one or more of the following reasons: 10471

(i) Evidence that was not available at the time of the 10472  
testimony of the ~~mentally retarded or developmentally disabled~~ 10473  
victim with a developmental disability at the preliminary 10474  
hearing has been discovered. 10475

(ii) The circumstances surrounding the case have changed 10476  
sufficiently to necessitate that the ~~mentally retarded or~~ 10477  
~~developmentally disabled~~ victim with a developmental disability 10478  
testify at the trial. 10479

(b) That the testimony of the ~~mentally retarded or~~ 10480  
~~developmentally disabled~~ victim with a developmental disability 10481  
at the trial is necessary to protect the right of the defendant 10482  
to a fair trial. 10483

The court shall enter its finding and the reasons for it 10484  
in the journal. If the court requires the ~~mentally retarded or~~ 10485  
~~developmentally disabled~~ victim with a developmental disability 10486  
to testify at the trial, the testimony of the victim shall be 10487  
limited to the new evidence and changed circumstances, and the 10488  
~~mentally retarded or developmentally disabled~~ victim with a 10489  
developmental disability shall not otherwise be required to 10490  
testify at the trial. The required testimony of the ~~mentally~~ 10491  
~~retarded or developmentally disabled~~ victim with a developmental 10492  
disability may be given in person or, upon motion of the 10493  
prosecution, may be taken by deposition in accordance with 10494  
division (B) of section 2945.482 of the Revised Code provided 10495  
the deposition is admitted as evidence under division (C) of 10496  
that section, may be taken outside of the courtroom and 10497  
televised into the courtroom in accordance with division (D) of 10498

that section, or may be taken outside of the courtroom and 10499  
recorded for showing in the courtroom in accordance with 10500  
division (E) of that section. 10501

(3) If videotaped testimony of a ~~mentally retarded or~~ 10502  
~~developmentally disabled~~ victim with a developmental disability 10503  
is admitted at trial in accordance with division (B) (1) of this 10504  
section, the ~~mentally retarded or developmentally disabled~~ 10505  
victim with a developmental disability shall not be compelled in 10506  
any way to appear as a witness at the trial, except as provided 10507  
in division (B) (2) of this section. 10508

(C) An order issued pursuant to division (B) of this 10509  
section shall specifically identify the ~~mentally retarded or~~ 10510  
~~developmentally disabled~~ victim with a developmental disability 10511  
concerning whose testimony it pertains. The order shall apply 10512  
only during the testimony of the ~~mentally retarded or~~ 10513  
~~developmentally disabled~~ victim with a developmental disability 10514  
it specifically identifies. 10515

**Sec. 2949.29.** (A) The prosecuting attorney, the convict, 10516  
and the convict's counsel shall attend an inquiry commenced as 10517  
provided in section 2949.28 of the Revised Code. The prosecuting 10518  
attorney and the convict or the convict's counsel may produce, 10519  
examine, and cross-examine witnesses, and all findings shall be 10520  
in writing signed by the judge. If it is found that the convict 10521  
is not insane, the sentence shall be executed at the time 10522  
previously appointed, unless that time has passed pending 10523  
completion of the inquiry, in which case the judge conducting 10524  
the inquiry, if authorized by the supreme court, shall appoint a 10525  
time for execution of the sentence to be effective fifteen days 10526  
from the date of the entry of the judge's findings in the 10527  
inquiry. 10528

(B) If it is found that the convict is insane and if 10529  
authorized by the supreme court, the judge shall continue any 10530  
stay of execution of the sentence previously issued, order the 10531  
convict to be confined in the area at which other convicts 10532  
sentenced to death are confined or in a maximum security medical 10533  
or psychiatric facility operated by the department of 10534  
rehabilitation and correction, and order treatment of the 10535  
convict. Thereafter, the court at any time may conduct and, on 10536  
motion of the prosecuting attorney, shall conduct a hearing 10537  
pursuant to division (A) of this section to continue the inquiry 10538  
into the convict's insanity and, as provided in section 2949.28 10539  
of the Revised Code, may appoint one or more psychiatrists or 10540  
psychologists to make a further examination of the convict and 10541  
to submit a report to the court. If the court finds at the 10542  
hearing that the convict is not insane and if the time 10543  
previously appointed for execution of the sentence has not 10544  
passed, the sentence shall be executed at the previously 10545  
appointed time. If the court finds at the hearing that the 10546  
convict is not insane and if the time previously appointed for 10547  
execution of the sentence has passed, the judge who conducts the 10548  
hearing, if authorized by the supreme court, shall appoint a new 10549  
time for execution of the sentence to be effective fifteen days 10550  
from the date of the entry of the judge's findings in the 10551  
hearing. 10552

(C) In all proceedings under this section, the convict is 10553  
presumed not to be insane, and the court shall find that the 10554  
convict is not insane unless the court finds by a preponderance 10555  
of the evidence that the convict is insane. 10556

(D) Proceedings for inquiry into the insanity of any 10557  
convict sentenced to death shall be exclusively pursuant to this 10558  
section, section 2949.28 of the Revised Code, and the Rules of 10559

Evidence. Neither Chapter 5122. or 5123. of the Revised Code nor 10560  
any other provision of the Revised Code nor any other rule 10561  
concerning mentally ill persons, ~~mentally retarded persons~~ with 10562  
intellectual disabilities, or insane persons applies to any 10563  
proceeding for inquiry into the insanity of any convict 10564  
sentenced to death. 10565

**Sec. 2950.01.** As used in this chapter, unless the context 10566  
clearly requires otherwise: 10567

(A) "Sexually oriented offense" means any of the following 10568  
violations or offenses committed by a person, regardless of the 10569  
person's age: 10570

(1) A violation of section 2907.02, 2907.03, 2907.05, 10571  
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 10572  
2907.322, or 2907.323 of the Revised Code; 10573

(2) A violation of section 2907.04 of the Revised Code 10574  
when the offender is less than four years older than the other 10575  
person with whom the offender engaged in sexual conduct, the 10576  
other person did not consent to the sexual conduct, and the 10577  
offender previously has not been convicted of or pleaded guilty 10578  
to a violation of section 2907.02, 2907.03, or 2907.04 of the 10579  
Revised Code or a violation of former section 2907.12 of the 10580  
Revised Code; 10581

(3) A violation of section 2907.04 of the Revised Code 10582  
when the offender is at least four years older than the other 10583  
person with whom the offender engaged in sexual conduct or when 10584  
the offender is less than four years older than the other person 10585  
with whom the offender engaged in sexual conduct and the 10586  
offender previously has been convicted of or pleaded guilty to a 10587  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 10588

Code or a violation of former section 2907.12 of the Revised Code;	10589 10590
(4) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;	10591 10592 10593
(5) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;	10594 10595 10596 10597
(6) A violation of division (A) (3) of section 2903.211 of the Revised Code;	10598 10599
(7) A violation of division (A) (1), (2), (3), or (5) of section 2905.01 of the Revised Code when the offense is committed with a sexual motivation;	10600 10601 10602
(8) A violation of division (A) (4) of section 2905.01 of the Revised Code;	10603 10604
(9) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;	10605 10606 10607 10608
(10) A violation of division (B) of section 2903.03, of division (B) of section 2905.02, of division (B) of section 2905.03, of division (B) of section 2905.05, or of division (B) (5) of section 2919.22 of the Revised Code;	10609 10610 10611 10612
(11) A violation of section 2905.32 of the Revised Code when any of the following applies:	10613 10614
(a) The violation is a violation of division (A) (1) of that section and the offender knowingly recruited, lured,	10615 10616

enticed, isolated, harbored, transported, provided, obtained, or 10617  
maintained, or knowingly attempted to recruit, lure, entice, 10618  
isolate, harbor, transport, provide, obtain, or maintain, 10619  
another person knowing that the person would be compelled to 10620  
engage in sexual activity for hire, engage in a performance that 10621  
was obscene, sexually oriented, or nudity oriented, or be a 10622  
model or participant in the production of material that was 10623  
obscene, sexually oriented, or nudity oriented. 10624

(b) The violation is a violation of division (A) (2) of 10625  
that section and the offender knowingly recruited, lured, 10626  
enticed, isolated, harbored, transported, provided, obtained, or 10627  
maintained, or knowingly attempted to recruit, lure, entice, 10628  
isolate, harbor, transport, provide, obtain, or maintain a 10629  
person who is less than sixteen years of age or is a 10630  
~~developmentally disabled person~~ with a developmental disability 10631  
whom the offender knows or has reasonable cause to believe is a 10632  
~~developmentally disabled person~~ with a developmental disability 10633  
for any purpose listed in divisions (A) (2) (a) to (c) of that 10634  
section. 10635

(c) The violation is a violation of division (A) (3) of 10636  
that section, the offender knowingly recruited, lured, enticed, 10637  
isolated, harbored, transported, provided, obtained, or 10638  
maintained, or knowingly attempted to recruit, lure, entice, 10639  
isolate, harbor, transport, provide, obtain, or maintain a 10640  
person who is sixteen or seventeen years of age for any purpose 10641  
listed in divisions (A) (2) (a) to (c) of that section, and the 10642  
circumstances described in division (A) (5), (6), (7), (8), (9), 10643  
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 10644  
apply with respect to the offender and the other person. 10645

(12) A violation of any former law of this state, any 10646

existing or former municipal ordinance or law of another state 10647  
or the United States, any existing or former law applicable in a 10648  
military court or in an Indian tribal court, or any existing or 10649  
former law of any nation other than the United States that is or 10650  
was substantially equivalent to any offense listed in division 10651  
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of 10652  
this section; 10653

(13) A violation of division (A) (3) of section 2907.24 of 10654  
the Revised Code; 10655

(14) Any attempt to commit, conspiracy to commit, or 10656  
complicity in committing any offense listed in division (A) (1), 10657  
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 10658  
(13) of this section. 10659

(B) (1) "Sex offender" means, subject to division (B) (2) of 10660  
this section, a person who is convicted of, pleads guilty to, 10661  
has been convicted of, has pleaded guilty to, is adjudicated a 10662  
delinquent child for committing, or has been adjudicated a 10663  
delinquent child for committing any sexually oriented offense. 10664

(2) "Sex offender" does not include a person who is 10665  
convicted of, pleads guilty to, has been convicted of, has 10666  
pleaded guilty to, is adjudicated a delinquent child for 10667  
committing, or has been adjudicated a delinquent child for 10668  
committing a sexually oriented offense if the offense involves 10669  
consensual sexual conduct or consensual sexual contact and 10670  
either of the following applies: 10671

(a) The victim of the sexually oriented offense was 10672  
eighteen years of age or older and at the time of the sexually 10673  
oriented offense was not under the custodial authority of the 10674  
person who is convicted of, pleads guilty to, has been convicted 10675

of, has pleaded guilty to, is adjudicated a delinquent child for 10676  
committing, or has been adjudicated a delinquent child for 10677  
committing the sexually oriented offense. 10678

(b) The victim of the offense was thirteen years of age or 10679  
older, and the person who is convicted of, pleads guilty to, has 10680  
been convicted of, has pleaded guilty to, is adjudicated a 10681  
delinquent child for committing, or has been adjudicated a 10682  
delinquent child for committing the sexually oriented offense is 10683  
not more than four years older than the victim. 10684

(C) "Child-victim oriented offense" means any of the 10685  
following violations or offenses committed by a person, 10686  
regardless of the person's age, when the victim is under 10687  
eighteen years of age and is not a child of the person who 10688  
commits the violation: 10689

(1) A violation of division (A) (1), (2), (3), or (5) of 10690  
section 2905.01 of the Revised Code when the violation is not 10691  
included in division (A) (7) of this section; 10692

(2) A violation of division (A) of section 2905.02, 10693  
division (A) of section 2905.03, or division (A) of section 10694  
2905.05 of the Revised Code; 10695

(3) A violation of any former law of this state, any 10696  
existing or former municipal ordinance or law of another state 10697  
or the United States, any existing or former law applicable in a 10698  
military court or in an Indian tribal court, or any existing or 10699  
former law of any nation other than the United States that is or 10700  
was substantially equivalent to any offense listed in division 10701  
(C) (1) or (2) of this section; 10702

(4) Any attempt to commit, conspiracy to commit, or 10703  
complicity in committing any offense listed in division (C) (1), 10704

(2), or (3) of this section. 10705

(D) "Child-victim offender" means a person who is 10706  
convicted of, pleads guilty to, has been convicted of, has 10707  
pleaded guilty to, is adjudicated a delinquent child for 10708  
committing, or has been adjudicated a delinquent child for 10709  
committing any child-victim oriented offense. 10710

(E) "Tier I sex offender/child-victim offender" means any 10711  
of the following: 10712

(1) A sex offender who is convicted of, pleads guilty to, 10713  
has been convicted of, or has pleaded guilty to any of the 10714  
following sexually oriented offenses: 10715

(a) A violation of section 2907.06, 2907.07, 2907.08, 10716  
2907.22, or 2907.32 of the Revised Code; 10717

(b) A violation of section 2907.04 of the Revised Code 10718  
when the offender is less than four years older than the other 10719  
person with whom the offender engaged in sexual conduct, the 10720  
other person did not consent to the sexual conduct, and the 10721  
offender previously has not been convicted of or pleaded guilty 10722  
to a violation of section 2907.02, 2907.03, or 2907.04 of the 10723  
Revised Code or a violation of former section 2907.12 of the 10724  
Revised Code; 10725

(c) A violation of division (A) (1), (2), (3), or (5) of 10726  
section 2907.05 of the Revised Code; 10727

(d) A violation of division (A) (3) of section 2907.323 of 10728  
the Revised Code; 10729

(e) A violation of division (A) (3) of section 2903.211, of 10730  
division (B) of section 2905.03, or of division (B) of section 10731  
2905.05 of the Revised Code; 10732

(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E)(1)(a), (b), (c), (d), or (e) of this section;

(g) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E)(1)(a), (b), (c), (d), (e), or (f) of this section.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F)(2) or (G)(2) of this section.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense.

(F) "Tier II sex offender/child-victim offender" means any

of the following: 10762

(1) A sex offender who is convicted of, pleads guilty to, 10763  
has been convicted of, or has pleaded guilty to any of the 10764  
following sexually oriented offenses: 10765

(a) A violation of section 2907.21, 2907.321, or 2907.322 10766  
of the Revised Code; 10767

(b) A violation of section 2907.04 of the Revised Code 10768  
when the offender is at least four years older than the other 10769  
person with whom the offender engaged in sexual conduct, or when 10770  
the offender is less than four years older than the other person 10771  
with whom the offender engaged in sexual conduct and the 10772  
offender previously has been convicted of or pleaded guilty to a 10773  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 10774  
Code or former section 2907.12 of the Revised Code; 10775

(c) A violation of division (A) (4) of section 2907.05, of 10776  
division (A) (3) of section 2907.24, or of division (A) (1) or (2) 10777  
of section 2907.323 of the Revised Code; 10778

(d) A violation of division (A) (1), (2), (3), or (5) of 10779  
section 2905.01 of the Revised Code when the offense is 10780  
committed with a sexual motivation; 10781

(e) A violation of division (A) (4) of section 2905.01 of 10782  
the Revised Code when the victim of the offense is eighteen 10783  
years of age or older; 10784

(f) A violation of division (B) of section 2905.02 or of 10785  
division (B) (5) of section 2919.22 of the Revised Code; 10786

(g) A violation of section 2905.32 of the Revised Code 10787  
that is described in division (A) (11) (a), (b), or (c) of this 10788  
section; 10789

(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (F) (1) (a), (b), (c), (d), (e), (f), or (g) of this section;

(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (F) (1) (a), (b), (c), (d), (e), (f), (g), or (h) of this section;

(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier II sex offender/child-victim offender set forth in division (F) (1), (2), (3), or (4) of this section, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies:

(a) The sex offender or child-victim offender is reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(b) A juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(G) "Tier III sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

- (a) A violation of section 2907.02 or 2907.03 of the Revised Code; 10849  
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- (b) A violation of division (B) of section 2907.05 of the Revised Code; 10851  
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- (c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation; 10853  
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- (d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation; 10856  
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- (e) A violation of division (A) (4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age; 10860  
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- (f) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense; 10863  
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- (g) A violation of division (B) of section 2903.03 of the Revised Code; 10867  
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- (h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 10869  
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- (i) Any attempt to commit, conspiracy to commit, or 10876

complicity in committing any offense listed in division (G) (1) 10877  
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 10878

(j) Any sexually oriented offense that is committed after 10879  
the sex offender previously has been convicted of, pleaded 10880  
guilty to, or been adjudicated a delinquent child for committing 10881  
any sexually oriented offense or child-victim oriented offense 10882  
for which the offender was classified a tier II sex 10883  
offender/child-victim offender or a tier III sex offender/child- 10884  
victim offender. 10885

(2) A child-victim offender who is convicted of, pleads 10886  
guilty to, has been convicted of, or has pleaded guilty to any 10887  
child-victim oriented offense when the child-victim oriented 10888  
offense is committed after the child-victim offender previously 10889  
has been convicted of, pleaded guilty to, or been adjudicated a 10890  
delinquent child for committing any sexually oriented offense or 10891  
child-victim oriented offense for which the offender was 10892  
classified a tier II sex offender/child-victim offender or a 10893  
tier III sex offender/child-victim offender. 10894

(3) A sex offender who is adjudicated a delinquent child 10895  
for committing or has been adjudicated a delinquent child for 10896  
committing any sexually oriented offense and who a juvenile 10897  
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 10898  
of the Revised Code, classifies a tier III sex offender/child- 10899  
victim offender relative to the offense. 10900

(4) A child-victim offender who is adjudicated a 10901  
delinquent child for committing or has been adjudicated a 10902  
delinquent child for committing any child-victim oriented 10903  
offense and whom a juvenile court, pursuant to section 2152.82, 10904  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 10905  
tier III sex offender/child-victim offender relative to the 10906

current offense. 10907

(5) A sex offender or child-victim offender who is not in 10908  
any category of tier III sex offender/child-victim offender set 10909  
forth in division (G)(1), (2), (3), or (4) of this section, who 10910  
prior to January 1, 2008, was convicted of or pleaded guilty to 10911  
a sexually oriented offense or child-victim oriented offense or 10912  
was adjudicated a delinquent child for committing a sexually 10913  
oriented offense or child-victim oriented offense and classified 10914  
a juvenile offender registrant, and who prior to that date was 10915  
adjudicated a sexual predator or adjudicated a child-victim 10916  
predator, unless either of the following applies: 10917

(a) The sex offender or child-victim offender is 10918  
reclassified pursuant to section 2950.031 or 2950.032 of the 10919  
Revised Code as a tier I sex offender/child-victim offender or a 10920  
tier II sex offender/child-victim offender relative to the 10921  
offense. 10922

(b) The sex offender or child-victim offender is a 10923  
delinquent child, and a juvenile court, pursuant to section 10924  
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 10925  
classifies the child a tier I sex offender/child-victim offender 10926  
or a tier II sex offender/child-victim offender relative to the 10927  
offense. 10928

(6) A sex offender who is convicted of, pleads guilty to, 10929  
was convicted of, or pleaded guilty to a sexually oriented 10930  
offense, if the sexually oriented offense and the circumstances 10931  
in which it was committed are such that division (F) of section 10932  
2971.03 of the Revised Code automatically classifies the 10933  
offender as a tier III sex offender/child-victim offender; 10934

(7) A sex offender or child-victim offender who is 10935

convicted of, pleads guilty to, was convicted of, pleaded guilty 10936  
to, is adjudicated a delinquent child for committing, or was 10937  
adjudicated a delinquent child for committing a sexually 10938  
oriented offense or child-victim offense in another state, in a 10939  
federal court, military court, or Indian tribal court, or in a 10940  
court in any nation other than the United States if both of the 10941  
following apply: 10942

(a) Under the law of the jurisdiction in which the 10943  
offender was convicted or pleaded guilty or the delinquent child 10944  
was adjudicated, the offender or delinquent child is in a 10945  
category substantially equivalent to a category of tier III sex 10946  
offender/child-victim offender described in division (G) (1), 10947  
(2), (3), (4), (5), or (6) of this section. 10948

(b) Subsequent to the conviction, plea of guilty, or 10949  
adjudication in the other jurisdiction, the offender or 10950  
delinquent child resides, has temporary domicile, attends school 10951  
or an institution of higher education, is employed, or intends 10952  
to reside in this state in any manner and for any period of time 10953  
that subjects the offender or delinquent child to a duty to 10954  
register or provide notice of intent to reside under section 10955  
2950.04 or 2950.041 of the Revised Code. 10956

(H) "Confinement" includes, but is not limited to, a 10957  
community residential sanction imposed pursuant to section 10958  
2929.16 or 2929.26 of the Revised Code. 10959

(I) "Prosecutor" has the same meaning as in section 10960  
2935.01 of the Revised Code. 10961

(J) "Supervised release" means a release of an offender 10962  
from a prison term, a term of imprisonment, or another type of 10963  
confinement that satisfies either of the following conditions: 10964

(1) The release is on parole, a conditional pardon, under a community control sanction, under transitional control, or under a post-release control sanction, and it requires the person to report to or be supervised by a parole officer, probation officer, field officer, or another type of supervising officer. 10965  
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(2) The release is any type of release that is not described in division (J) (1) of this section and that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer. 10971  
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(K) "Sexually violent predator specification," "sexually violent predator," "sexually violent offense," "sexual motivation specification," "designated homicide, assault, or kidnapping offense," and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code. 10976  
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(L) "Post-release control sanction" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code. 10981  
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(M) "Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is fourteen years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under section 2152.82, 2152.83, 2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a juvenile offender registrant and specifies has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code. "Juvenile offender registrant" includes a person who prior to January 1, 2008, was a "juvenile offender 10984  
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registrant" under the definition of the term in existence prior 10995  
to January 1, 2008, and a person who prior to July 31, 2003, was 10996  
a "juvenile sex offender registrant" under the former definition 10997  
of that former term. 10998

(N) "Public registry-qualified juvenile offender 10999  
registrant" means a person who is adjudicated a delinquent child 11000  
and on whom a juvenile court has imposed a serious youthful 11001  
offender dispositional sentence under section 2152.13 of the 11002  
Revised Code before, on, or after January 1, 2008, and to whom 11003  
all of the following apply: 11004

(1) The person is adjudicated a delinquent child for 11005  
committing, attempting to commit, conspiring to commit, or 11006  
complicity in committing one of the following acts: 11007

(a) A violation of section 2907.02 of the Revised Code, 11008  
division (B) of section 2907.05 of the Revised Code, or section 11009  
2907.03 of the Revised Code if the victim of the violation was 11010  
less than twelve years of age; 11011

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 11012  
the Revised Code that was committed with a purpose to gratify 11013  
the sexual needs or desires of the child; 11014

(c) A violation of division (B) of section 2903.03 of the 11015  
Revised Code. 11016

(2) The person was fourteen, fifteen, sixteen, or 11017  
seventeen years of age at the time of committing the act. 11018

(3) A juvenile court judge, pursuant to an order issued 11019  
under section 2152.86 of the Revised Code, classifies the person 11020  
a juvenile offender registrant, specifies the person has a duty 11021  
to comply with sections 2950.04, 2950.05, and 2950.06 of the 11022  
Revised Code, and classifies the person a public registry- 11023

qualified juvenile offender registrant, and the classification 11024  
of the person as a public registry-qualified juvenile offender 11025  
registrant has not been terminated pursuant to division (D) of 11026  
section 2152.86 of the Revised Code. 11027

(O) "Secure facility" means any facility that is designed 11028  
and operated to ensure that all of its entrances and exits are 11029  
locked and under the exclusive control of its staff and to 11030  
ensure that, because of that exclusive control, no person who is 11031  
institutionalized or confined in the facility may leave the 11032  
facility without permission or supervision. 11033

(P) "Out-of-state juvenile offender registrant" means a 11034  
person who is adjudicated a delinquent child in a court in 11035  
another state, in a federal court, military court, or Indian 11036  
tribal court, or in a court in any nation other than the United 11037  
States for committing a sexually oriented offense or a child- 11038  
victim oriented offense, who on or after January 1, 2002, moves 11039  
to and resides in this state or temporarily is domiciled in this 11040  
state for more than five days, and who has a duty under section 11041  
2950.04 or 2950.041 of the Revised Code to register in this 11042  
state and the duty to otherwise comply with that applicable 11043  
section and sections 2950.05 and 2950.06 of the Revised Code. 11044  
"Out-of-state juvenile offender registrant" includes a person 11045  
who prior to January 1, 2008, was an "out-of-state juvenile 11046  
offender registrant" under the definition of the term in 11047  
existence prior to January 1, 2008, and a person who prior to 11048  
July 31, 2003, was an "out-of-state juvenile sex offender 11049  
registrant" under the former definition of that former term. 11050

(Q) "Juvenile court judge" includes a magistrate to whom 11051  
the juvenile court judge confers duties pursuant to division (A) 11052  
(15) of section 2151.23 of the Revised Code. 11053

(R) "Adjudicated a delinquent child for committing a sexually oriented offense" includes a child who receives a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code for committing a sexually oriented offense.

(S) "School" and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(T) "Residential premises" means the building in which a residential unit is located and the grounds upon which that building stands, extending to the perimeter of the property. "Residential premises" includes any type of structure in which a residential unit is located, including, but not limited to, multi-unit buildings and mobile and manufactured homes.

(U) "Residential unit" means a dwelling unit for residential use and occupancy, and includes the structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or two or more persons who maintain a common household. "Residential unit" does not include a halfway house or a community-based correctional facility.

(V) "Multi-unit building" means a building in which is located more than twelve residential units that have entry doors that open directly into the unit from a hallway that is shared with one or more other units. A residential unit is not considered located in a multi-unit building if the unit does not have an entry door that opens directly into the unit from a hallway that is shared with one or more other units or if the unit is in a building that is not a multi-unit building as described in this division.

(W) "Community control sanction" has the same meaning as 11083  
in section 2929.01 of the Revised Code. 11084

(X) "Halfway house" and "community-based correctional 11085  
facility" have the same meanings as in section 2929.01 of the 11086  
Revised Code. 11087

**Sec. 2951.041.** (A) (1) If an offender is charged with a 11088  
criminal offense, including but not limited to a violation of 11089  
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 11090  
of the Revised Code, and the court has reason to believe that 11091  
drug or alcohol usage by the offender was a factor leading to 11092  
the criminal offense with which the offender is charged or that, 11093  
at the time of committing that offense, the offender had a 11094  
mental illness, was a person with an intellectual disability, or 11095  
was a victim of a violation of section 2905.32 of the Revised 11096  
Code and that the mental illness, status as a person with 11097  
intellectual disability, or fact that the offender was a victim 11098  
of a violation of section 2905.32 of the Revised Code was a 11099  
factor leading to the offender's criminal behavior, the court 11100  
may accept, prior to the entry of a guilty plea, the offender's 11101  
request for intervention in lieu of conviction. The request 11102  
shall include a statement from the offender as to whether the 11103  
offender is alleging that drug or alcohol usage by the offender 11104  
was a factor leading to the criminal offense with which the 11105  
offender is charged or is alleging that, at the time of 11106  
committing that offense, the offender had a mental illness, was 11107  
a person with an intellectual disability, or was a victim of a 11108  
violation of section 2905.32 of the Revised Code and that the 11109  
mental illness, status as a person with an intellectual 11110  
disability, or fact that the offender was a victim of a 11111  
violation of section 2905.32 of the Revised Code was a factor 11112  
leading to the criminal offense with which the offender is 11113

charged. The request also shall include a waiver of the 11114  
defendant's right to a speedy trial, the preliminary hearing, 11115  
the time period within which the grand jury may consider an 11116  
indictment against the offender, and arraignment, unless the 11117  
hearing, indictment, or arraignment has already occurred. The 11118  
court may reject an offender's request without a hearing. If the 11119  
court elects to consider an offender's request, the court shall 11120  
conduct a hearing to determine whether the offender is eligible 11121  
under this section for intervention in lieu of conviction and 11122  
shall stay all criminal proceedings pending the outcome of the 11123  
hearing. If the court schedules a hearing, the court shall order 11124  
an assessment of the offender for the purpose of determining the 11125  
offender's eligibility for intervention in lieu of conviction 11126  
and recommending an appropriate intervention plan. 11127

If the offender alleges that drug or alcohol usage by the 11128  
offender was a factor leading to the criminal offense with which 11129  
the offender is charged, the court may order that the offender 11130  
be assessed by a community addiction services provider or a 11131  
properly credentialed professional for the purpose of 11132  
determining the offender's eligibility for intervention in lieu 11133  
of conviction and recommending an appropriate intervention plan. 11134  
The community addiction services provider or the properly 11135  
credentialed professional shall provide a written assessment of 11136  
the offender to the court. 11137

(2) The victim notification provisions of division (C) of 11138  
section 2930.06 of the Revised Code apply in relation to any 11139  
hearing held under division (A)(1) of this section. 11140

(B) An offender is eligible for intervention in lieu of 11141  
conviction if the court finds all of the following: 11142

(1) The offender previously has not been convicted of or 11143

pleaded guilty to a felony offense of violence or previously has  
been convicted of or pleaded guilty to any felony that is not an  
offense of violence and the prosecuting attorney recommends that  
the offender be found eligible for participation in intervention  
in lieu of treatment under this section, previously has not been  
through intervention in lieu of conviction under this section or  
any similar regimen, and is charged with a felony for which the  
court, upon conviction, would impose a community control  
sanction on the offender under division (B) (2) of section  
2929.13 of the Revised Code or with a misdemeanor.

(2) The offense is not a felony of the first, second, or  
third degree, is not an offense of violence, is not a violation  
of division (A) (1) or (2) of section 2903.06 of the Revised  
Code, is not a violation of division (A) (1) of section 2903.08  
of the Revised Code, is not a violation of division (A) of  
section 4511.19 of the Revised Code or a municipal ordinance  
that is substantially similar to that division, and is not an  
offense for which a sentencing court is required to impose a  
mandatory prison term, a mandatory term of local incarceration,  
or a mandatory term of imprisonment in a jail.

(3) The offender is not charged with a violation of  
section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not  
charged with a violation of section 2925.03 of the Revised Code  
that is a felony of the first, second, third, or fourth degree,  
and is not charged with a violation of section 2925.11 of the  
Revised Code that is a felony of the first, second, or third  
degree.

(4) If an offender alleges that drug or alcohol usage by  
the offender was a factor leading to the criminal offense with  
which the offender is charged, the court has ordered that the

offender be assessed by a community addiction services provider 11174  
or a properly credentialed professional for the purpose of 11175  
determining the offender's eligibility for intervention in lieu 11176  
of conviction and recommending an appropriate intervention plan, 11177  
the offender has been assessed by a community addiction services 11178  
provider of that nature or a properly credentialed professional 11179  
in accordance with the court's order, and the community 11180  
addiction services provider or properly credentialed 11181  
professional has filed the written assessment of the offender 11182  
with the court. 11183

(5) If an offender alleges that, at the time of committing 11184  
the criminal offense with which the offender is charged, the 11185  
offender had a mental illness, was a person with an intellectual 11186  
disability, or was a victim of a violation of section 2905.32 of 11187  
the Revised Code and that the mental illness, status as a person 11188  
with an intellectual disability, or fact that the offender was a 11189  
victim of a violation of section 2905.32 of the Revised Code was 11190  
a factor leading to that offense, the offender has been assessed 11191  
by a psychiatrist, psychologist, independent social worker, 11192  
licensed professional clinical counselor, or independent 11193  
marriage and family therapist for the purpose of determining the 11194  
offender's eligibility for intervention in lieu of conviction 11195  
and recommending an appropriate intervention plan. 11196

(6) The offender's drug usage, alcohol usage, mental 11197  
illness, or intellectual disability, or the fact that the 11198  
offender was a victim of a violation of section 2905.32 of the 11199  
Revised Code, whichever is applicable, was a factor leading to 11200  
the criminal offense with which the offender is charged, 11201  
intervention in lieu of conviction would not demean the 11202  
seriousness of the offense, and intervention would substantially 11203  
reduce the likelihood of any future criminal activity. 11204

(7) The alleged victim of the offense was not sixty-five 11205  
years of age or older, permanently and totally disabled, under 11206  
thirteen years of age, or a peace officer engaged in the 11207  
officer's official duties at the time of the alleged offense. 11208

(8) If the offender is charged with a violation of section 11209  
2925.24 of the Revised Code, the alleged violation did not 11210  
result in physical harm to any person, and the offender 11211  
previously has not been treated for drug abuse. 11212

(9) The offender is willing to comply with all terms and 11213  
conditions imposed by the court pursuant to division (D) of this 11214  
section. 11215

(10) The offender is not charged with an offense that 11216  
would result in the offender being disqualified under Chapter 11217  
4506. of the Revised Code from operating a commercial motor 11218  
vehicle or would subject the offender to any other sanction 11219  
under that chapter. 11220

(C) At the conclusion of a hearing held pursuant to 11221  
division (A) of this section, the court shall enter its 11222  
determination as to whether the offender is eligible for 11223  
intervention in lieu of conviction and as to whether to grant 11224  
the offender's request. If the court finds under division (B) of 11225  
this section that the offender is eligible for intervention in 11226  
lieu of conviction and grants the offender's request, the court 11227  
shall accept the offender's plea of guilty and waiver of the 11228  
defendant's right to a speedy trial, the preliminary hearing, 11229  
the time period within which the grand jury may consider an 11230  
indictment against the offender, and arraignment, unless the 11231  
hearing, indictment, or arraignment has already occurred. In 11232  
addition, the court then may stay all criminal proceedings and 11233  
order the offender to comply with all terms and conditions 11234

imposed by the court pursuant to division (D) of this section. 11235  
If the court finds that the offender is not eligible or does not 11236  
grant the offender's request, the criminal proceedings against 11237  
the offender shall proceed as if the offender's request for 11238  
intervention in lieu of conviction had not been made. 11239

(D) If the court grants an offender's request for 11240  
intervention in lieu of conviction, the court shall place the 11241  
offender under the general control and supervision of the county 11242  
probation department, the adult parole authority, or another 11243  
appropriate local probation or court services agency, if one 11244  
exists, as if the offender was subject to a community control 11245  
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 11246  
the Revised Code. The court shall establish an intervention plan 11247  
for the offender. The terms and conditions of the intervention 11248  
plan shall require the offender, for at least one year from the 11249  
date on which the court grants the order of intervention in lieu 11250  
of conviction, to abstain from the use of illegal drugs and 11251  
alcohol, to participate in treatment and recovery support 11252  
services, and to submit to regular random testing for drug and 11253  
alcohol use and may include any other treatment terms and 11254  
conditions, or terms and conditions similar to community control 11255  
sanctions, which may include community service or restitution, 11256  
that are ordered by the court. 11257

(E) If the court grants an offender's request for 11258  
intervention in lieu of conviction and the court finds that the 11259  
offender has successfully completed the intervention plan for 11260  
the offender, including the requirement that the offender 11261  
abstain from using illegal drugs and alcohol for a period of at 11262  
least one year from the date on which the court granted the 11263  
order of intervention in lieu of conviction, the requirement 11264  
that the offender participate in treatment and recovery support 11265

services, and all other terms and conditions ordered by the 11266  
court, the court shall dismiss the proceedings against the 11267  
offender. Successful completion of the intervention plan and 11268  
period of abstinence under this section shall be without 11269  
adjudication of guilt and is not a criminal conviction for 11270  
purposes of any disqualification or disability imposed by law 11271  
and upon conviction of a crime, and the court may order the 11272  
sealing of records related to the offense in question in the 11273  
manner provided in sections 2953.31 to 2953.36 of the Revised 11274  
Code. 11275

(F) If the court grants an offender's request for 11276  
intervention in lieu of conviction and the offender fails to 11277  
comply with any term or condition imposed as part of the 11278  
intervention plan for the offender, the supervising authority 11279  
for the offender promptly shall advise the court of this 11280  
failure, and the court shall hold a hearing to determine whether 11281  
the offender failed to comply with any term or condition imposed 11282  
as part of the plan. If the court determines that the offender 11283  
has failed to comply with any of those terms and conditions, it 11284  
shall enter a finding of guilty and shall impose an appropriate 11285  
sanction under Chapter 2929. of the Revised Code. If the court 11286  
sentences the offender to a prison term, the court, after 11287  
consulting with the department of rehabilitation and correction 11288  
regarding the availability of services, may order continued 11289  
court-supervised activity and treatment of the offender during 11290  
the prison term and, upon consideration of reports received from 11291  
the department concerning the offender's progress in the program 11292  
of activity and treatment, may consider judicial release under 11293  
section 2929.20 of the Revised Code. 11294

(G) As used in this section: 11295

- (1) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code. 11296  
11297
- (2) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 11298  
11299
- (3) "Intervention in lieu of conviction" means any court-supervised activity that complies with this section. 11300  
11301
- (4) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code. 11302  
11303
- (5) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code. 11304  
11305
- ~~(5)~~ (6) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code. 11306  
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- ~~(6)~~ "Person with intellectual disability" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period. 11308  
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- (7) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code. 11312  
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- ~~(H) Whenever the term "mentally retarded person" is used in any statute, rule, contract, grant, or other document, the reference shall be deemed to include a "person with intellectual disability," as defined in this section.~~ 11314  
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- Sec. 2967.22.** Whenever it is brought to the attention of the adult parole authority or a department of probation that a parolee, person under a community control sanction, person under transitional control, or releasee appears to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, or a ~~mentally retarded person~~ with an 11318  
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intellectual disability subject to institutionalization by court 11324  
order, as defined in section 5123.01 of the Revised Code, the 11325  
parole or probation officer, subject to the approval of the 11326  
chief of the adult parole authority, the designee of the chief 11327  
of the adult parole authority, or the chief probation officer, 11328  
may file an affidavit under section 5122.11 or 5123.71 of the 11329  
Revised Code. A parolee, person under a community control 11330  
sanction, or releasee who is involuntarily detained under 11331  
Chapter 5122. or 5123. of the Revised Code shall receive credit 11332  
against the period of parole or community control or the term of 11333  
post-release control for the period of involuntary detention. 11334

If a parolee, person under a community control sanction, 11335  
person under transitional control, or releasee escapes from an 11336  
institution or facility within the department of mental health 11337  
and addiction services or the department of developmental 11338  
disabilities, the superintendent of the institution immediately 11339  
shall notify the chief of the adult parole authority or the 11340  
chief probation officer. Notwithstanding the provisions of 11341  
section 5122.26 of the Revised Code, the procedure for the 11342  
apprehension, detention, and return of the parolee, person under 11343  
a community control sanction, person under transitional control, 11344  
or releasee is the same as that provided for the apprehension, 11345  
detention, and return of persons who escape from institutions 11346  
operated by the department of rehabilitation and correction. If 11347  
the escaped parolee, person under transitional control, or 11348  
releasee is not apprehended and returned to the custody of the 11349  
department of mental health and addiction services or the 11350  
department of developmental disabilities within ninety days 11351  
after the escape, the parolee, person under transitional 11352  
control, or releasee shall be discharged from the custody of the 11353  
department of mental health and addiction services or the 11354

department of developmental disabilities and returned to the 11355  
custody of the department of rehabilitation and correction. If 11356  
the escaped person under a community control sanction is not 11357  
apprehended and returned to the custody of the department of 11358  
mental health and addiction services or the department of 11359  
developmental disabilities within ninety days after the escape, 11360  
the person under a community control sanction shall be 11361  
discharged from the custody of the department of mental health 11362  
and addiction services or the department of developmental 11363  
disabilities and returned to the custody of the court that 11364  
sentenced that person. 11365

**Sec. 3107.02.** (A) Any minor may be adopted. 11366

(B) An adult may be adopted under any of the following 11367  
conditions: 11368

(1) If the adult is totally or permanently disabled; 11369

(2) If the adult is determined to be a ~~mentally retarded~~ 11370  
person with an intellectual disability; 11371

(3) If the adult had established a child-foster caregiver, 11372  
kinship caregiver, or child-stepparent relationship with the 11373  
petitioners as a minor, and the adult consents to the adoption; 11374

(4) If the adult was, at the time of the adult's 11375  
eighteenth birthday, in the permanent custody of or in a planned 11376  
permanent living arrangement with a public children services 11377  
agency or a private child placing agency, and the adult consents 11378  
to the adoption; 11379

(5) If the adult is the child of the spouse of the 11380  
petitioner, and the adult consents to the adoption. 11381

(C) When proceedings to adopt a minor are initiated by the 11382

filing of a petition, and the eighteenth birthday of the minor 11383  
occurs prior to the decision of the court, the court shall 11384  
require the person who is to be adopted to submit a written 11385  
statement of consent or objection to the adoption. If an 11386  
objection is submitted, the petition shall be dismissed, and if 11387  
a consent is submitted, the court shall proceed with the case, 11388  
and may issue an interlocutory order or final decree of 11389  
adoption. 11390

(D) Any physical examination of the individual to be 11391  
adopted as part of or in contemplation of a petition to adopt 11392  
may be conducted by any health professional authorized by the 11393  
Revised Code to perform physical examinations, including a 11394  
physician assistant, a clinical nurse specialist, a certified 11395  
nurse practitioner, or a certified nurse-midwife. Any written 11396  
documentation of the physical examination shall be completed by 11397  
the healthcare professional who conducted the examination. 11398

(E) An adult who consents to an adoption pursuant to 11399  
division (B)(4) of this section shall provide the court with the 11400  
name and contact information of the public children services 11401  
agency or private child placing agency that had permanent 11402  
custody of or a planned permanent living arrangement with that 11403  
adult. The petitioner shall request verification from the agency 11404  
as to whether the adult was or was not in the permanent custody 11405  
of or in a planned permanent living arrangement with that agency 11406  
at the time of the adult's eighteenth birthday and provide the 11407  
verification to the court. 11408

(F) As used in this section: 11409

(1) "Developmental disability" has the same meaning as in 11410  
section 5123.01 of the Revised Code. 11411

(2) "Kinship caregiver" has the same meaning as in section 5101.85 of the Revised Code.	11412 11413
<del>(2) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.</del>	11414 11415
(3) "Permanent custody" and "planned permanent living arrangement" have the same meanings as in section 2151.011 of the Revised Code.	11416 11417 11418
<b>Sec. 3301.52.</b> As used in sections 3301.52 to 3301.59 of the Revised Code:	11419 11420
(A) "Preschool program" means either of the following:	11421
(1) A child care program for preschool children that is operated by a school district board of education or an eligible nonpublic school.	11422 11423 11424
(2) A child care program for preschool children age three or older that is operated by a county <del>DD</del> -board <u>of developmental disabilities</u> or a community school.	11425 11426 11427
(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.	11428 11429
(C) "Parent, guardian, or custodian" means the person or government agency that is or will be responsible for a child's school attendance under section 3321.01 of the Revised Code.	11430 11431 11432
(D) "Superintendent" means the superintendent of a school district or the chief administrative officer of a community school or an eligible nonpublic school.	11433 11434 11435
(E) "Director" means the director, head teacher, elementary principal, or site administrator who is the individual on site and responsible for supervision of a	11436 11437 11438

preschool program. 11439

(F) "Preschool staff member" means a preschool employee 11440  
whose primary responsibility is care, teaching, or supervision 11441  
of preschool children. 11442

(G) "Nonteaching employee" means a preschool program or 11443  
school child program employee whose primary responsibilities are 11444  
duties other than care, teaching, and supervision of preschool 11445  
children or school children. 11446

(H) "Eligible nonpublic school" means a nonpublic school 11447  
chartered as described in division (B) (8) of section 5104.02 of 11448  
the Revised Code or chartered by the state board of education 11449  
for any combination of grades one through twelve, regardless of 11450  
whether it also offers kindergarten. 11451

(I) ~~"County DD board" means a county board of~~ 11452  
~~developmental disabilities.~~ 11453

~~(J)~~ "School child program" means a child care program for 11454  
only school children that is operated by a school district board 11455  
of education, county ~~DD~~ board of developmental disabilities, 11456  
community school, or eligible nonpublic school. 11457

~~(K)~~ (J) "School child" means a child who is enrolled in or 11458  
is eligible to be enrolled in a grade of kindergarten or above 11459  
but is less than fifteen years old. 11460

~~(L)~~ (K) "School child program staff member" means an 11461  
employee whose primary responsibility is the care, teaching, or 11462  
supervision of children in a school child program. 11463

~~(M)~~ (L) "Child care" means administering to the needs of 11464  
infants, toddlers, preschool children, and school children 11465  
outside of school hours by persons other than their parents or 11466

guardians, custodians, or relatives by blood, marriage, or 11467  
adoption for any part of the twenty-four-hour day in a place or 11468  
residence other than a child's own home. 11469

~~(N)~~ (M) "Child day-care center," "publicly funded child 11470  
care," and "school-age child care center" have the same meanings 11471  
as in section 5104.01 of the Revised Code. 11472

~~(O)~~ (N) "Community school" means either of the following: 11473

(1) A community school established under Chapter 3314. of 11474  
the Revised Code that is sponsored by an entity that is rated 11475  
"exemplary" under section 3314.016 of the Revised Code. 11476

(2) A community school established under Chapter 3314. of 11477  
the Revised Code that has received, on its most recent report 11478  
card, either of the following: 11479

(a) If the school offers any of grade levels four through 11480  
twelve, a grade of "C" or better for the overall value-added 11481  
progress dimension under division (C) (1) (e) of section 3302.03 11482  
of the Revised Code and for the performance index score under 11483  
division (C) (1) (b) of section 3302.03 of the Revised Code; 11484

(b) If the school does not offer a grade level higher than 11485  
three, a grade of "C" or better for making progress in improving 11486  
literacy in grades kindergarten through three under division (C) 11487  
(1) (g) of section 3302.03 of the Revised Code. 11488

**Sec. 3301.53.** (A) The state board of education, in 11489  
consultation with the director of job and family services, shall 11490  
formulate and prescribe by rule adopted under Chapter 119. of 11491  
the Revised Code minimum standards to be applied to preschool 11492  
programs operated by school district boards of education, county 11493  
~~DD~~ boards of developmental disabilities, community schools, or 11494  
eligible nonpublic schools. The rules shall include the 11495

following: 11496

(1) Standards ensuring that the preschool program is 11497  
located in a safe and convenient facility that accommodates the 11498  
enrollment of the program, is of the quality to support the 11499  
growth and development of the children according to the program 11500  
objectives, and meets the requirements of section 3301.55 of the 11501  
Revised Code; 11502

(2) Standards ensuring that supervision, discipline, and 11503  
programs will be administered according to established 11504  
objectives and procedures; 11505

(3) Standards ensuring that preschool staff members and 11506  
nonteaching employees are recruited, employed, assigned, 11507  
evaluated, and provided inservice education without 11508  
discrimination on the basis of age, color, national origin, 11509  
race, or sex; and that preschool staff members and nonteaching 11510  
employees are assigned responsibilities in accordance with 11511  
written position descriptions commensurate with their training 11512  
and experience; 11513

(4) A requirement that boards of education intending to 11514  
establish a preschool program demonstrate a need for a preschool 11515  
program prior to establishing the program; 11516

(5) Requirements that children participating in preschool 11517  
programs have been immunized to the extent considered 11518  
appropriate by the state board to prevent the spread of 11519  
communicable disease; 11520

(6) Requirements that the parents of preschool children 11521  
complete the emergency medical authorization form specified in 11522  
section 3313.712 of the Revised Code. 11523

(B) The state board of education in consultation with the 11524

director of job and family services shall ensure that the rules 11525  
adopted by the state board under sections 3301.52 to 3301.58 of 11526  
the Revised Code are consistent with and meet or exceed the 11527  
requirements of Chapter 5104. of the Revised Code with regard to 11528  
child day-care centers. The state board and the director of job 11529  
and family services shall review all such rules at least once 11530  
every five years. 11531

(C) The state board of education, in consultation with the 11532  
director of job and family services, shall adopt rules for 11533  
school child programs that are consistent with and meet or 11534  
exceed the requirements of the rules adopted for school-age 11535  
child care centers under Chapter 5104. of the Revised Code. 11536

**Sec. 3301.55.** (A) A school district, county ~~DD~~board of 11537  
developmental disabilities, community school, or eligible 11538  
nonpublic school operating a preschool program shall house the 11539  
program in buildings that meet the following requirements: 11540

(1) The building is operated by the district, county 11541  
~~DD~~board of developmental disabilities, community school, or 11542  
eligible nonpublic school and has been approved by the division 11543  
of industrial compliance in the department of commerce or a 11544  
certified municipal, township, or county building department for 11545  
the purpose of operating a program for preschool children. Any 11546  
such structure shall be constructed, equipped, repaired, 11547  
altered, and maintained in accordance with applicable provisions 11548  
of Chapters 3781. and 3791. and with rules adopted by the board 11549  
of building standards under Chapter 3781. of the Revised Code 11550  
for the safety and sanitation of structures erected for this 11551  
purpose. 11552

(2) The building is in compliance with fire and safety 11553  
laws and regulations as evidenced by reports of annual school 11554

fire and safety inspections as conducted by appropriate local 11555  
authorities. 11556

(3) The school is in compliance with rules established by 11557  
the state board of education regarding school food services. 11558

(4) The facility includes not less than thirty-five square 11559  
feet of indoor space for each child in the program. Safe play 11560  
space, including both indoor and outdoor play space, totaling 11561  
not less than sixty square feet for each child using the space 11562  
at any one time, shall be regularly available and scheduled for 11563  
use. 11564

(5) First aid facilities and space for temporary placement 11565  
or isolation of injured or ill children are provided. 11566

(B) Each school district, county ~~DD~~-board of developmental 11567  
disabilities, community school, or eligible nonpublic school 11568  
that operates, or proposes to operate, a preschool program shall 11569  
submit a building plan including all information specified by 11570  
the state board of education to the board not later than the 11571  
first day of September of the school year in which the program 11572  
is to be initiated. The board shall determine whether the 11573  
buildings meet the requirements of this section and section 11574  
3301.53 of the Revised Code, and notify the superintendent of 11575  
its determination. If the board determines, on the basis of the 11576  
building plan or any other information, that the buildings do 11577  
not meet those requirements, it shall cause the buildings to be 11578  
inspected by the department of education. The department shall 11579  
make a report to the superintendent specifying any aspects of 11580  
the building that are not in compliance with the requirements of 11581  
this section and section 3301.53 of the Revised Code and the 11582  
time period that will be allowed the district, county ~~DD~~-board 11583  
of developmental disabilities, or school to meet the 11584

requirements. 11585

**Sec. 3301.57.** (A) For the purpose of improving programs, 11586  
facilities, and implementation of the standards promulgated by 11587  
the state board of education under section 3301.53 of the 11588  
Revised Code, the state department of education shall provide 11589  
consultation and technical assistance to school districts, 11590  
county ~~DD~~boards of developmental disabilities, community 11591  
schools, and eligible nonpublic schools operating preschool 11592  
programs or school child programs, and inservice training to 11593  
preschool staff members, school child program staff members, and 11594  
nonteaching employees. 11595

(B) The department and the school district board of 11596  
education, county ~~DD~~board of developmental disabilities, 11597  
community school, or eligible nonpublic school shall jointly 11598  
monitor each preschool program and each school child program. 11599

If the program receives any grant or other funding from 11600  
the state or federal government, the department annually shall 11601  
monitor all reports on attendance, financial support, and 11602  
expenditures according to provisions for use of the funds. 11603

(C) The department of education, at least once during 11604  
every twelve-month period of operation of a preschool program or 11605  
a licensed school child program, shall inspect the program and 11606  
provide a written inspection report to the superintendent of the 11607  
school district, county ~~DD~~board of developmental disabilities, 11608  
community school, or eligible nonpublic school. The department 11609  
may inspect any program more than once, as considered necessary 11610  
by the department, during any twelve-month period of operation. 11611  
All inspections may be unannounced. No person shall interfere 11612  
with any inspection conducted pursuant to this division or to 11613  
the rules adopted pursuant to sections 3301.52 to 3301.59 of the 11614

Revised Code. 11615

Upon receipt of any complaint that a preschool program or 11616  
a licensed school child program is out of compliance with the 11617  
requirements in sections 3301.52 to 3301.59 of the Revised Code 11618  
or the rules adopted under those sections, the department shall 11619  
investigate and may inspect the program. 11620

(D) If a preschool program or a licensed school child 11621  
program is determined to be out of compliance with the 11622  
requirements of sections 3301.52 to 3301.59 of the Revised Code 11623  
or the rules adopted under those sections, the department of 11624  
education shall notify the appropriate superintendent, county ~~DD-~~ 11625  
board of developmental disabilities, community school, or 11626  
eligible nonpublic school in writing regarding the nature of the 11627  
violation, what must be done to correct the violation, and by 11628  
what date the correction must be made. If the correction is not 11629  
made by the date established by the department, it may commence 11630  
action under Chapter 119. of the Revised Code to close the 11631  
program or to revoke the license of the program. If a program 11632  
does not comply with an order to cease operation issued in 11633  
accordance with Chapter 119. of the Revised Code, the department 11634  
shall notify the attorney general, the prosecuting attorney of 11635  
the county in which the program is located, or the city 11636  
attorney, village solicitor, or other chief legal officer of the 11637  
municipal corporation in which the program is located that the 11638  
program is operating in violation of sections 3301.52 to 3301.59 11639  
of the Revised Code or the rules adopted under those sections 11640  
and in violation of an order to cease operation issued in 11641  
accordance with Chapter 119. of the Revised Code. Upon receipt 11642  
of the notification, the attorney general, prosecuting attorney, 11643  
city attorney, village solicitor, or other chief legal officer 11644  
shall file a complaint in the court of common pleas of the 11645

county in which the program is located requesting the court to 11646  
issue an order enjoining the program from operating. The court 11647  
shall grant the requested injunctive relief upon a showing that 11648  
the program named in the complaint is operating in violation of 11649  
sections 3301.52 to 3301.59 of the Revised Code or the rules 11650  
adopted under those sections and in violation of an order to 11651  
cease operation issued in accordance with Chapter 119. of the 11652  
Revised Code. 11653

(E) The department of education shall prepare an annual 11654  
report on inspections conducted under this section. The report 11655  
shall include the number of inspections conducted, the number 11656  
and types of violations found, and the steps taken to address 11657  
the violations. The department shall file the report with the 11658  
governor, the president and minority leader of the senate, and 11659  
the speaker and minority leader of the house of representatives 11660  
on or before the first day of January of each year, beginning in 11661  
1999. 11662

**Sec. 3301.58.** (A) The department of education is 11663  
responsible for the licensing of preschool programs and school 11664  
child programs and for the enforcement of sections 3301.52 to 11665  
3301.59 of the Revised Code and of any rules adopted under those 11666  
sections. No school district board of education, county ~~DD~~-board 11667  
of developmental disabilities, community school, or eligible 11668  
nonpublic school shall operate, establish, manage, conduct, or 11669  
maintain a preschool program without a license issued under this 11670  
section. A school district board of education, county ~~DD~~-board 11671  
of developmental disabilities, community school, or eligible 11672  
nonpublic school may obtain a license under this section for a 11673  
school child program. The school district board of education, 11674  
county ~~DD~~-board of developmental disabilities, community school, 11675  
or eligible nonpublic school shall post the license for each 11676

preschool program and licensed school child program it operates, 11677  
establishes, manages, conducts, or maintains in a conspicuous 11678  
place in the preschool program or licensed school child program 11679  
that is accessible to parents, custodians, or guardians and 11680  
employees and staff members of the program at all times when the 11681  
program is in operation. 11682

(B) Any school district board of education, county ~~DD~~ 11683  
board of developmental disabilities, community school, or 11684  
eligible nonpublic school that desires to operate, establish, 11685  
manage, conduct, or maintain a preschool program shall apply to 11686  
the department of education for a license on a form that the 11687  
department shall prescribe by rule. Any school district board of 11688  
education, county ~~DD~~ board of developmental disabilities, 11689  
community school, or eligible nonpublic school that desires to 11690  
obtain a license for a school child program shall apply to the 11691  
department for a license on a form that the department shall 11692  
prescribe by rule. The department shall provide at no charge to 11693  
each applicant for a license under this section a copy of the 11694  
requirements under sections 3301.52 to 3301.59 of the Revised 11695  
Code and any rules adopted under those sections. The department 11696  
may establish application fees by rule adopted under Chapter 11697  
119. of the Revised Code, and all applicants for a license shall 11698  
pay any fee established by the department at the time of making 11699  
an application for a license. All fees collected pursuant to 11700  
this section shall be paid into the state treasury to the credit 11701  
of the general revenue fund. 11702

(C) Upon the filing of an application for a license, the 11703  
department of education shall investigate and inspect the 11704  
preschool program or school child program to determine the 11705  
license capacity for each age category of children of the 11706  
program and to determine whether the program complies with 11707

sections 3301.52 to 3301.59 of the Revised Code and any rules 11708  
adopted under those sections. When, after investigation and 11709  
inspection, the department of education is satisfied that 11710  
sections 3301.52 to 3301.59 of the Revised Code and any rules 11711  
adopted under those sections are complied with by the applicant, 11712  
the department of education shall issue the program a 11713  
provisional license as soon as practicable in the form and 11714  
manner prescribed by the rules of the department. The 11715  
provisional license shall be valid for one year from the date of 11716  
issuance unless revoked. 11717

(D) The department of education shall investigate and 11718  
inspect a preschool program or school child program that has 11719  
been issued a provisional license at least once during operation 11720  
under the provisional license. If, after the investigation and 11721  
inspection, the department of education determines that the 11722  
requirements of sections 3301.52 to 3301.59 of the Revised Code 11723  
and any rules adopted under those sections are met by the 11724  
provisional licensee, the department of education shall issue 11725  
the program a license. The license shall remain valid unless 11726  
revoked or the program ceases operations. 11727

(E) The department of education annually shall investigate 11728  
and inspect each preschool program or school child program 11729  
licensed under division (D) of this section to determine if the 11730  
requirements of sections 3301.52 to 3301.59 of the Revised Code 11731  
and any rules adopted under those sections are met by the 11732  
program, and shall notify the program of the results. 11733

(F) The license or provisional license shall state the 11734  
name of the school district board of education, county ~~DD~~board 11735  
of developmental disabilities, community school, or eligible 11736  
nonpublic school that operates the preschool program or school 11737

child program and the license capacity of the program. 11738

(G) The department of education may revoke the license of 11739  
any preschool program or school child program that is not in 11740  
compliance with the requirements of sections 3301.52 to 3301.59 11741  
of the Revised Code and any rules adopted under those sections. 11742

(H) If the department of education revokes a license, the 11743  
department shall not issue a license to the program within two 11744  
years from the date of the revocation. All actions of the 11745  
department with respect to licensing preschool programs and 11746  
school child programs shall be in accordance with Chapter 119. 11747  
of the Revised Code. 11748

**Sec. 3314.022.** The governing authority of any community 11749  
school established under this chapter may contract with the 11750  
governing authority of another community school, the board of 11751  
education of a school district, the governing board of an 11752  
educational service center, a county ~~DD~~board of developmental 11753  
disabilities, or the administrative authority of a nonpublic 11754  
school for provision of services for any disabled student 11755  
enrolled at the school. Any school district board of education 11756  
or educational service center governing board shall negotiate 11757  
with a community school governing authority that seeks to 11758  
contract for the provision of services for a disabled student 11759  
under this section in the same manner as it would with the board 11760  
of education of a school district that seeks to contract for 11761  
such services. 11762

**Sec. 3317.02.** As used in this chapter: 11763

(A) (1) "Category one career-technical education ADM" means 11764  
the enrollment of students during the school year on a full-time 11765  
equivalency basis in career-technical education programs 11766

described in division (A) of section 3317.014 of the Revised Code and certified under division (B) (11) or (D) (2) (h) of section 3317.03 of the Revised Code. 11767  
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(2) "Category two career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (B) of section 3317.014 of the Revised Code and certified under division (B) (12) or (D) (2) (i) of section 3317.03 of the Revised Code. 11770  
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(3) "Category three career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (C) of section 3317.014 of the Revised Code and certified under division (B) (13) or (D) (2) (j) of section 3317.03 of the Revised Code. 11776  
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(4) "Category four career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (D) of section 3317.014 of the Revised Code and certified under division (B) (14) or (D) (2) (k) of section 3317.03 of the Revised Code. 11782  
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(5) "Category five career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (E) of section 3317.014 of the Revised Code and certified under division (B) (15) or (D) (2) (l) of section 3317.03 of the Revised Code. 11788  
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(B) (1) "Category one limited English proficient ADM" means the full-time equivalent number of limited English proficient 11794  
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students described in division (A) of section 3317.016 of the Revised Code and certified under division (B) (16) or (D) (2) (m) of section 3317.03 of the Revised Code.

(2) "Category two limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (B) of section 3317.016 of the Revised Code and certified under division (B) (17) or (D) (2) (n) of section 3317.03 of the Revised Code.

(3) "Category three limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (C) of section 3317.016 of the Revised Code and certified under division (B) (18) or (D) (2) (o) of section 3317.03 of the Revised Code.

(C) (1) "Category one special education ADM" means the full-time equivalent number of children with disabilities receiving special education services for the disability specified in division (A) of section 3317.013 of the Revised Code and certified under division (B) (5) or (D) (2) (b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the full-time equivalent number of children with disabilities receiving special education services for those disabilities specified in division (B) of section 3317.013 of the Revised Code and certified under division (B) (6) or (D) (2) (c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the full-time equivalent number of students receiving special education services for those disabilities specified in division (C) of section 3317.013 of the Revised Code, and certified under

division (B) (7) or (D) (2) (d) of section 3317.03 of the Revised Code. 11825  
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(4) "Category four special education ADM" means the full-time equivalent number of students receiving special education services for those disabilities specified in division (D) of section 3317.013 of the Revised Code and certified under division (B) (8) or (D) (2) (e) of section 3317.03 of the Revised Code. 11827  
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(5) "Category five special education ADM" means the full-time equivalent number of students receiving special education services for the disabilities specified in division (E) of section 3317.013 of the Revised Code and certified under division (B) (9) or (D) (2) (f) of section 3317.03 of the Revised Code. 11833  
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(6) "Category six special education ADM" means the full-time equivalent number of students receiving special education services for the disabilities specified in division (F) of section 3317.013 of the Revised Code and certified under division (B) (10) or (D) (2) (g) of section 3317.03 of the Revised Code. 11839  
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~~(D) "County DD board" means a county board of developmental disabilities.~~ 11845  
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~~(E)~~ "Economically disadvantaged index for a school district" means the square of the quotient of that district's percentage of students in its total ADM who are identified as economically disadvantaged as defined by the department of education, divided by the percentage of students in the statewide total ADM identified as economically disadvantaged. 11847  
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For purposes of this calculation: 11853

(1) For a city, local, or exempted village school district, the "statewide total ADM" equals the sum of the total ADM for all city, local, and exempted village school districts combined.

(2) For a joint vocational school district, the "statewide total ADM" equals the sum of the formula ADM for all joint vocational school districts combined.

~~(F)~~(E) (1) "Formula ADM" means, for a city, local, or exempted village school district, the enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the department of education, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A) (3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical education compact.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the enrollment reported and certified under division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section.

~~(G)~~(F) "Formula amount" means \$5,900, for fiscal year 2016, and \$6,000, for fiscal year 2017.

~~(H)~~(G) "FTE basis" means a count of students based on

full-time equivalency, in accordance with rules adopted by the 11883  
department of education pursuant to section 3317.03 of the 11884  
Revised Code. In adopting its rules under this division, the 11885  
department shall provide for counting any student in category 11886  
one, two, three, four, five, or six special education ADM or in 11887  
category one, two, three, four, or five career technical 11888  
education ADM in the same proportion the student is counted in 11889  
formula ADM. 11890

~~(I)~~ (H) "Internet- or computer-based community school" has 11891  
the same meaning as in section 3314.02 of the Revised Code. 11892

~~(J)~~ (I) "Medically fragile child" means a child to whom 11893  
all of the following apply: 11894

(1) The child requires the services of a doctor of 11895  
medicine or osteopathic medicine at least once a week due to the 11896  
instability of the child's medical condition. 11897

(2) The child requires the services of a registered nurse 11898  
on a daily basis. 11899

(3) The child is at risk of institutionalization in a 11900  
hospital, skilled nursing facility, or intermediate care 11901  
facility for individuals with intellectual disabilities. 11902

~~(K)~~ (J) (1) A child may be identified as having an "other 11903  
health impairment-major" if the child's condition meets the 11904  
definition of "other health impaired" established in rules 11905  
previously adopted by the state board of education and if either 11906  
of the following apply: 11907

(a) The child is identified as having a medical condition 11908  
that is among those listed by the superintendent of public 11909  
instruction as conditions where a substantial majority of cases 11910  
fall within the definition of "medically fragile child." 11911

(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division (K) (1) (a) or (b) of this section.

~~(L)~~(K) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

~~(M)~~(L) "Preschool scholarship ADM" means the number of preschool children with disabilities certified under division (B) (3) (h) of section 3317.03 of the Revised Code.

~~(N)~~(M) "Related services" includes:

(1) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (B) (3) of this section, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(2) Speech and language services provided to any student

with a disability, including any student whose primary or only disability is a speech and language disability; 11941  
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(3) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services; 11943  
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(4) Any service included in units funded under former division (O) (1) of section 3317.024 of the Revised Code; 11946  
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(5) Any other related service needed by children with disabilities in accordance with their individualized education programs. 11948  
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~~(O)~~ (N) "School district," unless otherwise specified, means city, local, and exempted village school districts. 11951  
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~~(P)~~ (O) "State education aid" has the same meaning as in section 5751.20 of the Revised Code. 11953  
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~~(Q)~~ (P) "State share index" means the state share index calculated for a district under section 3317.017 of the Revised Code. 11955  
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~~(R)~~ (Q) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property. 11958  
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~~(S)~~ (R) (1) For purposes of section 3317.017 of the Revised Code, "three-year average valuation" means the average of total taxable value for tax years 2012, 2013, and 2014. 11963  
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(2) For purposes of section 3317.018 of the Revised Code, "three-year average valuation" means the following: 11966  
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(a) For fiscal year 2016, the average of total taxable value for tax years 2013, 2014, and 2015; 11968  
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(b) For fiscal year 2017, the average of total taxable value for tax years 2014, 2015, and 2016. 11970  
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(3) For purposes of sections 3317.0217, 3317.0218, and 3317.16 of the Revised Code, "three-year average valuation" means the following: 11972  
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(a) For fiscal year 2016, the average of total taxable value for tax years 2012, 2013, and 2014; 11975  
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(b) For fiscal year 2017, the average of total taxable value for tax years 2013, 2014, and 2015. 11977  
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~~(T)~~(S) "Total ADM" means, for a city, local, or exempted village school district, the enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section. 11979  
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~~(U)~~(T) "Total special education ADM" means the sum of categories one through six special education ADM. 11984  
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~~(V)~~(U) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A) (1) and (2) of section 3317.021 of the Revised Code. 11986  
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**Sec. 3317.024.** The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education: 11990  
11991  
11992

(A) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such 11993  
11994  
11995

district and for capital improvements for such schools. Such 11996  
amounts shall be determined on the basis of standards adopted by 11997  
the state board of education. However, for fiscal years 2012 and 11998  
2013, an island district shall receive the lesser of its actual 11999  
cost of operation, as certified to the department of education, 12000  
or ninety-three per cent of the amount the district received in 12001  
state operating funding for fiscal year 2011. If an island 12002  
district received no funding for fiscal year 2011, it shall 12003  
receive no funding for either of fiscal year 2012 or 2013. 12004

(B) An amount for each school district required to pay 12005  
tuition for a child in an institution maintained by the 12006  
department of youth services pursuant to section 3317.082 of the 12007  
Revised Code, provided the child was not included in the 12008  
calculation of the district's formula ADM, as that term is 12009  
defined in section 3317.02 of the Revised Code, for the 12010  
preceding school year. 12011

(C) An amount for the approved cost of transporting 12012  
eligible pupils with disabilities attending a special education 12013  
program approved by the department of education whom it is 12014  
impossible or impractical to transport by regular school bus in 12015  
the course of regular route transportation provided by the 12016  
school district or educational service center. No district or 12017  
service center is eligible to receive a payment under this 12018  
division for the cost of transporting any pupil whom it 12019  
transports by regular school bus and who is included in the 12020  
district's transportation ADM. The state board of education 12021  
shall establish standards and guidelines for use by the 12022  
department of education in determining the approved cost of such 12023  
transportation for each district or service center. 12024

(D) An amount to each school district, including each 12025

cooperative education school district, pursuant to section 12026  
3313.81 of the Revised Code to assist in providing free lunches 12027  
to needy children. The amounts shall be determined on the basis 12028  
of rules adopted by the state board of education. 12029

(E) An amount to each school district, for each pupil 12030  
attending a chartered nonpublic elementary or high school within 12031  
the district. The amount shall equal the amount appropriated for 12032  
the implementation of section 3317.06 of the Revised Code 12033  
divided by the average daily membership in grades kindergarten 12034  
through twelve in nonpublic elementary and high schools within 12035  
the state as determined as of the last day of October of each 12036  
school year. 12037

(F) An amount for each county ~~DD~~ board of developmental 12038  
disabilities, distributed on the basis of standards adopted by 12039  
the state board of education, for the approved cost of 12040  
transportation required for children attending special education 12041  
programs operated by the county ~~DD~~ board under section 3323.09 12042  
of the Revised Code; 12043

(G) An amount to each institution defined under section 12044  
3317.082 of the Revised Code providing elementary or secondary 12045  
education to children other than children receiving special 12046  
education under section 3323.091 of the Revised Code. This 12047  
amount for any institution in any fiscal year shall equal the 12048  
total of all tuition amounts required to be paid to the 12049  
institution under division (A) (1) of section 3317.082 of the 12050  
Revised Code. 12051

The state board of education or any other board of 12052  
education or governing board may provide for any resident of a 12053  
district or educational service center territory any educational 12054  
service for which funds are made available to the board by the 12055

United States under the authority of public law, whether such 12056  
funds come directly or indirectly from the United States or any 12057  
agency or department thereof or through the state or any agency, 12058  
department, or political subdivision thereof. 12059

**Sec. 3317.03.** (A) The superintendent of each city, local, 12060  
and exempted village school district shall report to the state 12061  
board of education as of the last day of October, March, and 12062  
June of each year the enrollment of students receiving services 12063  
from schools under the superintendent's supervision, and the 12064  
numbers of other students entitled to attend school in the 12065  
district under section 3313.64 or 3313.65 of the Revised Code 12066  
the superintendent is required to report under this section, so 12067  
that the department of education can calculate the district's 12068  
formula ADM, total ADM, category one through five career- 12069  
technical education ADM, category one through three limited 12070  
English proficient ADM, category one through six special 12071  
education ADM, preschool scholarship ADM, transportation ADM, 12072  
and, for purposes of provisions of law outside of Chapter 3317. 12073  
of the Revised Code, average daily membership. 12074

(1) The enrollment reported by the superintendent during 12075  
the reporting period shall consist of the number of students in 12076  
grades kindergarten through twelve receiving any educational 12077  
services from the district, except that the following categories 12078  
of students shall not be included in the determination: 12079

(a) Students enrolled in adult education classes; 12080

(b) Adjacent or other district students enrolled in the 12081  
district under an open enrollment policy pursuant to section 12082  
3313.98 of the Revised Code; 12083

(c) Students receiving services in the district pursuant 12084

to a compact, cooperative education agreement, or a contract, 12085  
but who are entitled to attend school in another district 12086  
pursuant to section 3313.64 or 3313.65 of the Revised Code; 12087

(d) Students for whom tuition is payable pursuant to 12088  
sections 3317.081 and 3323.141 of the Revised Code; 12089

(e) Students receiving services in the district through a 12090  
scholarship awarded under either section 3310.41 or sections 12091  
3310.51 to 3310.64 of the Revised Code. 12092

When reporting students under division (A) (1) of this 12093  
section, the superintendent also shall report the district where 12094  
each student is entitled to attend school pursuant to sections 12095  
3313.64 and 3313.65 of the Revised Code. 12096

(2) The department of education shall compile a list of 12097  
all students reported to be enrolled in a district under 12098  
division (A) (1) of this section and of the students entitled to 12099  
attend school in the district pursuant to section 3313.64 or 12100  
3313.65 of the Revised Code on an FTE basis but receiving 12101  
educational services in grades kindergarten through twelve from 12102  
one or more of the following entities: 12103

(a) A community school pursuant to Chapter 3314. of the 12104  
Revised Code, including any participation in a college pursuant 12105  
to Chapter 3365. of the Revised Code while enrolled in such 12106  
community school; 12107

(b) An alternative school pursuant to sections 3313.974 to 12108  
3313.979 of the Revised Code as described in division (I) (2) (a) 12109  
or (b) of this section; 12110

(c) A college pursuant to Chapter 3365. of the Revised 12111  
Code, except when the student is enrolled in the college while 12112  
also enrolled in a community school pursuant to Chapter 3314., a 12113

science, technology, engineering, and mathematics school	12114
established under Chapter 3326., or a college-preparatory	12115
boarding school established under Chapter 3328. of the Revised	12116
Code;	12117
(d) An adjacent or other school district under an open	12118
enrollment policy adopted pursuant to section 3313.98 of the	12119
Revised Code;	12120
(e) An educational service center or cooperative education	12121
district;	12122
(f) Another school district under a cooperative education	12123
agreement, compact, or contract;	12124
(g) A chartered nonpublic school with a scholarship paid	12125
under section 3310.08 of the Revised Code, if the students	12126
qualified for the scholarship under section 3310.03 of the	12127
Revised Code;	12128
(h) An alternative public provider or a registered private	12129
provider with a scholarship awarded under either section 3310.41	12130
or sections 3310.51 to 3310.64 of the Revised Code.	12131
As used in this section, "alternative public provider" and	12132
"registered private provider" have the same meanings as in	12133
section 3310.41 or 3310.51 of the Revised Code, as applicable.	12134
(i) A science, technology, engineering, and mathematics	12135
school established under Chapter 3326. of the Revised Code,	12136
including any participation in a college pursuant to Chapter	12137
3365. of the Revised Code while enrolled in the school;	12138
(j) A college-preparatory boarding school established	12139
under Chapter 3328. of the Revised Code, including any	12140
participation in a college pursuant to Chapter 3365. of the	12141

Revised Code while enrolled in the school. 12142

(3) The department also shall compile a list of the 12143  
students entitled to attend school in the district under section 12144  
3313.64 or 3313.65 of the Revised Code who are enrolled in a 12145  
joint vocational school district or under a career-technical 12146  
education compact, excluding any students so entitled to attend 12147  
school in the district who are enrolled in another school 12148  
district through an open enrollment policy as reported under 12149  
division (A) (2) (d) of this section and then enroll in a joint 12150  
vocational school district or under a career-technical education 12151  
compact. 12152

The department shall provide each city, local, and 12153  
exempted village school district with an opportunity to review 12154  
the list of students compiled under divisions (A) (2) and (3) of 12155  
this section to ensure that the students reported accurately 12156  
reflect the enrollment of students in the district. 12157

(B) To enable the department of education to obtain the 12158  
data needed to complete the calculation of payments pursuant to 12159  
this chapter, each superintendent shall certify from the reports 12160  
provided by the department under division (A) of this section 12161  
all of the following: 12162

(1) The total student enrollment in regular learning day 12163  
classes included in the report under division (A) (1) or (2) of 12164  
this section for each of the individual grades kindergarten 12165  
through twelve in schools under the superintendent's 12166  
supervision; 12167

(2) The unduplicated count of the number of preschool 12168  
children with disabilities enrolled in the district for whom the 12169  
district is eligible to receive funding under section 3317.0213 12170

of the Revised Code adjusted for the portion of the year each child is so enrolled, in accordance with the disability categories prescribed in section 3317.013 of the Revised Code; 12171  
12172  
12173

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are: 12174  
12175  
12176

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I) (2) (a) or (b) of this section; 12177  
12178  
12179

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code, a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code; 12180  
12181  
12182  
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(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code; 12187  
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(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school; 12189  
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12191  
12192  
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(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school; 12195  
12196  
12197  
12198

(f) Enrolled in a chartered nonpublic school with a 12199

scholarship paid under section 3310.08 of the Revised Code and	12200
who qualified for the scholarship under section 3310.03 of the	12201
Revised Code;	12202
(g) Enrolled in kindergarten through grade twelve in an	12203
alternative public provider or a registered private provider	12204
with a scholarship awarded under section 3310.41 of the Revised	12205
Code;	12206
(h) Enrolled as a preschool child with a disability in an	12207
alternative public provider or a registered private provider	12208
with a scholarship awarded under section 3310.41 of the Revised	12209
Code;	12210
(i) Participating in a program operated by a county <del>DD-</del>	12211
<u>board of developmental disabilities</u> or a state institution;	12212
(j) Enrolled in a science, technology, engineering, and	12213
mathematics school established under Chapter 3326. of the	12214
Revised Code, including any participation in a college pursuant	12215
to Chapter 3365. of the Revised Code while enrolled in the	12216
school;	12217
(k) Enrolled in a college-preparatory boarding school	12218
established under Chapter 3328. of the Revised Code, including	12219
any participation in a college pursuant to Chapter 3365. of the	12220
Revised Code while enrolled in the school;	12221
(l) Enrolled in an alternative public provider or a	12222
registered private provider with a scholarship awarded under	12223
sections 3310.51 to 3310.64 of the Revised Code.	12224
(4) The total enrollment of pupils in joint vocational	12225
schools;	12226
(5) The combined enrollment of children with disabilities	12227

reported under division (A) (1) or (2) of this section receiving 12228  
special education services for the category one disability 12229  
described in division (A) of section 3317.013 of the Revised 12230  
Code, including children attending a special education program 12231  
operated by an alternative public provider or a registered 12232  
private provider with a scholarship awarded under sections 12233  
3310.51 to 3310.64 of the Revised Code; 12234

(6) The combined enrollment of children with disabilities 12235  
reported under division (A) (1) or (2) of this section receiving 12236  
special education services for category two disabilities 12237  
described in division (B) of section 3317.013 of the Revised 12238  
Code, including children attending a special education program 12239  
operated by an alternative public provider or a registered 12240  
private provider with a scholarship awarded under sections 12241  
3310.51 to 3310.64 of the Revised Code; 12242

(7) The combined enrollment of children with disabilities 12243  
reported under division (A) (1) or (2) of this section receiving 12244  
special education services for category three disabilities 12245  
described in division (C) of section 3317.013 of the Revised 12246  
Code, including children attending a special education program 12247  
operated by an alternative public provider or a registered 12248  
private provider with a scholarship awarded under sections 12249  
3310.51 to 3310.64 of the Revised Code; 12250

(8) The combined enrollment of children with disabilities 12251  
reported under division (A) (1) or (2) of this section receiving 12252  
special education services for category four disabilities 12253  
described in division (D) of section 3317.013 of the Revised 12254  
Code, including children attending a special education program 12255  
operated by an alternative public provider or a registered 12256  
private provider with a scholarship awarded under sections 12257

3310.51 to 3310.64 of the Revised Code;	12258
(9) The combined enrollment of children with disabilities reported under division (A) (1) or (2) of this section receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;	12259 12260 12261 12262 12263 12264 12265 12266
(10) The combined enrollment of children with disabilities reported under division (A) (1) or (2) and under division (B) (3) (h) of this section receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code;	12267 12268 12269 12270 12271 12272 12273 12274 12275
(11) The enrollment of pupils reported under division (A) (1) or (2) of this section on a full-time equivalency basis in category one career-technical education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division <del>(H)</del> <u>(G)</u> of section 3317.02 of the Revised Code and division (C) (3) of this section;	12276 12277 12278 12279 12280 12281 12282 12283 12284 12285
(12) The enrollment of pupils reported under division (A) (1) or (2) of this section on a full-time equivalency basis in	12286 12287

category two career-technical education programs or services, 12288  
described in division (B) of section 3317.014 of the Revised 12289  
Code, operated by the school district or another school district 12290  
that is a member of the district's career-technical planning 12291  
district, other than a joint vocational school district, or by 12292  
an educational service center, notwithstanding division ~~(H)~~(G) 12293  
of section 3317.02 of the Revised Code and division (C) (3) of 12294  
this section; 12295

(13) The enrollment of pupils reported under division (A) 12296  
(1) or (2) of this section on a full-time equivalency basis in 12297  
category three career-technical education programs or services, 12298  
described in division (C) of section 3317.014 of the Revised 12299  
Code, operated by the school district or another school district 12300  
that is a member of the district's career-technical planning 12301  
district, other than a joint vocational school district, or by 12302  
an educational service center, notwithstanding division ~~(H)~~(G) 12303  
of section 3317.02 of the Revised Code and division (C) (3) of 12304  
this section; 12305

(14) The enrollment of pupils reported under division (A) 12306  
(1) or (2) of this section on a full-time equivalency basis in 12307  
category four career-technical education programs or services, 12308  
described in division (D) of section 3317.014 of the Revised 12309  
Code, operated by the school district or another school district 12310  
that is a member of the district's career-technical planning 12311  
district, other than a joint vocational school district, or by 12312  
an educational service center, notwithstanding division ~~(H)~~(G) 12313  
of section 3317.02 of the Revised Code and division (C) (3) of 12314  
this section; 12315

(15) The enrollment of pupils reported under division (A) 12316  
(1) or (2) of this section on a full-time equivalency basis in 12317

category five career-technical education programs or services, 12318  
described in division (E) of section 3317.014 of the Revised 12319  
Code, operated by the school district or another school district 12320  
that is a member of the district's career-technical planning 12321  
district, other than a joint vocational school district, or by 12322  
an educational service center, notwithstanding division ~~(H)~~(G) 12323  
of section 3317.02 of the Revised Code and division (C) (3) of 12324  
this section; 12325

(16) The enrollment of pupils reported under division (A) 12326  
(1) or (2) of this section who are limited English proficient 12327  
students described in division (A) of section 3317.016 of the 12328  
Revised Code, excluding any student reported under division (B) 12329  
(3) (e) of this section as enrolled in an internet- or computer- 12330  
based community school; 12331

(17) The enrollment of pupils reported under division (A) 12332  
(1) or (2) of this section who are limited English proficient 12333  
students described in division (B) of section 3317.016 of the 12334  
Revised Code, excluding any student reported under division (B) 12335  
(3) (e) of this section as enrolled in an internet- or computer- 12336  
based community school; 12337

(18) The enrollment of pupils reported under division (A) 12338  
(1) or (2) of this section who are limited English proficient 12339  
students described in division (C) of section 3317.016 of the 12340  
Revised Code, excluding any student reported under division (B) 12341  
(3) (e) of this section as enrolled in an internet- or computer- 12342  
based community school; 12343

(19) The average number of children transported during the 12344  
reporting period by the school district on board-owned or 12345  
contractor-owned and -operated buses, reported in accordance 12346  
with rules adopted by the department of education; 12347

(20) (a) The number of children, other than preschool 12348  
children with disabilities, the district placed with a county ~~DD-~~ 12349  
board of developmental disabilities in fiscal year 1998. 12350  
Division (B) (20) (a) of this section does not apply after fiscal 12351  
year 2013. 12352

(b) The number of children with disabilities, other than 12353  
preschool children with disabilities, placed with a county ~~DD-~~ 12354  
board of developmental disabilities in the current fiscal year 12355  
to receive special education services for the category one 12356  
disability described in division (A) of section 3317.013 of the 12357  
Revised Code; 12358

(c) The number of children with disabilities, other than 12359  
preschool children with disabilities, placed with a county ~~DD-~~ 12360  
board of developmental disabilities in the current fiscal year 12361  
to receive special education services for category two 12362  
disabilities described in division (B) of section 3317.013 of 12363  
the Revised Code; 12364

(d) The number of children with disabilities, other than 12365  
preschool children with disabilities, placed with a county ~~DD-~~ 12366  
board of developmental disabilities in the current fiscal year 12367  
to receive special education services for category three 12368  
disabilities described in division (C) of section 3317.013 of 12369  
the Revised Code; 12370

(e) The number of children with disabilities, other than 12371  
preschool children with disabilities, placed with a county ~~DD-~~ 12372  
board of developmental disabilities in the current fiscal year 12373  
to receive special education services for category four 12374  
disabilities described in division (D) of section 3317.013 of 12375  
the Revised Code; 12376

(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county ~~DD-~~ board of developmental disabilities in the current fiscal year to receive special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code; 12377  
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(g) The number of children with disabilities, other than preschool children with disabilities, placed with a county ~~DD-~~ board of developmental disabilities in the current fiscal year to receive special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code. 12383  
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(21) The enrollment of students who are economically disadvantaged, as defined by the department, excluding any student reported under division (B) (3) (e) of this section as enrolled in an internet- or computer-based community school. A student shall not be categorically excluded from the number reported under division (B) (21) of this section based on anything other than family income. 12389  
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(C) (1) The state board of education shall adopt rules necessary for implementing divisions (A), (B), and (D) of this section. 12396  
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(2) A student enrolled in a community school established under Chapter 3314., a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 12399  
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3313.65 of the Revised Code for the same proportion of the 12407  
school year that the student is counted in the enrollment of the 12408  
community school, the science, technology, engineering, and 12409  
mathematics school, or the college-preparatory boarding school 12410  
for purposes of section 3314.08, 3326.33, or 3328.24 of the 12411  
Revised Code. Notwithstanding the enrollment of students 12412  
certified pursuant to division (B)(3)(d), (e), (j), or (k) of 12413  
this section, the department may adjust the formula ADM of a 12414  
school district to account for students entitled to attend 12415  
school in the district under section 3313.64 or 3313.65 of the 12416  
Revised Code who are enrolled in a community school, a science, 12417  
technology, engineering, and mathematics school, or a college- 12418  
preparatory boarding school for only a portion of the school 12419  
year. 12420

(3) No child shall be counted as more than a total of one 12421  
child in the sum of the enrollment of students of a school 12422  
district under division (A), divisions (B)(1) to (22), or 12423  
division (D) of this section, except as follows: 12424

(a) A child with a disability described in section 12425  
3317.013 of the Revised Code may be counted both in formula ADM 12426  
and in category one, two, three, four, five, or six special 12427  
education ADM and, if applicable, in category one, two, three, 12428  
four, or five career-technical education ADM. As provided in 12429  
division ~~(H)~~ (G) of section 3317.02 of the Revised Code, such a 12430  
child shall be counted in category one, two, three, four, five, 12431  
or six special education ADM in the same proportion that the 12432  
child is counted in formula ADM. 12433

(b) A child enrolled in career-technical education 12434  
programs or classes described in section 3317.014 of the Revised 12435  
Code may be counted both in formula ADM and category one, two, 12436

three, four, or five career-technical education ADM and, if 12437  
applicable, in category one, two, three, four, five, or six 12438  
special education ADM. Such a child shall be counted in category 12439  
one, two, three, four, or five career-technical education ADM in 12440  
the same proportion as the percentage of time that the child 12441  
spends in the career-technical education programs or classes. 12442

(4) Based on the information reported under this section, 12443  
the department of education shall determine the total student 12444  
count, as defined in section 3301.011 of the Revised Code, for 12445  
each school district. 12446

(D) (1) The superintendent of each joint vocational school 12447  
district shall report and certify to the superintendent of 12448  
public instruction as of the last day of October, March, and 12449  
June of each year the enrollment of students receiving services 12450  
from schools under the superintendent's supervision so that the 12451  
department can calculate the district's formula ADM, total ADM, 12452  
category one through five career-technical education ADM, 12453  
category one through three limited English proficient ADM, 12454  
category one through six special education ADM, and for purposes 12455  
of provisions of law outside of Chapter 3317. of the Revised 12456  
Code, average daily membership. 12457

The enrollment reported and certified by the 12458  
superintendent, except as otherwise provided in this division, 12459  
shall consist of the the number of students in grades six 12460  
through twelve receiving any educational services from the 12461  
district, except that the following categories of students shall 12462  
not be included in the determination: 12463

(a) Students enrolled in adult education classes; 12464

(b) Adjacent or other district joint vocational students 12465

enrolled in the district under an open enrollment policy	12466
pursuant to section 3313.98 of the Revised Code;	12467
(c) Students receiving services in the district pursuant	12468
to a compact, cooperative education agreement, or a contract,	12469
but who are entitled to attend school in a city, local, or	12470
exempted village school district whose territory is not part of	12471
the territory of the joint vocational district;	12472
(d) Students for whom tuition is payable pursuant to	12473
sections 3317.081 and 3323.141 of the Revised Code.	12474
(2) To enable the department of education to obtain the	12475
data needed to complete the calculation of payments pursuant to	12476
this chapter, each superintendent shall certify from the report	12477
provided under division (D)(1) of this section the enrollment	12478
for each of the following categories of students:	12479
(a) Students enrolled in each individual grade included in	12480
the joint vocational district schools;	12481
(b) Children with disabilities receiving special education	12482
services for the category one disability described in division	12483
(A) of section 3317.013 of the Revised Code;	12484
(c) Children with disabilities receiving special education	12485
services for the category two disabilities described in division	12486
(B) of section 3317.013 of the Revised Code;	12487
(d) Children with disabilities receiving special education	12488
services for category three disabilities described in division	12489
(C) of section 3317.013 of the Revised Code;	12490
(e) Children with disabilities receiving special education	12491
services for category four disabilities described in division	12492
(D) of section 3317.013 of the Revised Code;	12493

(f) Children with disabilities receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;	12494 12495 12496
(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;	12497 12498 12499
(h) Students receiving category one career-technical education services, described in division (A) of section 3317.014 of the Revised Code;	12500 12501 12502
(i) Students receiving category two career-technical education services, described in division (B) of section 3317.014 of the Revised Code;	12503 12504 12505
(j) Students receiving category three career-technical education services, described in division (C) of section 3317.014 of the Revised Code;	12506 12507 12508
(k) Students receiving category four career-technical education services, described in division (D) of section 3317.014 of the Revised Code;	12509 12510 12511
(l) Students receiving category five career-technical education services, described in division (E) of section 3317.014 of the Revised Code;	12512 12513 12514
(m) Limited English proficient students described in division (A) of section 3317.016 of the Revised Code;	12515 12516
(n) Limited English proficient students described in division (B) of section 3317.016 of the Revised Code;	12517 12518
(o) Limited English proficient students described in division (C) of section 3317.016 of the Revised Code;	12519 12520

(p) Students who are economically disadvantaged, as 12521  
defined by the department. A student shall not be categorically 12522  
excluded from the number reported under division (D) (2) (p) of 12523  
this section based on anything other than family income. 12524

The superintendent of each joint vocational school 12525  
district shall also indicate the city, local, or exempted 12526  
village school district in which each joint vocational district 12527  
pupil is entitled to attend school pursuant to section 3313.64 12528  
or 3313.65 of the Revised Code. 12529

(E) In each school of each city, local, exempted village, 12530  
joint vocational, and cooperative education school district 12531  
there shall be maintained a record of school enrollment, which 12532  
record shall accurately show, for each day the school is in 12533  
session, the actual enrollment in regular day classes. For the 12534  
purpose of determining the enrollment of students, the 12535  
enrollment figure of any school shall not include any pupils 12536  
except those pupils described by division (A) of this section. 12537  
The record of enrollment for each school shall be maintained in 12538  
such manner that no pupil shall be counted as enrolled prior to 12539  
the actual date of entry in the school and also in such manner 12540  
that where for any cause a pupil permanently withdraws from the 12541  
school that pupil shall not be counted as enrolled from and 12542  
after the date of such withdrawal. There shall not be included 12543  
in the enrollment of any school any of the following: 12544

(1) Any pupil who has graduated from the twelfth grade of 12545  
a public or nonpublic high school; 12546

(2) Any pupil who is not a resident of the state; 12547

(3) Any pupil who was enrolled in the schools of the 12548  
district during the previous school year when assessments were 12549

administered under section 3301.0711 of the Revised Code but did 12550  
not take one or more of the assessments required by that section 12551  
and was not excused pursuant to division (C) (1) or (3) of that 12552  
section; 12553

(4) Any pupil who has attained the age of twenty-two 12554  
years, except for veterans of the armed services whose 12555  
attendance was interrupted before completing the recognized 12556  
twelve-year course of the public schools by reason of induction 12557  
or enlistment in the armed forces and who apply for reenrollment 12558  
in the public school system of their residence not later than 12559  
four years after termination of war or their honorable 12560  
discharge; 12561

(5) Any pupil who has a high school equivalence diploma as 12562  
defined in section 5107.40 of the Revised Code. 12563

If, however, any veteran described by division (E) (4) of 12564  
this section elects to enroll in special courses organized for 12565  
veterans for whom tuition is paid under the provisions of 12566  
federal laws, or otherwise, that veteran shall not be included 12567  
in the enrollment of students determined under this section. 12568

Notwithstanding division (E) (3) of this section, the 12569  
enrollment of any school may include a pupil who did not take an 12570  
assessment required by section 3301.0711 of the Revised Code if 12571  
the superintendent of public instruction grants a waiver from 12572  
the requirement to take the assessment to the specific pupil and 12573  
a parent is not paying tuition for the pupil pursuant to section 12574  
3313.6410 of the Revised Code. The superintendent may grant such 12575  
a waiver only for good cause in accordance with rules adopted by 12576  
the state board of education. 12577

The formula ADM, total ADM, category one through five 12578

career-technical education ADM, category one through three 12579  
limited English proficient ADM, category one through six special 12580  
education ADM, preschool scholarship ADM, transportation ADM, 12581  
and, for purposes of provisions of law outside of Chapter 3317. 12582  
of the Revised Code, average daily membership of any school 12583  
district shall be determined in accordance with rules adopted by 12584  
the state board of education. 12585

(F) (1) If a student attending a community school under 12586  
Chapter 3314., a science, technology, engineering, and 12587  
mathematics school established under Chapter 3326., or a 12588  
college-preparatory boarding school established under Chapter 12589  
3328. of the Revised Code is not included in the formula ADM 12590  
calculated for the school district in which the student is 12591  
entitled to attend school under section 3313.64 or 3313.65 of 12592  
the Revised Code, the department of education shall adjust the 12593  
formula ADM of that school district to include the student in 12594  
accordance with division (C) (2) of this section, and shall 12595  
recalculate the school district's payments under this chapter 12596  
for the entire fiscal year on the basis of that adjusted formula 12597  
ADM. 12598

(2) If a student awarded an educational choice scholarship 12599  
is not included in the formula ADM of the school district from 12600  
which the department deducts funds for the scholarship under 12601  
section 3310.08 of the Revised Code, the department shall adjust 12602  
the formula ADM of that school district to include the student 12603  
to the extent necessary to account for the deduction, and shall 12604  
recalculate the school district's payments under this chapter 12605  
for the entire fiscal year on the basis of that adjusted formula 12606  
ADM. 12607

(3) If a student awarded a scholarship under the Jon 12608

Peterson special needs scholarship program is not included in 12609  
the formula ADM of the school district from which the department 12610  
deducts funds for the scholarship under section 3310.55 of the 12611  
Revised Code, the department shall adjust the formula ADM of 12612  
that school district to include the student to the extent 12613  
necessary to account for the deduction, and shall recalculate 12614  
the school district's payments under this chapter for the entire 12615  
fiscal year on the basis of that adjusted formula ADM. 12616

(G) (1) (a) The superintendent of an institution operating a 12617  
special education program pursuant to section 3323.091 of the 12618  
Revised Code shall, for the programs under such superintendent's 12619  
supervision, certify to the state board of education, in the 12620  
manner prescribed by the superintendent of public instruction, 12621  
both of the following: 12622

(i) The unduplicated count of the number of all children 12623  
with disabilities other than preschool children with 12624  
disabilities receiving services at the institution for each 12625  
category of disability described in divisions (A) to (F) of 12626  
section 3317.013 of the Revised Code adjusted for the portion of 12627  
the year each child is so enrolled; 12628

(ii) The unduplicated count of the number of all preschool 12629  
children with disabilities in classes or programs for whom the 12630  
district is eligible to receive funding under section 3317.0213 12631  
of the Revised Code adjusted for the portion of the year each 12632  
child is so enrolled, reported according to the categories 12633  
prescribed in section 3317.013 of the Revised Code. 12634

(b) The superintendent of an institution with career- 12635  
technical education units approved under section 3317.05 of the 12636  
Revised Code shall, for the units under the superintendent's 12637  
supervision, certify to the state board of education the 12638

enrollment in those units, in the manner prescribed by the 12639  
superintendent of public instruction. 12640

(2) The superintendent of each county ~~DD~~-board of 12641  
developmental disabilities that maintains special education 12642  
classes under section 3317.20 of the Revised Code or provides 12643  
services to preschool children with disabilities pursuant to an 12644  
agreement between the ~~DD~~-county board and the appropriate school 12645  
district shall do both of the following: 12646

(a) Certify to the state board, in the manner prescribed 12647  
by the board, the enrollment in classes under section 3317.20 of 12648  
the Revised Code for each school district that has placed 12649  
children in the classes; 12650

(b) Certify to the state board, in the manner prescribed 12651  
by the board, the unduplicated count of the number of all 12652  
preschool children with disabilities enrolled in classes for 12653  
which the DD board is eligible to receive funding under section 12654  
3317.0213 of the Revised Code adjusted for the portion of the 12655  
year each child is so enrolled, reported according to the 12656  
categories prescribed in section 3317.013 of the Revised Code, 12657  
and the number of those classes. 12658

(H) Except as provided in division (I) of this section, 12659  
when any city, local, or exempted village school district 12660  
provides instruction for a nonresident pupil whose attendance is 12661  
unauthorized attendance as defined in section 3327.06 of the 12662  
Revised Code, that pupil's enrollment shall not be included in 12663  
that district's enrollment figure used in calculating the 12664  
district's payments under this chapter. The reporting official 12665  
shall report separately the enrollment of all pupils whose 12666  
attendance in the district is unauthorized attendance, and the 12667  
enrollment of each such pupil shall be credited to the school 12668

district in which the pupil is entitled to attend school under 12669  
division (B) of section 3313.64 or section 3313.65 of the 12670  
Revised Code as determined by the department of education. 12671

(I) (1) A city, local, exempted village, or joint 12672  
vocational school district admitting a scholarship student of a 12673  
pilot project district pursuant to division (C) of section 12674  
3313.976 of the Revised Code may count such student in its 12675  
enrollment. 12676

(2) In any year for which funds are appropriated for pilot 12677  
project scholarship programs, a school district implementing a 12678  
state-sponsored pilot project scholarship program that year 12679  
pursuant to sections 3313.974 to 3313.979 of the Revised Code 12680  
may count in its enrollment: 12681

(a) All children residing in the district and utilizing a 12682  
scholarship to attend kindergarten in any alternative school, as 12683  
defined in section 3313.974 of the Revised Code; 12684

(b) All children who were enrolled in the district in the 12685  
preceding year who are utilizing a scholarship to attend an 12686  
alternative school. 12687

(J) The superintendent of each cooperative education 12688  
school district shall certify to the superintendent of public 12689  
instruction, in a manner prescribed by the state board of 12690  
education, the applicable enrollments for all students in the 12691  
cooperative education district, also indicating the city, local, 12692  
or exempted village district where each pupil is entitled to 12693  
attend school under section 3313.64 or 3313.65 of the Revised 12694  
Code. 12695

(K) If the superintendent of public instruction determines 12696  
that a component of the enrollment certified or reported by a 12697

district superintendent, or other reporting entity, is not 12698  
correct, the superintendent of public instruction may order that 12699  
the formula ADM used for the purposes of payments under any 12700  
section of Title XXXIII of the Revised Code be adjusted in the 12701  
amount of the error. 12702

**Sec. 3317.032.** Each city, local, exempted village, and 12703  
cooperative education school district, each educational service 12704  
center, each county ~~DD~~-board of developmental disabilities, and 12705  
each institution operating a special education program pursuant 12706  
to section 3323.091 of the Revised Code shall, in accordance 12707  
with procedures adopted by the state board of education, 12708  
maintain a record of district membership of all preschool 12709  
children with disabilities who are served by a special education 12710  
program. 12711

**Sec. 3317.07.** If the department of education determines 12712  
that a county ~~DD~~-board of developmental disabilities no longer 12713  
needs a school bus because the board no longer transports 12714  
children to a special education program operated by the board, 12715  
or if the department determines that a school district no longer 12716  
needs a school bus to transport pupils to a nonpublic school or 12717  
special education program, the department may reassign a bus 12718  
that was funded with payments provided pursuant to the version 12719  
of this section in effect prior to the effective date of this 12720  
amendment for the purpose of transporting such pupils. The 12721  
department may reassign a bus to a county ~~DD~~-board of 12722  
developmental disabilities or school district that transports 12723  
children to a special education program designated in the 12724  
children's individualized education ~~plans~~programs, or to a 12725  
school district that transports pupils to a nonpublic school, 12726  
and needs an additional school bus. 12727

**Sec. 3317.15.** (A) As used in this section, "child with a disability" has the same meaning as in section 3323.01 of the Revised Code. 12728  
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(B) Each city, exempted village, local, and joint vocational school district shall continue to comply with all requirements of federal statutes and regulations, the Revised Code, and rules adopted by the state board of education governing education of children with disabilities, including, but not limited to, requirements that children with disabilities be served by appropriately licensed or certificated education personnel. 12731  
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(C) Each city, exempted village, local, and joint vocational school district shall consult with the educational service center serving the county in which the school district is located and, if it elects to participate pursuant to section 5126.04 of the Revised Code, the county ~~DD~~-board of developmental disabilities of that county, in providing services that serve the best interests of children with disabilities. 12739  
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(D) Each school district shall annually provide documentation to the department of education that it employs the appropriate number of licensed or certificated personnel to serve the district's students with disabilities. 12746  
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(E) The department annually shall audit a sample of school districts to ensure that children with disabilities are being appropriately reported. 12750  
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(F) Each school district shall provide speech-language pathology services at a ratio of one speech-language pathologist per two thousand students receiving any educational services from the district other than adult education. Each district 12753  
12754  
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shall provide school psychological services at a ratio of one 12757  
school psychologist per two thousand five hundred students 12758  
receiving any educational services from the district other than 12759  
adult education. A district may obtain the services of speech- 12760  
language pathologists and school psychologists by any means 12761  
permitted by law, including contracting with an educational 12762  
service center. If, however, a district is unable to obtain the 12763  
services of the required number of speech-language pathologists 12764  
or school psychologists, the district may request from the 12765  
superintendent of public instruction, and the superintendent may 12766  
grant, a waiver of this provision for a period of time 12767  
established by the superintendent. 12768

**Sec. 3317.20.** This section does not apply to preschool 12769  
children with disabilities. 12770

(A) As used in this section: 12771

(1) "Applicable special education amount" means the amount 12772  
specified in section 3317.013 of the Revised Code for a 12773  
disability described in that section. 12774

(2) "Child's school district" means the school district in 12775  
which a child is entitled to attend school pursuant to section 12776  
3313.64 or 3313.65 of the Revised Code. 12777

(3) "State share index" means the state share index of the 12778  
child's school district. 12779

(B) The department shall annually pay each county ~~DD~~-board 12780  
of developmental disabilities for each child with a disability, 12781  
other than a preschool child with a disability, for whom the 12782  
county ~~DD~~-board provides special education and related services 12783  
an amount equal to the formula amount + (state share index X the 12784  
applicable special education amount). 12785

(C) Each county ~~DD~~-board of developmental disabilities 12786  
shall report to the department, in the manner specified by the 12787  
department, the name of each child for whom the county ~~DD~~-board 12788  
of developmental disabilities provides special education and 12789  
related services and the child's school district. 12790

(D) (1) For the purpose of verifying the accuracy of the 12791  
payments under this section, the department may request from 12792  
either of the following entities the data verification code 12793  
assigned under division (D) (2) of section 3301.0714 of the 12794  
Revised Code to any child who is placed with a county ~~DD~~-board 12795  
of developmental disabilities: 12796

(a) The child's school district; 12797

(b) The independent contractor engaged to create and 12798  
maintain data verification codes. 12799

(2) Upon a request by the department under division (D) (1) 12800  
of this section for the data verification code of a child, the 12801  
child's school district shall submit that code to the department 12802  
in the manner specified by the department. If the child has not 12803  
been assigned a code, the district shall assign a code to that 12804  
child and submit the code to the department by a date specified 12805  
by the department. If the district does not assign a code to the 12806  
child by the specified date, the department shall assign a code 12807  
to the child. 12808

The department annually shall submit to each school 12809  
district the name and data verification code of each child 12810  
residing in the district for whom the department has assigned a 12811  
code under this division. 12812

(3) The department shall not release any data verification 12813  
code that it receives under division (D) of this section to any 12814

person except as provided by law. 12815

(E) Any document relative to special education and related 12816  
services provided by a county ~~DD~~ board of developmental 12817  
disabilities that the department holds in its files that 12818  
contains both a student's name or other personally identifiable 12819  
information and the student's data verification code shall not 12820  
be a public record under section 149.43 of the Revised Code. 12821

**Sec. 3323.01.** As used in this chapter: 12822

(A) "Child with a disability" means a child who is at 12823  
least three years of age and less than twenty-two years of age; 12824  
who has ~~mental retardation~~ an intellectual disability, a hearing 12825  
impairment (including deafness), a speech or language 12826  
impairment, a visual impairment (including blindness), a serious 12827  
emotional disturbance, an orthopedic impairment, autism, 12828  
traumatic brain injury, an other health impairment, a specific 12829  
learning disability (including dyslexia), deaf-blindness, or 12830  
multiple disabilities; and who, by reason thereof, needs special 12831  
education and related services. 12832

A "child with a disability" may include a child who is at 12833  
least three years of age and less than six years of age; who is 12834  
experiencing developmental delays, as defined by standards 12835  
adopted by the state board of education and as measured by 12836  
appropriate diagnostic instruments and procedures in one or more 12837  
of the following areas: physical development, cognitive 12838  
development, communication development, social or emotional 12839  
development, or adaptive development; and who, by reason 12840  
thereof, needs special education and related services. 12841

(B) ~~"County DD board" means a county board of~~ 12842  
~~developmental disabilities.~~ 12843

<del>(C)</del> "Free appropriate public education" means special	12844
education and related services that meet all of the following:	12845
(1) Are provided at public expense, under public	12846
supervision and direction, and without charge;	12847
(2) Meet the standards of the state board of education;	12848
(3) Include an appropriate preschool, elementary, or	12849
secondary education as otherwise provided by the law of this	12850
state;	12851
(4) Are provided for each child with a disability in	12852
conformity with the child's individualized education program.	12853
<del>(D)</del> <u>(C)</u> "Homeless children" means "homeless children and	12854
youths" as defined in section 725 of the "McKinney-Vento	12855
Homeless Assistance Act," 42 U.S.C. 11434a.	12856
<del>(E)</del> <u>(D)</u> "Individualized education program" or "IEP" means	12857
the written statement described in section 3323.011 of the	12858
Revised Code.	12859
<del>(F)</del> <u>(E)</u> "Individualized education program team" or "IEP	12860
team" means a group of individuals composed of:	12861
(1) The parents of a child with a disability;	12862
(2) At least one regular education teacher of the child,	12863
if the child is or may be participating in the regular education	12864
environment;	12865
(3) At least one special education teacher, or where	12866
appropriate, at least one special education provider of the	12867
child;	12868
(4) A representative of the school district who meets all	12869
of the following:	12870

- (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; 12871  
12872  
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- (b) Is knowledgeable about the general education curriculum; 12874  
12875
- (c) Is knowledgeable about the availability of resources of the school district. 12876  
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- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team as described in divisions ~~(F)~~(E) (2) to (4) of this section; 12878  
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- (6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; 12881  
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- (7) Whenever appropriate, the child with a disability. 12885
- ~~(G)~~(F) "Instruction in braille reading and writing" means the teaching of the system of reading and writing through touch commonly known as standard English braille. 12886  
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- ~~(H)~~(G) "Other educational agency" means a department, division, bureau, office, institution, board, commission, committee, authority, or other state or local agency, which is not a city, local, or exempted village school district or an agency administered by the department of developmental disabilities, that provides or seeks to provide special education or related services to children with disabilities. The term "other educational agency" includes a joint vocational school district. 12889  
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- ~~(I)~~(H) "Parent" of a child with a disability, except as 12898

used in sections 3323.09 and 3323.141 of the Revised Code, 12899  
means: 12900

(1) A natural or adoptive parent of a child but not a 12901  
foster parent of a child; 12902

(2) A guardian, but not the state if the child is a ward 12903  
of the state; 12904

(3) An individual acting in the place of a natural or 12905  
adoptive parent, including a grandparent, stepparent, or other 12906  
relative, with whom the child lives, or an individual who is 12907  
legally responsible for the child's welfare; 12908

(4) An individual assigned to be a surrogate parent, 12909  
provided the individual is not prohibited by this chapter from 12910  
serving as a surrogate parent for a child. 12911

~~(J)~~-(I) "Preschool child with a disability" means a child 12912  
with a disability who is at least three years of age but is not 12913  
of compulsory school age, as defined under section 3321.01 of 12914  
the Revised Code, and who is not currently enrolled in 12915  
kindergarten. 12916

~~(K)~~-(J) "Related services" means transportation, and such 12917  
developmental, corrective, and other supportive services 12918  
(including speech-language pathology and audiology services, 12919  
interpreting services, psychological services, physical and 12920  
occupational therapy, recreation, including therapeutic 12921  
recreation, school nurse services designed to enable a child 12922  
with a disability to receive a free appropriate public education 12923  
as described in the individualized education program of the 12924  
child, counseling services, including rehabilitation counseling, 12925  
orientation and mobility services, school health services, 12926  
social work services in schools, and parent counseling and 12927

training, and medical services, except that such medical 12928  
services shall be for diagnostic and evaluation purposes only) 12929  
as may be required to assist a child with a disability to 12930  
benefit from special education, and includes the early 12931  
identification and assessment of disabling conditions in 12932  
children. "Related services" does not include a medical device 12933  
that is surgically implanted, or the replacement of such device. 12934

~~(L)~~(K) "School district" means a city, local, or exempted 12935  
village school district. 12936

~~(M)~~(L) "School district of residence," as used in 12937  
sections 3323.09, 3323.091, 3323.13, and 3323.14 of the Revised 12938  
Code, means: 12939

(1) The school district in which the child's natural or 12940  
adoptive parents reside; 12941

(2) If the school district specified in division ~~(M)~~(L) (1) 12942  
of this section cannot be determined, the last school district 12943  
in which the child's natural or adoptive parents are known to 12944  
have resided if the parents' whereabouts are unknown; 12945

(3) If the school district specified in division (M) (2) of 12946  
this section cannot be determined, the school district 12947  
determined under section 2151.362 of the Revised Code, or if no 12948  
district has been so determined, the school district as 12949  
determined by the probate court of the county in which the child 12950  
resides. 12951

(4) Notwithstanding divisions (M) (1) to (3) of this 12952  
section, if a school district is required by section 3313.65 of 12953  
the Revised Code to pay tuition for a child, that district shall 12954  
be the child's school district of residence. 12955

~~(N)~~(M) "Special education" means specially designed 12956

instruction, at no cost to parents, to meet the unique needs of 12957  
a child with a disability. "Special education" includes 12958  
instruction conducted in the classroom, in the home, in 12959  
hospitals and institutions, and in other settings, including an 12960  
early childhood education setting, and instruction in physical 12961  
education. 12962

~~(O)~~ (N) "Student with a visual impairment" means any 12963  
person who is less than twenty-two years of age and who has a 12964  
visual impairment as that term is defined in this section. 12965

~~(P)~~ (O) "Transition services" means a coordinated set of 12966  
activities for a child with a disability that meet all of the 12967  
following: 12968

(1) Is designed to be within a results-oriented process, 12969  
that is focused on improving the academic and functional 12970  
achievement of the child with a disability to facilitate the 12971  
child's movement from school to post-school activities, 12972  
including post-secondary education; vocational education; 12973  
integrated employment (including supported employment); 12974  
continuing and adult education; adult services; independent 12975  
living; or community participation; 12976

(2) Is based on the individual child's needs, taking into 12977  
account the child's strengths, preferences, and interests; 12978

(3) Includes instruction, related services, community 12979  
experiences, the development of employment and other post-school 12980  
adult living objectives, and, when appropriate, acquisition of 12981  
daily living skills and functional vocational evaluation. 12982

"Transition services" for children with disabilities may 12983  
be special education, if provided as specially designed 12984  
instruction, or may be a related service, if required to assist 12985

a child with a disability to benefit from special education. 12986

~~(Q)~~(P) "Visual impairment" for any individual means that 12987  
one of the following applies to the individual: 12988

(1) The individual has a visual acuity of 20/200 or less 12989  
in the better eye with correcting lenses or has a limited field 12990  
of vision in the better eye such that the widest diameter 12991  
subtends an angular distance of no greater than twenty degrees. 12992

(2) The individual has a medically indicated expectation 12993  
of meeting the requirements of division ~~(Q)~~(P) (1) of this 12994  
section over a period of time. 12995

(3) The individual has a medically diagnosed and medically 12996  
uncorrectable limitation in visual functioning that adversely 12997  
affects the individual's ability to read and write standard 12998  
print at levels expected of the individual's peers of comparable 12999  
ability and grade level. 13000

~~(R)~~(Q) "Ward of the state" has the same meaning as in 13001  
section 602(36) of the "Individuals with Disabilities Education 13002  
Improvement Act of 2004," 20 U.S.C. 1401(36). 13003

**Sec. 3323.02.** As used in this section, "IDEIA" means the 13004  
"Individuals with Disabilities Education Improvement Act of 13005  
2004," Pub. L. No. 108-446. 13006

It is the purpose of this chapter to ensure that all 13007  
children with disabilities residing in this state who are at 13008  
least three years of age and less than twenty-two years of age, 13009  
including children with disabilities who have been suspended or 13010  
expelled from school, have available to them a free appropriate 13011  
public education. No school district, county ~~DD~~board\_of 13012  
developmental disabilities, or other educational agency shall 13013  
receive state or federal funds for special education and related 13014

services unless those services for children with disabilities 13015  
are provided in accordance with IDEIA and related provisions of 13016  
the Code of Federal Regulations, the provisions of this chapter, 13017  
rules and standards adopted by the state board of education, and 13018  
any procedures or guidelines issued by the superintendent of 13019  
public instruction. Any options or discretion provided to the 13020  
state by IDEIA may be exercised in state law or in rules or 13021  
standards adopted by the state board of education. 13022

The state board of education shall establish rules or 13023  
standards for the provision of special education and related 13024  
services for all children with disabilities who are at least 13025  
three years of age and less than twenty-two years of age 13026  
residing in the state, regardless of the severity of their 13027  
disabilities, including children with disabilities who have been 13028  
suspended or expelled from school. The state law and the rules 13029  
or standards of the state board of education may impose 13030  
requirements that are not required by IDEIA or related 13031  
provisions of the Code of Federal Regulations. The school 13032  
district of residence is responsible, in all instances, for 13033  
ensuring that the requirements of Part B of IDEIA are met for 13034  
every eligible child in its jurisdiction, regardless of whether 13035  
services are provided by another school district, other 13036  
educational agency, or other agency, department, or entity, 13037  
unless IDEIA or related provisions of the Code of Federal 13038  
Regulations, another section of this chapter, or a rule adopted 13039  
by the state board of education specifies that another school 13040  
district, other educational agency, or other agency, department, 13041  
or entity is responsible for ensuring compliance with Part B of 13042  
IDEIA. 13043

Notwithstanding division (A) (4) of section 3301.53 of the 13044  
Revised Code and any rules adopted pursuant to that section and 13045

division (A) of section 3313.646 of the Revised Code, a board of education of a school district may provide special education and related services for preschool children with disabilities in accordance with this chapter and section 3301.52, divisions (A) (1) to (3) and (A) (5) and (6) of section 3301.53, and sections 3301.54 to 3301.59 of the Revised Code.

The superintendent of public instruction may require any state or local agency to provide documentation that special education and related services for children with disabilities provided by the agency are in compliance with the requirements of this chapter.

Not later than the first day of February of each year the superintendent of public instruction shall furnish the chairpersons of the education committees of the house of representatives and the senate with a report on the status of implementation of special education and related services for children with disabilities required by this chapter. The report shall include but shall not be limited to the following items: the most recent available figures on the number of children identified as children with disabilities and the number of identified children receiving special education and related services. The information contained in these reports shall be public information.

**Sec. 3323.021.** As used in this section, "participating county ~~DD~~ board of developmental disabilities" means a county board of developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code.

(A) When a school district, educational service center, or

participating county ~~DD~~board of developmental disabilities 13076  
enters into an agreement or contract with another school 13077  
district, educational service center, or participating county 13078  
~~DD~~board of developmental disabilities to provide educational 13079  
services to a disabled child during a school year, both of the 13080  
following shall apply: 13081

(1) Beginning with fiscal year 1999, if the provider of 13082  
the services intends to increase the amount it charges for some 13083  
or all of those services during the next school year or if the 13084  
provider intends to cease offering all or part of those services 13085  
during the next school year, the provider shall notify the 13086  
entity for which the services are provided of these intended 13087  
changes no later than the first day of March of the current 13088  
fiscal year. 13089

(2) Beginning with fiscal year 1999, if the entity for 13090  
which services are provided intends to cease obtaining those 13091  
services from the provider for the next school year or intends 13092  
to change the type or amount of services it obtains from the 13093  
provider for the next school year, the entity shall notify the 13094  
service provider of these intended changes no later than the 13095  
first day of March of the current fiscal year. 13096

(B) School districts, educational service centers, 13097  
participating county ~~DD~~boards of developmental disabilities, 13098  
and other applicable governmental entities shall collaborate 13099  
where possible to maximize federal sources of revenue to provide 13100  
additional funds for special education related services for 13101  
disabled children. Annually, each school district shall report 13102  
to the department of education any amounts of such federal 13103  
revenue the district received. 13104

(C) The state board of education, the department of 13105

developmental disabilities, and the department of medicaid shall 13106  
develop working agreements for pursuing additional funds for 13107  
services for disabled children. 13108

**Sec. 3323.03.** The state board of education shall, in 13109  
consultation with the department of health, the department of 13110  
mental health and addiction services, and the department of 13111  
developmental disabilities, establish standards and procedures 13112  
for the identification, location, and evaluation of all children 13113  
with disabilities residing in the state, including children with 13114  
disabilities who are homeless children or are wards of the state 13115  
and children with disabilities attending nonpublic schools, 13116  
regardless of the severity of their disabilities, and who are in 13117  
need of special education and related services. The state board 13118  
shall develop and implement a practical method to determine 13119  
which children with disabilities are currently receiving needed 13120  
special education and related services. 13121

In conducting the evaluation, the board of education of 13122  
each school district shall use a variety of assessment tools and 13123  
strategies to gather relevant functional, developmental, and 13124  
academic information about the child, including information 13125  
provided by the child's parent. The board of education of each 13126  
school district, in consultation with the county ~~DD~~board\_of 13127  
developmental disabilities, the county family and children first 13128  
council, and the board of alcohol, drug addiction, and mental 13129  
health services of each county in which the school district has 13130  
territory, shall identify, locate, and evaluate all children 13131  
with disabilities residing within the district to determine 13132  
which children with disabilities are not receiving appropriate 13133  
special education and related services. In addition, the board 13134  
of education of each school district, in consultation with such 13135  
county boards or council, shall identify, locate, and evaluate 13136

all children with disabilities who are enrolled by their parents 13137  
in nonpublic elementary and secondary schools located within the 13138  
public school district, without regard to where those children 13139  
reside in accordance with rules of the state board of education 13140  
or guidelines of the superintendent of public instruction. 13141

Each county ~~DD~~ board of developmental disabilities, county 13142  
family and children first council, and board of alcohol, drug 13143  
addiction, and mental health services and the board's or 13144  
council's contract agencies may transmit to boards of education 13145  
the names and addresses of children with disabilities who are 13146  
not receiving appropriate special education and related 13147  
services. 13148

**Sec. 3323.04.** The state board of education, in 13149  
consultation with the department of mental health and addiction 13150  
services and the department of developmental disabilities, shall 13151  
establish procedures and standards for the development of 13152  
individualized education programs for children with 13153  
disabilities. 13154

The state board shall require the board of education of 13155  
each school district to develop an individualized education 13156  
program for each child with a disability who is at least three 13157  
years of age and less than twenty-two years of age residing in 13158  
the district in a manner that is in accordance with rules of the 13159  
state board. 13160

Prior to the placement of a child with a disability in a 13161  
program operated under section 3323.09 of the Revised Code, the 13162  
district board of education shall consult the county ~~DD~~ board of 13163  
developmental disabilities of the county in which the child 13164  
resides regarding the proposed placement. 13165

A child with a disability enrolled in a nonpublic school 13166  
or facility shall be provided special education and related 13167  
services, in accordance with an individualized education 13168  
program, at no cost for those services, if the child is placed 13169  
in, or referred to, that nonpublic school or facility by the 13170  
department of education or a school district. 13171

The IEP team shall review the individualized education 13172  
program of each child with a disability periodically, but at 13173  
least annually, to determine whether the annual goals for the 13174  
child are being achieved, and shall revise the individualized 13175  
education program as appropriate. 13176

The state board shall establish procedures and standards 13177  
to assure that to the maximum extent appropriate, children with 13178  
disabilities, including children in public or private 13179  
institutions or other care facilities, shall be educated with 13180  
children who are not disabled. Special classes, separate 13181  
schools, or other removal of children with disabilities from the 13182  
regular educational environment shall be used only when the 13183  
nature or severity of a child's disability is such that 13184  
education in regular classes with supplementary aids and 13185  
services cannot be achieved satisfactorily. 13186

If an agency directly affected by a placement decision 13187  
objects to such decision, an impartial hearing officer, 13188  
appointed by the department of education from a list prepared by 13189  
the department, shall conduct a hearing to review the placement 13190  
decision. The agencies that are parties to a hearing shall 13191  
divide the costs of such hearing equally. The decision of the 13192  
hearing officer shall be final, except that any party to the 13193  
hearing who is aggrieved by the findings or the decision of the 13194  
hearing officer may appeal the findings or decision in 13195

accordance with division (H) of section 3323.05 of the Revised Code or the parent of any child affected by such decision may present a complaint in accordance with that section.

**Sec. 3323.05.** The state board of education shall establish procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards under this chapter with respect to a free appropriate public education.

The procedures shall include, but need not be limited to:

(A) An opportunity for the parents of a child with a disability to examine all records related to the child and to participate in meetings with respect to identification, evaluation, and educational placement of the child, and to obtain an independent educational evaluation of the child;

(B) Procedures to protect the rights of the child whenever the parents of the child are not known, an agency after making reasonable efforts cannot find the parents, or the child is a ward of the state, including the assignment of an individual to act as a surrogate for the parents made by the school district or other educational agency responsible for educating the child or by the court with jurisdiction over the child's custody. Such assignment shall be made in accordance with section 3323.051 of the Revised Code.

(C) Prior written notice to the child's parents of a school district's proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate education for the child. The procedures established under this division shall:

(1) Be designed to ensure that the written prior notice is in the native language of the parents, unless it clearly is not

feasible to do so.	13225
(2) Specify that the prior written notice shall include:	13226
(a) A description of the action proposed or refused by the district;	13227 13228
(b) An explanation of why the district proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action;	13229 13230 13231 13232
(c) A statement that the parents of a child with a disability have protection under the procedural safeguards and, if the notice is not in regard to an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;	13233 13234 13235 13236 13237
(d) Sources for parents to contact to obtain assistance in understanding the provisions of Part B of the "Individuals with Disabilities Education Improvement Act of 2004";	13238 13239 13240
(e) A description of other options considered by the IEP team and the reason why those options were rejected;	13241 13242
(f) A description of the factors that are relevant to the agency's proposal or refusal.	13243 13244
(D) An opportunity for the child's parents to present complaints to the superintendent of the child's school district of residence with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education under this chapter.	13245 13246 13247 13248 13249 13250
Within twenty school days after receipt of a complaint,	13251
the district superintendent or the superintendent's designee,	13252

without undue delay and at a time and place convenient to all 13253  
parties, shall review the case, may conduct an administrative 13254  
review, and shall notify all parties in writing of the 13255  
superintendent's or designee's decision. Where the child is 13256  
placed in a program operated by a county ~~DD~~-board of 13257  
developmental disabilities or other educational agency, the 13258  
superintendent shall consult with the administrator of that 13259  
~~county DD~~-board or agency. 13260

Any party aggrieved by the decision of the district 13261  
superintendent or the superintendent's designee may file a 13262  
complaint with the state board as provided under division (E) of 13263  
this section, request mediation as provided under division (F) 13264  
of this section, or present a due process complaint notice and 13265  
request for a due process hearing in writing to the 13266  
superintendent of the district, with a copy to the state board, 13267  
as provided under division (G) of this section. 13268

(E) An opportunity for a party to file a complaint with 13269  
the state board of education with respect to the identification, 13270  
evaluation, or educational placement of the child, or the 13271  
provision of a free appropriate public education to such child. 13272  
The department of education shall review and, where appropriate, 13273  
investigate the complaint and issue findings. 13274

(F) An opportunity for parents and a school district to 13275  
resolve through mediation disputes involving any matter. 13276

(1) The procedures established under this section shall 13277  
ensure that the mediation process is voluntary on the part of 13278  
the parties, is not used to deny or delay a parent's right to a 13279  
due process hearing or to deny any other rights afforded under 13280  
this chapter, and is conducted by a qualified and impartial 13281  
mediator who is trained in effective mediation techniques. 13282

(2) A school district may establish procedures to offer to 13283  
parents and schools that choose not to use the mediation 13284  
process, an opportunity to meet, at a time and location 13285  
convenient to the parents, with a disinterested party to 13286  
encourage the use, and explain the benefits, of the mediation 13287  
process to the parents. The disinterested party shall be an 13288  
individual who is under contract with a parent training and 13289  
information center or community parent resource center in the 13290  
state or is under contract with an appropriate alternative 13291  
dispute resolution entity. 13292

(3) The department shall maintain a list of individuals 13293  
who are qualified mediators and knowledgeable in laws and 13294  
regulations relating to the provision of special education and 13295  
related services. 13296

(4) The department shall bear the cost of the mediation 13297  
process, including the costs of meetings described in division 13298  
(F) (2) of this section. 13299

(5) Each session in the mediation process shall be 13300  
scheduled in a timely manner and shall be held in a location 13301  
that is convenient to the parties to the dispute. 13302

(6) Discussions that occur during the mediation process 13303  
shall be confidential and shall not be used as evidence in any 13304  
subsequent due process hearing or civil proceeding. 13305

(7) In the case that a resolution is reached to resolve 13306  
the complaint through the mediation process, the parties shall 13307  
execute a legally binding agreement that sets forth the 13308  
resolution and that: 13309

(a) States that all discussions that occurred during the 13310  
mediation process shall be confidential and shall not be used as 13311

evidence in any subsequent due process hearing or civil proceeding; 13312  
13313

(b) Is signed by both the parent and a representative for the school district who has the authority to bind the district; 13314  
13315

(c) Is enforceable in any state court of competent jurisdiction or in a district court of the United States. 13316  
13317

(G) (1) An opportunity for parents or a school district to present a due process complaint and request for a due process hearing to the superintendent of the school district of the child's residence with respect to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. 13318  
13319  
13320  
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13323  
The party presenting the due process complaint and request for a due process hearing shall provide due process complaint notice to the other party and forward a copy of the notice to the state board. The due process complaint notice shall include: 13324  
13325  
13326  
13327

(a) The name of the child, the address of the residence of the child, or the available contact information in the case of a homeless child, and the name of the school the child is attending; 13328  
13329  
13330  
13331

(b) A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem; 13332  
13333  
13334

(c) A proposed resolution of the problem to the extent known and available to the party at the time. 13335  
13336

A party shall not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirement for filing a due process complaint notice. 13337  
13338  
13339  
13340

A due process hearing shall be conducted by an impartial hearing officer in accordance with standards and procedures adopted by the state board. A hearing officer shall not be an employee of the state board or any agency involved in the education or care of the child or a person having a personal or professional interest that conflicts with the person's objectivity in the hearing. A hearing officer shall possess knowledge of, and the ability to understand, the provisions of the "Individuals with Disabilities Education Improvement Act of 2004," federal and state regulations pertaining to that act, and legal interpretations of that act by federal and state courts; possess the knowledge and ability to conduct hearings in accordance with appropriate standard legal practice; and possess the knowledge and ability to render and write decisions in accordance with appropriate standard legal practice. The due process requirements of section 615 of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1415, apply to due process complaint notices and requests for due process hearings and to due process hearings held under division (G) of this section, including, but not limited to, timelines for requesting hearings, requirements for sufficient complaint notices, resolution sessions, and sufficiency and hearing decisions.

(2) Discussions that occur during a resolution session shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding. If a resolution to the dispute is reached at a resolution session, the parties must execute a legally binding written settlement agreement which shall state that all discussions that occurred during the resolution process shall be confidential and shall not be used as evidence in any subsequent due process hearing or

civil proceeding. 13372

(3) A party to a hearing under division (G) of this 13373  
section shall be accorded: 13374

(a) The right to be accompanied and advised by counsel and 13375  
by individuals with special knowledge or training with respect 13376  
to the problems of children with disabilities; 13377

(b) The right to present evidence and confront, cross- 13378  
examine, and compel the attendance of witnesses; 13379

(c) The right to a written or electronic verbatim record 13380  
of the hearing; 13381

(d) The right to written findings of fact and decisions, 13382  
which findings of fact and decisions shall be made available to 13383  
the public consistent with the requirements relating to the 13384  
confidentiality of personally identifiable data, information, 13385  
and records collected and maintained by state educational 13386  
agencies and local educational agencies; and shall be 13387  
transmitted to the advisory panel established and maintained by 13388  
the department for the purpose of providing policy guidance with 13389  
respect to special education and related services for children 13390  
with disabilities in the state. 13391

(H) An opportunity for any party aggrieved by the findings 13392  
and decision rendered in a hearing under division (G) of this 13393  
section to appeal within forty-five days of notification of the 13394  
decision to the state board, which shall appoint a state level 13395  
officer who shall review the case and issue a final order. The 13396  
state level officer shall be appointed and shall review the case 13397  
in accordance with standards and procedures adopted by the state 13398  
board. 13399

Any party aggrieved by the final order of the state level 13400

officer may appeal the final order, in accordance with Chapter 13401  
119. of the Revised Code, within forty-five days after 13402  
notification of the order to the court of common pleas of the 13403  
county in which the child's school district of residence is 13404  
located, or to a district court of the United States within 13405  
ninety days after the date of the decision of the state level 13406  
review officer, as provided in section 615(i)(2) of the 13407  
"Individuals with Disabilities Education Improvement Act of 13408  
2004," 20 U.S.C. 1415(i)(2). 13409

**Sec. 3323.09.** (A) As used in this section: 13410

(1) "Home" has the meaning given in section 3313.64 of the 13411  
Revised Code. 13412

(2) "Preschool child" means a child who is at least age 13413  
three but under age six on the thirtieth day of September of an 13414  
academic year. 13415

(B) Each county ~~DD~~ board of developmental disabilities 13416  
shall establish special education programs for all children with 13417  
disabilities who in accordance with section 3323.04 of the 13418  
Revised Code have been placed in special education programs 13419  
operated by the county board and for preschool children who are 13420  
developmentally delayed or at risk of being developmentally 13421  
delayed. The board annually shall submit to the department of 13422  
education a plan for the provision of these programs. The 13423  
superintendent of public instruction shall review the plan and 13424  
approve or modify it in accordance with rules adopted by the 13425  
state board of education under section 3301.07 of the Revised 13426  
Code. The superintendent of public instruction shall compile the 13427  
plans submitted by county boards and shall submit a 13428  
comprehensive plan to the state board. 13429

A county ~~DD~~board of developmental disabilities may 13430  
combine transportation for children enrolled in classes funded 13431  
under sections 3317.0213 or 3317.20 with transportation for 13432  
children and adults enrolled in programs and services offered by 13433  
the board under Chapter 5126. of the Revised Code. 13434

(C) A county ~~DD~~board of developmental disabilities that 13435  
during the school year provided special education pursuant to 13436  
this section for any child with mental disabilities under 13437  
twenty-two years of age shall prepare and submit the following 13438  
reports and statements: 13439

(1) The board shall prepare a statement for each child who 13440  
at the time of receiving such special education was a resident 13441  
of a home and was not in the legal or permanent custody of an 13442  
Ohio resident or a government agency in this state, and whose 13443  
natural or adoptive parents are not known to have been residents 13444  
of this state subsequent to the child's birth. The statement 13445  
shall contain the child's name, the name of the child's school 13446  
district of residence, the name of the county board providing 13447  
the special education, and the number of months, including any 13448  
fraction of a month, it was provided. Not later than the 13449  
thirtieth day of June, the board shall forward a certified copy 13450  
of such statement to both the director of developmental 13451  
disabilities and to the home. 13452

Within thirty days after its receipt of a statement, the 13453  
home shall pay tuition to the county board computed in the 13454  
manner prescribed by section 3323.141 of the Revised Code. 13455

(2) The board shall prepare a report for each school 13456  
district that is the school district of residence of one or more 13457  
of such children for whom statements are not required by 13458  
division (C) (1) of this section. The report shall contain the 13459

name of the county board providing special education, the name 13460  
of each child receiving special education, the number of months, 13461  
including fractions of a month, that the child received it, and 13462  
the name of the child's school district of residence. Not later 13463  
than the thirtieth day of June, the board shall forward 13464  
certified copies of each report to the school district named in 13465  
the report, the superintendent of public instruction, and the 13466  
director of developmental disabilities. 13467

**Sec. 3323.091.** (A) The department of mental health and 13468  
addiction services, the department of developmental 13469  
disabilities, the department of youth services, and the 13470  
department of rehabilitation and correction shall establish and 13471  
maintain special education programs for children with 13472  
disabilities in institutions under their jurisdiction according 13473  
to standards adopted by the state board of education. 13474

(B) The superintendent of each state institution required 13475  
to provide services under division (A) of this section may apply 13476  
to the department of education for special education and related 13477  
services funding for children with disabilities other than 13478  
preschool children with disabilities, calculated in accordance 13479  
with section 3317.201 of the Revised Code. 13480

Each county ~~DD~~ board of developmental disabilities 13481  
providing special education for children with disabilities other 13482  
than preschool children with disabilities may apply to the 13483  
department of education for opportunity funds and special 13484  
education and related services funding calculated in accordance 13485  
with section 3317.20 of the Revised Code. 13486

(C) In addition to the authorization to apply for state 13487  
funding described in division (B) of this section, each state 13488  
institution required to provide services under division (A) of 13489

this section is entitled to tuition payments calculated in the 13490  
manner described in division (C) of this section. 13491

On or before the thirtieth day of June of each year, the 13492  
superintendent of each institution that during the school year 13493  
provided special education pursuant to this section shall 13494  
prepare a statement for each child with a disability under 13495  
twenty-two years of age who has received special education. The 13496  
statement shall contain the child's data verification code 13497  
assigned pursuant to division (D) (2) of section 3301.0714 of the 13498  
Revised Code and the name of the child's school district of 13499  
residence. Within sixty days after receipt of such statement, 13500  
the department of education shall perform one of the following: 13501

(1) For any child except a preschool child with a 13502  
disability described in division (C) (2) of this section, pay to 13503  
the institution submitting the statement an amount equal to the 13504  
tuition calculated under division (A) of section 3317.08 of the 13505  
Revised Code for the period covered by the statement, and deduct 13506  
the same from the amount of state funds, if any, payable under 13507  
Chapter 3317. of the Revised Code, to the child's school 13508  
district of residence or, if the amount of such state funds is 13509  
insufficient, require the child's school district of residence 13510  
to pay the institution submitting the statement an amount equal 13511  
to the amount determined under this division. 13512

(2) For any preschool child with a disability, perform the 13513  
following: 13514

(a) Pay to the institution submitting the statement an 13515  
amount equal to the tuition calculated under division (B) of 13516  
section 3317.08 of the Revised Code for the period covered by 13517  
the statement, except that in calculating the tuition under that 13518  
section the operating expenses of the institution submitting the 13519

statement under this section shall be used instead of the 13520  
operating expenses of the school district of residence; 13521

(b) Deduct from the amount of state funds, if any, payable 13522  
under Chapter 3317. of the Revised Code to the child's school 13523  
district of residence an amount equal to the amount paid under 13524  
division (C) (2) (a) of this section. 13525

**Sec. 3323.12.** The board of education of a school district 13526  
shall provide home instruction for children with disabilities 13527  
who are at least three years of age and less than twenty-two 13528  
years of age and who are unable to attend school, even with the 13529  
help of special transportation. The board may arrange for the 13530  
provision of home instruction for a child by a cooperative 13531  
agreement or contract with a county ~~DD~~board of developmental 13532  
disabilities or other educational agency. For the purposes of 13533  
determining formula ADM under section 3317.03 of the Revised 13534  
Code, five hours of home instruction shall be equivalent to 13535  
attendance for five school days. 13536

**Sec. 3323.141.** (A) When a child who is not in the legal or 13537  
permanent custody of an Ohio resident or a government agency in 13538  
this state and whose natural or adoptive parents are not known 13539  
to have been residents of this state subsequent to the child's 13540  
birth is a resident of a home as defined in section 3313.64 of 13541  
the Revised Code and receives special education and related 13542  
services from a school district or county ~~DD~~board of 13543  
developmental disabilities, the home shall pay tuition to the 13544  
board providing the special education. 13545

(B) In the case of a child described in division (A) of 13546  
this section who receives special education and related services 13547  
from a school district, tuition shall be the amount determined 13548  
under division (B) (1) or (2) of this section. 13549

(1) For a child other than a child described in division 13550  
(B) (2) of this section the tuition shall be an amount equal to 13551  
the sum of the following: 13552

(a) Tuition as determined in the manner provided for by 13553  
division (B) of section 3317.081 of the Revised Code for the 13554  
district that provides the special education; 13555

(b) Such excess cost as is determined by using a formula 13556  
established by rule of the department of education. The excess 13557  
cost computed in this section shall not be used as excess cost 13558  
computed under section 3323.14 of the Revised Code. 13559

(2) For a child who is a preschool child with a 13560  
disability, the tuition shall be computed as follows: 13561

(a) Determine the amount of the tuition of the district 13562  
providing the education for the child as calculated under 13563  
division (B) of section 3317.08 of the Revised Code; 13564

(b) For each type of special education service included in 13565  
the computation of the amount of tuition under division (B) (2) 13566  
(a) of this section, divide the amount determined for that 13567  
computation under division (B) (2) of section 3317.08 of the 13568  
Revised Code by the total number of preschool children with 13569  
disabilities used for that computation under division (B) (3) of 13570  
section 3317.08 of the Revised Code; 13571

(c) Determine the sum of the quotients obtained under 13572  
division (B) (2) (b) of this section; 13573

(d) Determine the sum of the amounts determined under 13574  
divisions (B) (2) (a) and (c) of this section. 13575

(C) In the case of a child described in division (A) of 13576  
this section who receives special education and related services 13577

from a county ~~DD~~board of developmental disabilities, tuition 13578  
shall be the amount determined under division (C) (1) or (2) of 13579  
this section. 13580

(1) For a child other than a child described in division 13581  
(C) (2) of this section, the tuition shall be an amount equal to 13582  
such board's per capita cost of providing special education and 13583  
related services for children at least three but less than 13584  
twenty-two years of age as determined by using a formula 13585  
established by rule of the department of developmental 13586  
disabilities. 13587

(2) For a child who is a preschool child with a 13588  
disability, the tuition shall equal the sum of the amounts of 13589  
each such board's per capita cost of providing each of the 13590  
special education or related service that the child receives. 13591  
The calculation of tuition shall be made by using a formula 13592  
established by rule of the department of developmental 13593  
disabilities. The formula for the calculation of per capita 13594  
costs under division (C) (2) of this section shall be based only 13595  
on each such ~~DD~~county board's cost of providing each type of 13596  
special education or related service to preschool children with 13597  
disabilities. 13598

(D) If a home fails to pay the tuition required under this 13599  
section, the board of education or county ~~DD~~board of 13600  
developmental disabilities providing the education may recover 13601  
in a civil action the tuition and the expenses incurred in 13602  
prosecuting the action, including court costs and reasonable 13603  
attorney's fees. If the prosecuting attorney or city director of 13604  
law represents the board in such action, costs and reasonable 13605  
attorney's fees awarded by the court, based upon the time spent 13606  
preparing and presenting the case by the prosecuting attorney, 13607

director, or a designee of either, shall be deposited in the 13608  
county or city general fund. 13609

**Sec. 3323.142.** As used in this section, "per pupil amount" 13610  
for a preschool child with a disability included in such an 13611  
approved unit means the amount determined by dividing the amount 13612  
received for the classroom unit in which the child has been 13613  
placed by the number of children in the unit. For any other 13614  
child, "per pupil amount" means the amount paid for the child 13615  
under section 3317.20 of the Revised Code. 13616

When a school district places or has placed a child with a 13617  
county ~~DD~~board of developmental disabilities for special 13618  
education, but another district is responsible for tuition under 13619  
section 3313.64 or 3313.65 of the Revised Code and the child is 13620  
not a resident of the territory served by the county ~~DD~~board of  
developmental disabilities, the board may charge the district 13621  
responsible for tuition with the educational costs in excess of 13622  
the per pupil amount received by the board under Chapter 3317. 13623  
of the Revised Code. The amount of the excess cost shall be 13624  
determined by the formula established by rule of the department 13625  
of education under section 3323.14 of the Revised Code, and the 13626  
payment for such excess cost shall be made by the school 13627  
district directly to the county ~~DD~~board of developmental  
disabilities. 13628  
13629  
13630

A school district board of education and the county 13631  
~~DD~~board of developmental disabilities that serves the school 13632  
district may negotiate and contract, at or after the time of 13633  
placement, for payments by the board of education to the county 13634  
~~DD~~board for additional services provided to a child placed with 13635  
the county ~~DD~~board and whose individualized education program 13636  
established pursuant to section 3323.08 of the Revised Code 13637

requires additional services that are not routinely provided 13638  
children in the county ~~DD~~-board's program but are necessary to 13639  
maintain the child's enrollment and participation in the 13640  
program. Additional services may include, but are not limited 13641  
to, specialized supplies and equipment for the benefit of the 13642  
child and instruction, training, or assistance provided by staff 13643  
members other than staff members for which funding is received 13644  
under Chapter 3317. of the Revised Code. 13645

**Sec. 3701.881.** (A) As used in this section: 13646

(1) "Applicant" means a person who is under final 13647  
consideration for employment with a home health agency in a 13648  
full-time, part-time, or temporary position that involves 13649  
providing direct care to an individual or is referred to a home 13650  
health agency by an employment service for such a position. 13651

(2) "Community-based long-term care provider" means a 13652  
provider as defined in section 173.39 of the Revised Code. 13653

(3) "Community-based long-term care subcontractor" means a 13654  
subcontractor as defined in section 173.38 of the Revised Code. 13655

(4) "Criminal records check" has the same meaning as in 13656  
section 109.572 of the Revised Code. 13657

(5) "Direct care" means any of the following: 13658

(a) Any service identified in divisions (A) (8) (a) to (f) 13659  
of this section that is provided in a patient's place of 13660  
residence used as the patient's home; 13661

(b) Any activity that requires the person performing the 13662  
activity to be routinely alone with a patient or to routinely 13663  
have access to a patient's personal property or financial 13664  
documents regarding a patient; 13665

(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.

(6) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

(7) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.

(8) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:

- (a) Skilled nursing care;
- (b) Physical therapy;
- (c) Speech-language pathology;
- (d) Occupational therapy;
- (e) Medical social services;
- (f) Home health aide services.

(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:

- (a) Hands-on bathing or assistance with a tub bath or shower;

(b) Assistance with dressing, ambulation, and toileting;	13693
(c) Catheter care but not insertion;	13694
(d) Meal preparation and feeding.	13695
(10) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	13696 13697 13698
(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	13699 13700 13701
(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	13702 13703
(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	13704 13705 13706
(14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	13707 13708
(15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.	13709 13710
(16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	13711 13712 13713
(17) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.	13714 13715
(18) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.	13716 13717
(B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves	13718 13719

providing direct care to an individual if any of the following 13720  
apply: 13721

(1) A review of the databases listed in division (D) of 13722  
this section reveals any of the following: 13723

(a) That the applicant or employee is included in one or 13724  
more of the databases listed in divisions (D) (1) to (5) of this 13725  
section; 13726

(b) That there is in the state nurse aide registry 13727  
established under section 3721.32 of the Revised Code a 13728  
statement detailing findings by the director of health that the 13729  
applicant or employee neglected or abused a long-term care 13730  
facility or residential care facility resident or 13731  
misappropriated property of such a resident; 13732

(c) That the applicant or employee is included in one or 13733  
more of the databases, if any, specified in rules adopted under 13734  
this section and the rules prohibit the home health agency from 13735  
employing an applicant or continuing to employ an employee 13736  
included in such a database in a position that involves 13737  
providing direct care to an individual. 13738

(2) After the applicant or employee is provided, pursuant 13739  
to division (E) (2) (a) of this section, a copy of the form 13740  
prescribed pursuant to division (C) (1) of section 109.572 of the 13741  
Revised Code and the standard impression sheet prescribed 13742  
pursuant to division (C) (2) of that section, the applicant or 13743  
employee fails to complete the form or provide the applicant's 13744  
or employee's fingerprint impressions on the standard impression 13745  
sheet. 13746

(3) Except as provided in rules adopted under this 13747  
section, the applicant or employee is found by a criminal 13748

records check required by this section to have been convicted 13749  
of, pleaded guilty to, or been found eligible for intervention 13750  
in lieu of conviction for a disqualifying offense. 13751

(C) Except as provided by division (F) of this section, 13752  
the chief administrator of a home health agency shall inform 13753  
each applicant of both of the following at the time of the 13754  
applicant's initial application for employment or referral to 13755  
the home health agency by an employment service for a position 13756  
that involves providing direct care to an individual: 13757

(1) That a review of the databases listed in division (D) 13758  
of this section will be conducted to determine whether the home 13759  
health agency is prohibited by division (B) (1) of this section 13760  
from employing the applicant in the position; 13761

(2) That, unless the database review reveals that the 13762  
applicant may not be employed in the position, a criminal 13763  
records check of the applicant will be conducted and the 13764  
applicant is required to provide a set of the applicant's 13765  
fingerprint impressions as part of the criminal records check. 13766

(D) As a condition of employing any applicant in a 13767  
position that involves providing direct care to an individual, 13768  
the chief administrator of a home health agency shall conduct a 13769  
database review of the applicant in accordance with rules 13770  
adopted under this section. If rules adopted under this section 13771  
so require, the chief administrator of a home health agency 13772  
shall conduct a database review of an employee in accordance 13773  
with the rules as a condition of continuing to employ the 13774  
employee in a position that involves providing direct care to an 13775  
individual. However, the chief administrator is not required to 13776  
conduct a database review of an applicant or employee if 13777  
division (F) of this section applies. A database review shall 13778

determine whether the applicant or employee is included in any 13779  
of the following: 13780

(1) The excluded parties list system that is maintained by 13781  
the United States general services administration pursuant to 13782  
subpart 9.4 of the federal acquisition regulation and available 13783  
at the federal web site known as the system for award 13784  
management; 13785

(2) The list of excluded individuals and entities 13786  
maintained by the office of inspector general in the United 13787  
States department of health and human services pursuant to the 13788  
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 13789  
and 1320c-5; 13790

(3) The registry of ~~MR/DD~~ developmental disabilities 13791  
employees established under section 5123.52 of the Revised Code; 13792

(4) The internet-based sex offender and child-victim 13793  
offender database established under division (A) (11) of section 13794  
2950.13 of the Revised Code; 13795

(5) The internet-based database of inmates established 13796  
under section 5120.66 of the Revised Code; 13797

(6) The state nurse aide registry established under 13798  
section 3721.32 of the Revised Code; 13799

(7) Any other database, if any, specified in rules adopted 13800  
under this section. 13801

(E) (1) As a condition of employing any applicant in a 13802  
position that involves providing direct care to an individual, 13803  
the chief administrator of a home health agency shall request 13804  
the superintendent of the bureau of criminal identification and 13805  
investigation to conduct a criminal records check of the 13806

applicant. If rules adopted under this section so require, the 13807  
chief administrator of a home health agency shall request the 13808  
superintendent to conduct a criminal records check of an 13809  
employee at times specified in the rules as a condition of 13810  
continuing to employ the employee in a position that involves 13811  
providing direct care to an individual. However, the chief 13812  
administrator is not required to request the criminal records 13813  
check of the applicant or the employee if division (F) of this 13814  
section applies or the home health agency is prohibited by 13815  
division (B)(1) of this section from employing the applicant or 13816  
continuing to employ the employee in a position that involves 13817  
providing direct care to an individual. If an applicant or 13818  
employee for whom a criminal records check request is required 13819  
by this section does not present proof of having been a resident 13820  
of this state for the five-year period immediately prior to the 13821  
date upon which the criminal records check is requested or does 13822  
not provide evidence that within that five-year period the 13823  
superintendent has requested information about the applicant 13824  
from the federal bureau of investigation in a criminal records 13825  
check, the chief administrator shall request that the 13826  
superintendent obtain information from the federal bureau of 13827  
investigation as a part of the criminal records check. Even if 13828  
an applicant or employee for whom a criminal records check 13829  
request is required by this section presents proof that the 13830  
applicant or employee has been a resident of this state for that 13831  
five-year period, the chief administrator may request that the 13832  
superintendent include information from the federal bureau of 13833  
investigation in the criminal records check. 13834

(2) The chief administrator shall do all of the following: 13835

(a) Provide to each applicant and employee for whom a 13836  
criminal records check request is required by this section a 13837

copy of the form prescribed pursuant to division (C) (1) of 13838  
section 109.572 of the Revised Code and a standard impression 13839  
sheet prescribed pursuant to division (C) (2) of that section; 13840

(b) Obtain the completed form and standard impression 13841  
sheet from each applicant and employee; 13842

(c) Forward the completed form and standard impression 13843  
sheet to the superintendent at the time the chief administrator 13844  
requests the criminal records check. 13845

(3) A home health agency shall pay to the bureau of 13846  
criminal identification and investigation the fee prescribed 13847  
pursuant to division (C) (3) of section 109.572 of the Revised 13848  
Code for each criminal records check the agency requests under 13849  
this section. A home health agency may charge an applicant a fee 13850  
not exceeding the amount the agency pays to the bureau under 13851  
this section if both of the following apply: 13852

(a) The home health agency notifies the applicant at the 13853  
time of initial application for employment of the amount of the 13854  
fee and that, unless the fee is paid, the applicant will not be 13855  
considered for employment. 13856

(b) The medicaid program does not reimburse the home 13857  
health agency for the fee it pays to the bureau under this 13858  
section. 13859

(F) Divisions (C) to (E) of this section do not apply with 13860  
regard to an applicant or employee if the applicant or employee 13861  
is referred to a home health agency by an employment service 13862  
that supplies full-time, part-time, or temporary staff for 13863  
positions that involve providing direct care to an individual 13864  
and both of the following apply: 13865

(1) The chief administrator of the home health agency 13866

receives from the employment service confirmation that a review 13867  
of the databases listed in division (D) of this section was 13868  
conducted with regard to the applicant or employee. 13869

(2) The chief administrator of the home health agency 13870  
receives from the employment service, applicant, or employee a 13871  
report of the results of a criminal records check of the 13872  
applicant or employee that has been conducted by the 13873  
superintendent within the one-year period immediately preceding 13874  
the following: 13875

(a) In the case of an applicant, the date of the 13876  
applicant's referral by the employment service to the home 13877  
health agency; 13878

(b) In the case of an employee, the date by which the home 13879  
health agency would otherwise have to request a criminal records 13880  
check of the employee under division (E) of this section. 13881

(G) (1) A home health agency may employ conditionally an 13882  
applicant for whom a criminal records check request is required 13883  
by this section before obtaining the results of the criminal 13884  
records check if the agency is not prohibited by division (B) of 13885  
this section from employing the applicant in a position that 13886  
involves providing direct care to an individual and either of 13887  
the following applies: 13888

(a) The chief administrator of the home health agency 13889  
requests the criminal records check in accordance with division 13890  
(E) of this section not later than five business days after the 13891  
applicant begins conditional employment. 13892

(b) The applicant is referred to the home health agency by 13893  
an employment service, the employment service or the applicant 13894  
provides the chief administrator of the agency a letter that is 13895

on the letterhead of the employment service, the letter is dated 13896  
and signed by a supervisor or another designated official of the 13897  
employment service, and the letter states all of the following: 13898

(i) That the employment service has requested the 13899  
superintendent to conduct a criminal records check regarding the 13900  
applicant; 13901

(ii) That the requested criminal records check is to 13902  
include a determination of whether the applicant has been 13903  
convicted of, pleaded guilty to, or been found eligible for 13904  
intervention in lieu of conviction for a disqualifying offense; 13905

(iii) That the employment service has not received the 13906  
results of the criminal records check as of the date set forth 13907  
on the letter; 13908

(iv) That the employment service promptly will send a copy 13909  
of the results of the criminal records check to the chief 13910  
administrator of the home health agency when the employment 13911  
service receives the results. 13912

(2) If a home health agency employs an applicant 13913  
conditionally pursuant to division (G) (1) (b) of this section, 13914  
the employment service, on its receipt of the results of the 13915  
criminal records check, promptly shall send a copy of the 13916  
results to the chief administrator of the agency. 13917

(3) A home health agency that employs an applicant 13918  
conditionally pursuant to division (G) (1) (a) or (b) of this 13919  
section shall terminate the applicant's employment if the 13920  
results of the criminal records check, other than the results of 13921  
any request for information from the federal bureau of 13922  
investigation, are not obtained within the period ending sixty 13923  
days after the date the request for the criminal records check 13924

is made. Regardless of when the results of the criminal records 13925  
check are obtained, if the results indicate that the applicant 13926  
has been convicted of, pleaded guilty to, or been found eligible 13927  
for intervention in lieu of conviction for a disqualifying 13928  
offense, the home health agency shall terminate the applicant's 13929  
employment unless circumstances specified in rules adopted under 13930  
this section that permit the agency to employ the applicant 13931  
exist and the agency chooses to employ the applicant. 13932  
Termination of employment under this division shall be 13933  
considered just cause for discharge for purposes of division (D) 13934  
(2) of section 4141.29 of the Revised Code if the applicant 13935  
makes any attempt to deceive the home health agency about the 13936  
applicant's criminal record. 13937

(H) The report of any criminal records check conducted by 13938  
the bureau of criminal identification and investigation in 13939  
accordance with section 109.572 of the Revised Code and pursuant 13940  
to a request made under this section is not a public record for 13941  
the purposes of section 149.43 of the Revised Code and shall not 13942  
be made available to any person other than the following: 13943

(1) The applicant or employee who is the subject of the 13944  
criminal records check or the applicant's or employee's 13945  
representative; 13946

(2) The home health agency requesting the criminal records 13947  
check or its representative; 13948

(3) The administrator of any other facility, agency, or 13949  
program that provides direct care to individuals that is owned 13950  
or operated by the same entity that owns or operates the home 13951  
health agency that requested the criminal records check; 13952

(4) The employment service that requested the criminal 13953

records check; 13954

(5) The director of health and the staff of the department 13955  
of health who monitor a home health agency's compliance with 13956  
this section; 13957

(6) The director of aging or the director's designee if 13958  
either of the following apply: 13959

(a) In the case of a criminal records check requested by a 13960  
home health agency, the home health agency also is a community- 13961  
based long-term care provider or community-based long-term care 13962  
subcontractor; 13963

(b) In the case of a criminal records check requested by 13964  
an employment service, the employment service makes the request 13965  
for an applicant or employee the employment service refers to a 13966  
home health agency that also is a community-based long-term care 13967  
provider or community-based long-term care subcontractor. 13968

(7) The medicaid director and the staff of the department 13969  
of medicaid who are involved in the administration of the 13970  
medicaid program if either of the following apply: 13971

(a) In the case of a criminal records check requested by a 13972  
home health agency, the home health agency also is a waiver 13973  
agency; 13974

(b) In the case of a criminal records check requested by 13975  
an employment service, the employment service makes the request 13976  
for an applicant or employee the employment service refers to a 13977  
home health agency that also is a waiver agency. 13978

(8) Any court, hearing officer, or other necessary 13979  
individual involved in a case dealing with any of the following: 13980

(a) A denial of employment of the applicant or employee; 13981

(b) Employment or unemployment benefits of the applicant	13982
or employee;	13983
(c) A civil or criminal action regarding the medicaid	13984
program.	13985
(I) In a tort or other civil action for damages that is	13986
brought as the result of an injury, death, or loss to person or	13987
property caused by an applicant or employee who a home health	13988
agency employs in a position that involves providing direct care	13989
to an individual, all of the following shall apply:	13990
(1) If the home health agency employed the applicant or	13991
employee in good faith and reasonable reliance on the report of	13992
a criminal records check requested under this section, the	13993
agency shall not be found negligent solely because of its	13994
reliance on the report, even if the information in the report is	13995
determined later to have been incomplete or inaccurate.	13996
(2) If the home health agency employed the applicant in	13997
good faith on a conditional basis pursuant to division (G) of	13998
this section, the agency shall not be found negligent solely	13999
because it employed the applicant prior to receiving the report	14000
of a criminal records check requested under this section.	14001
(3) If the home health agency in good faith employed the	14002
applicant or employee according to the personal character	14003
standards established in rules adopted under this section, the	14004
agency shall not be found negligent solely because the applicant	14005
or employee had been convicted of, pleaded guilty to, or been	14006
found eligible for intervention in lieu of conviction for a	14007
disqualifying offense.	14008
(J) The director of health shall adopt rules in accordance	14009
with Chapter 119. of the Revised Code to implement this section.	14010

(1) The rules may do the following:	14011
(a) Require employees to undergo database reviews and criminal records checks under this section;	14012 14013
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;	14014 14015 14016
(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.	14017 14018 14019
(2) The rules shall specify all of the following:	14020
(a) The procedures for conducting database reviews under this section;	14021 14022
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;	14023 14024 14025 14026
(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;	14027 14028 14029 14030 14031
(d) Circumstances under which a home health agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.	14032 14033 14034 14035 14036 14037
<b>Sec. 3707.20.</b> No person, who is suffering from a	14038

contagious or infectious disease, or who has been exposed to a 14039  
contagious or infectious disease, may be sent or admitted to a 14040  
prison~~;~~ jail~~;~~ workhouse~~;~~ infirmary~~;~~ children's home~~;~~ state 14041  
hospital or institution for the blind, the mentally ill, or ~~the~~ 14042  
~~mentally retarded, or a~~ persons with developmental disabilities; 14043  
school for the blind or deaf~~;~~ or other state or county 14044  
benevolent institution without first making known the facts 14045  
concerning the illness or exposure to the superintendent or 14046  
other person in charge thereof. When a dangerous, contagious, or 14047  
infectious disease is in a jail or prison and a prisoner in the 14048  
jail or prison exposed to the disease is sentenced to a state 14049  
correctional institution, the prisoner shall be confined and 14050  
isolated in the jail or prison or other proper place, upon the 14051  
order of the proper court, for any time that is necessary to 14052  
establish the fact that ~~he~~ the prisoner has not contracted the 14053  
disease. 14054

**Sec. 3721.01.** (A) As used in sections 3721.01 to 3721.09 14055  
and 3721.99 of the Revised Code: 14056

(1) (a) "Home" means an institution, residence, or facility 14057  
that provides, for a period of more than twenty-four hours, 14058  
whether for a consideration or not, accommodations to three or 14059  
more unrelated individuals who are dependent upon the services 14060  
of others, including a nursing home, residential care facility, 14061  
home for the aging, and a veterans' home operated under Chapter 14062  
5907. of the Revised Code. 14063

(b) "Home" also means both of the following: 14064

(i) Any facility that a person, as defined in section 14065  
3702.51 of the Revised Code, proposes for certification as a 14066  
skilled nursing facility or nursing facility under Title XVIII 14067  
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 14068

U.S.C.A. 301, as amended, and for which a certificate of need, 14069  
other than a certificate to recategorize hospital beds as 14070  
described in section 3702.521 of the Revised Code or division 14071  
(R) (7) (d) of the version of section 3702.51 of the Revised Code 14072  
in effect immediately prior to April 20, 1995, has been granted 14073  
to the person under sections 3702.51 to 3702.62 of the Revised 14074  
Code after August 5, 1989; 14075

(ii) A county home or district home that is or has been 14076  
licensed as a residential care facility. 14077

(c) "Home" does not mean any of the following: 14078

(i) Except as provided in division (A) (1) (b) of this 14079  
section, a public hospital or hospital as defined in section 14080  
3701.01 or 5122.01 of the Revised Code; 14081

(ii) A residential facility as defined in section 5119.34 14082  
of the Revised Code; 14083

(iii) A residential facility as defined in section 5123.19 14084  
of the Revised Code; 14085

(iv) A community addiction services provider as defined in 14086  
section 5119.01 of the Revised Code; 14087

(v) A facility licensed to provide methadone treatment 14088  
under section 5119.391 of the Revised Code; 14089

(vi) A facility providing services under contract with the 14090  
department of developmental disabilities under section 5123.18 14091  
of the Revised Code; 14092

(vii) A facility operated by a hospice care program 14093  
licensed under section 3712.04 of the Revised Code that is used 14094  
exclusively for care of hospice patients; 14095

(viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;

(ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

(x) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness, as defined in section 5122.01 of the Revised Code, or ~~mental retardation~~ developmental disability, as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of

dressings, and supervision of special diets;	14125
(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;	14126 14127 14128 14129
(c) Special procedures contributing to rehabilitation;	14130
(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;	14131 14132 14133 14134
(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.	14135 14136 14137
(5) (a) "Personal care services" means services including, but not limited to, the following:	14138 14139
(i) Assisting residents with activities of daily living;	14140
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;	14141 14142 14143
(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.	14144 14145 14146 14147
(b) "Personal care services" does not include "skilled nursing care" as defined in division (A) (4) of this section. A facility need not provide more than one of the services listed in division (A) (5) (a) of this section to be considered to be providing personal care services.	14148 14149 14150 14151 14152

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home

or district home operated under Chapter 5155. of the Revised Code. 14182  
14183

(B) The director of health may further classify homes. For 14184  
the purposes of this chapter, any residence, institution, hotel, 14185  
congregate housing project, or similar facility that meets the 14186  
definition of a home under this section is such a home 14187  
regardless of how the facility holds itself out to the public. 14188

(C) For purposes of this chapter, personal care services 14189  
or skilled nursing care shall be considered to be provided by a 14190  
facility if they are provided by a person employed by or 14191  
associated with the facility or by another person pursuant to an 14192  
agreement to which neither the resident who receives the 14193  
services nor the resident's sponsor is a party. 14194

(D) Nothing in division (A) (4) of this section shall be 14195  
construed to permit skilled nursing care to be imposed on an 14196  
individual who does not require skilled nursing care. 14197

Nothing in division (A) (5) of this section shall be 14198  
construed to permit personal care services to be imposed on an 14199  
individual who is capable of performing the activity in question 14200  
without assistance. 14201

(E) Division (A) (1) (c) (ix) of this section does not 14202  
prohibit a facility, infirmary, or other entity described in 14203  
that division from seeking licensure under sections 3721.01 to 14204  
3721.09 of the Revised Code or certification under Title XVIII 14205  
or XIX of the "Social Security Act." However, such a facility, 14206  
infirmary, or entity that applies for licensure or certification 14207  
must meet the requirements of those sections or titles and the 14208  
rules adopted under them and obtain a certificate of need from 14209  
the director of health under section 3702.52 of the Revised 14210

Code. 14211

(F) Nothing in this chapter, or rules adopted pursuant to 14212  
it, shall be construed as authorizing the supervision, 14213  
regulation, or control of the spiritual care or treatment of 14214  
residents or patients in any home who rely upon treatment by 14215  
prayer or spiritual means in accordance with the creed or tenets 14216  
of any recognized church or religious denomination. 14217

**Sec. 3763.06.** As used in this section, "incompetent 14218  
person" means a person who is so mentally impaired, as a result 14219  
of a mental or physical illness or disability, ~~or mental~~ 14220  
~~retardation~~ as a result of an intellectual disability, or as a 14221  
result of chronic substance abuse, that the person is incapable 14222  
of taking proper care of the person's self or property or fails 14223  
to provide for the person's family or other persons for whom the 14224  
person is charged by law to provide. 14225

The property, both real and personal, of a defendant 14226  
against whom a judgment is rendered under sections 3763.01 to 14227  
3763.08 of the Revised Code, for fines, costs, or to recover 14228  
money or any other thing of value, lost or paid, shall be liable 14229  
therefor without exemption, and such judgment shall be a lien 14230  
thereon until paid. If the owner of the building in which the 14231  
money was lost knowingly permits it to be used for gaming 14232  
purposes, such building, and the real estate upon which it 14233  
stands, shall be liable therefor in a like manner. The guardian 14234  
or trustee of a minor or incompetent person, permitting property 14235  
under the guardian's or trustee's charge to be used for gaming 14236  
purposes and to become liable on account thereof, shall be 14237  
liable to the guardian's or trustee's ward for such amount. 14238

**Sec. 3791.031.** (A) As used in this section, "place of 14239  
public assembly" means: 14240

(1) Enclosed theatres, except the lobby; opera houses; 14241  
auditoriums; classrooms; elevators; rooms in which persons are 14242  
confined as a matter of health care, including but not limited 14243  
to a hospital room and a room in a residential care facility 14244  
serving as the residence of a person living in such residential 14245  
care facility; 14246

(2) All buildings and other enclosed structures owned by 14247  
the state, its agencies, or political subdivisions, including 14248  
but not limited to hospitals and state institutions for ~~the~~ 14249  
~~mentally retarded and the~~ mentally ill and persons with 14250  
developmental disabilities; university and college buildings, 14251  
except rooms within those buildings used primarily as the 14252  
residences of students or other persons affiliated with the 14253  
university or college; office buildings; libraries; museums; and 14254  
vehicles used in public transportation. That portion of a 14255  
building or other enclosed structure that is owned by the state, 14256  
a state agency, or a political subdivision and that is used 14257  
primarily as a food service establishment is not a place of 14258  
public assembly. 14259

(3) Each portion of a building or enclosed structure that 14260  
is not included in division (A) (1) or (2) of this section is a 14261  
place of public assembly if it has a seating capacity of fifty 14262  
or more persons and is available to the public. Restaurants, 14263  
food service establishments, dining rooms, cafes, cafeterias, or 14264  
other rooms used primarily for the service of food, as well as 14265  
bowling alleys and places licensed by the division of liquor 14266  
control to sell intoxicating beverages for consumption on the 14267  
premises, are not places of public assembly. 14268

(B) For the purpose of separating persons who smoke from 14269  
persons who do not smoke for the comfort and health of persons 14270

not smoking, in every place of public assembly there shall be an 14271  
area where smoking is not permitted, which shall be designated a 14272  
no smoking area; provided that, no more than one-half of the 14273  
rooms in any health care facility in which persons are confined 14274  
as a matter of health care may be designated as smoking areas in 14275  
their entirety. The designation shall be made before the place 14276  
of public assembly is made available to the public. In places 14277  
included in division (A)(1) of this section, the local fire 14278  
authority having jurisdiction shall designate the no smoking 14279  
area. In places included in division (A)(2) of this section that 14280  
are owned by the state or its agencies, except the capitol 14281  
square, the director of administrative services shall designate 14282  
the area, and if the place is owned by a political subdivision, 14283  
its legislative authority shall designate an officer who shall 14284  
designate the area. The house rules committee shall designate 14285  
the no smoking areas in all capitol square spaces used by the 14286  
house of representatives; the senate rules committee shall 14287  
designate the no smoking areas in all capitol square spaces used 14288  
by the senate and the legislative service commission; the 14289  
capitol square review and advisory board shall designate the no 14290  
smoking areas in all other spaces in the capitol square. In 14291  
places included in division (A)(3) of this section, the person 14292  
having control of the operations of the place of public assembly 14293  
shall designate the no smoking area. In places included in 14294  
division (A)(2) of this section which are also included in 14295  
division (A)(1) of this section, the officer who has authority 14296  
to designate the area in places in division (A)(2) of this 14297  
section shall designate the no smoking area. A no smoking area 14298  
may include the entire place of public assembly. Designations 14299  
shall be made by the placement of signs that are clearly visible 14300  
and that state "no smoking." No person shall remove signs from 14301  
areas designated as no smoking areas. 14302

(C) This section does not affect or modify the prohibition 14303  
contained in division (B) of section 3313.751 of the Revised 14304  
Code. 14305

(D) No person shall smoke in any area designated as a no 14306  
smoking area in accordance with division (B) of this section. 14307

(E) Whoever violates this section is guilty of a minor 14308  
misdemeanor. 14309

**Sec. 3923.24.** (A) Notwithstanding section 3901.71 of the 14310  
Revised Code, every certificate furnished by an insurer in 14311  
connection with, or pursuant to any provision of, any group 14312  
sickness and accident insurance policy delivered, issued for 14313  
delivery, renewed, or used in this state on or after January 1, 14314  
1972, every policy of sickness and accident insurance delivered, 14315  
issued for delivery, renewed, or used in this state on or after 14316  
January 1, 1972, and every multiple employer welfare arrangement 14317  
offering an insurance program, which provides that coverage of 14318  
an unmarried dependent child of a parent or legal guardian will 14319  
terminate upon attainment of the limiting age for dependent 14320  
children specified in the contract shall also provide in 14321  
substance both of the following: 14322

(1) Once an unmarried child has attained the limiting age 14323  
for dependent children, as provided in the policy, upon the 14324  
request of the insured, the insurer shall offer to cover the 14325  
unmarried child until the child attains twenty-six years of age 14326  
if all of the following are true: 14327

(a) The child is the natural child, stepchild, or adopted 14328  
child of the insured. 14329

(b) The child is a resident of this state or a full-time 14330  
student at an accredited public or private institution of higher 14331

education. 14332

(c) The child is not employed by an employer that offers 14333  
any health benefit plan under which the child is eligible for 14334  
coverage. 14335

(d) The child is not eligible for the medicaid program or 14336  
the medicare program. 14337

(2) That attainment of the limiting age for dependent 14338  
children shall not operate to terminate the coverage of a 14339  
dependent child if the child is and continues to be both of the 14340  
following: 14341

(a) Incapable of self-sustaining employment by reason of 14342  
~~mental retardation~~ an intellectual disability or physical 14343  
handicap; 14344

(b) Primarily dependent upon the policyholder or 14345  
certificate holder for support and maintenance. 14346

(B) Proof of such incapacity and dependence for purposes 14347  
of division (A) (2) of this section shall be furnished by the 14348  
policyholder or by the certificate holder to the insurer within 14349  
thirty-one days of the child's attainment of the limiting age. 14350  
Upon request, but not more frequently than annually after the 14351  
two-year period following the child's attainment of the limiting 14352  
age, the insurer may require proof satisfactory to it of the 14353  
continuance of such incapacity and dependency. 14354

(C) Nothing in this section shall require an insurer to 14355  
cover a dependent child who ~~is mentally retarded or physically~~ 14356  
~~handicapped~~ has an intellectual disability or physical handicap 14357  
if the contract is underwritten on evidence of insurability 14358  
based on health factors set forth in the application, or if such 14359  
dependent child does not satisfy the conditions of the contract 14360

as to any requirement for evidence of insurability or other 14361  
provision of the contract, satisfaction of which is required for 14362  
coverage thereunder to take effect. In any such case, the terms 14363  
of the contract shall apply with regard to the coverage or 14364  
exclusion of the dependent from such coverage. Nothing in this 14365  
section shall apply to accidental death or dismemberment 14366  
benefits provided by any such policy of sickness and accident 14367  
insurance. 14368

(D) Nothing in this section shall do any of the following: 14369

(1) Require that any policy offer coverage for dependent 14370  
children or provide coverage for an unmarried dependent child's 14371  
children as dependents on the policy; 14372

(2) Require an employer to pay for any part of the premium 14373  
for an unmarried dependent child that has attained the limiting 14374  
age for dependents, as provided in the policy; 14375

(3) Require an employer to offer health insurance coverage 14376  
to the dependents of any employee. 14377

(E) This section does not apply to any policies or 14378  
certificates covering only accident, credit, dental, disability 14379  
income, long-term care, hospital indemnity, medicare supplement, 14380  
specified disease, or vision care; coverage under a one-time- 14381  
limited-duration policy that is less than twelve months; 14382  
coverage issued as a supplement to liability insurance; 14383  
insurance arising out of a workers' compensation or similar law; 14384  
automobile medical-payment insurance; or insurance under which 14385  
benefits are payable with or without regard to fault and that is 14386  
statutorily required to be contained in any liability insurance 14387  
policy or equivalent self-insurance. 14388

(F) As used in this section, "health benefit plan" has the 14389

same meaning as in section 3924.01 of the Revised Code and also 14390  
includes both of the following: 14391

(1) A public employee benefit plan; 14392

(2) A health benefit plan as regulated under the "Employee 14393  
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 14394

**Sec. 3923.241.** (A) Notwithstanding section 3901.71 of the 14395  
Revised Code, any public employee benefit plan that provides 14396  
that coverage of an unmarried dependent child will terminate 14397  
upon attainment of the limiting age for dependent children 14398  
specified in the plan shall also provide in substance both of 14399  
the following: 14400

(1) Once an unmarried child has attained the limiting age 14401  
for dependent children, as provided in the plan, upon the 14402  
request of the employee, the public employee benefit plan shall 14403  
offer to cover the unmarried child until the child attains 14404  
twenty-six years of age if all of the following are true: 14405

(a) The child is the natural child, stepchild, or adopted 14406  
child of the employee. 14407

(b) The child is a resident of this state or a full-time 14408  
student at an accredited public or private institution of higher 14409  
education. 14410

(c) The child is not employed by an employer that offers 14411  
any health benefit plan under which the child is eligible for 14412  
coverage. 14413

(d) The child is not eligible for the medicaid program or 14414  
the medicare program. 14415

(2) That attainment of the limiting age for dependent 14416  
children shall not operate to terminate the coverage of a 14417

dependent child if the child is and continues to be both of the 14418  
following: 14419

(a) Incapable of self-sustaining employment by reason of 14420  
~~mental retardation~~ an intellectual disability or physical 14421  
handicap; 14422

(b) Primarily dependent upon the plan member for support 14423  
and maintenance. 14424

(B) Proof of incapacity and dependence for purposes of 14425  
division (A) (2) of this section shall be furnished to the public 14426  
employee benefit plan within thirty-one days of the child's 14427  
attainment of the limiting age. Upon request, but not more 14428  
frequently than annually, the public employee benefit plan may 14429  
require proof satisfactory to it of the continuance of such 14430  
incapacity and dependency. 14431

(C) Nothing in this section shall do any of the following: 14432

(1) Require that any public employee benefit plan offer 14433  
coverage for dependent children or provide coverage for an 14434  
unmarried dependent child's children as dependents on the public 14435  
employee benefit plan; 14436

(2) Require an employer to pay for any part of the premium 14437  
for an unmarried dependent child that has attained the limiting 14438  
age for dependents, as provided in the plan; 14439

(3) Require an employer to offer health insurance coverage 14440  
to the dependents of any employee. 14441

(D) This section does not apply to any public employee 14442  
benefit plan covering only accident, credit, dental, disability 14443  
income, long-term care, hospital indemnity, medicare supplement, 14444  
specified disease, or vision care; coverage under a one-time- 14445

limited-duration policy that is less than twelve months; 14446  
coverage issued as a supplement to liability insurance; 14447  
insurance arising out of a workers' compensation or similar law; 14448  
automobile medical-payment insurance; or insurance under which 14449  
benefits are payable with or without regard to fault and which 14450  
is statutorily required to be contained in any liability 14451  
insurance policy or equivalent self-insurance. 14452

(E) As used in this section, "health benefit plan" has the 14453  
same meaning as in section 3924.01 of the Revised Code and also 14454  
includes both of the following: 14455

(1) A public employee benefit plan; 14456

(2) A health benefit plan as regulated under the "Employee 14457  
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 14458

**Sec. 4112.01.** (A) As used in this chapter: 14459

(1) "Person" includes one or more individuals, 14460  
partnerships, associations, organizations, corporations, legal 14461  
representatives, trustees, trustees in bankruptcy, receivers, 14462  
and other organized groups of persons. "Person" also includes, 14463  
but is not limited to, any owner, lessor, assignor, builder, 14464  
manager, broker, salesperson, appraiser, agent, employee, 14465  
lending institution, and the state and all political 14466  
subdivisions, authorities, agencies, boards, and commissions of 14467  
the state. 14468

(2) "Employer" includes the state, any political 14469  
subdivision of the state, any person employing four or more 14470  
persons within the state, and any person acting directly or 14471  
indirectly in the interest of an employer. 14472

(3) "Employee" means an individual employed by any 14473  
employer but does not include any individual employed in the 14474

domestic service of any person.	14475
(4) "Labor organization" includes any organization that	14476
exists, in whole or in part, for the purpose of collective	14477
bargaining or of dealing with employers concerning grievances,	14478
terms or conditions of employment, or other mutual aid or	14479
protection in relation to employment.	14480
(5) "Employment agency" includes any person regularly	14481
undertaking, with or without compensation, to procure	14482
opportunities to work or to procure, recruit, refer, or place	14483
employees.	14484
(6) "Commission" means the Ohio civil rights commission	14485
created by section 4112.03 of the Revised Code.	14486
(7) "Discriminate" includes segregate or separate.	14487
(8) "Unlawful discriminatory practice" means any act	14488
prohibited by section 4112.02, 4112.021, or 4112.022 of the	14489
Revised Code.	14490
(9) "Place of public accommodation" means any inn,	14491
restaurant, eating house, barbershop, public conveyance by air,	14492
land, or water, theater, store, other place for the sale of	14493
merchandise, or any other place of public accommodation or	14494
amusement of which the accommodations, advantages, facilities,	14495
or privileges are available to the public.	14496
(10) "Housing accommodations" includes any building or	14497
structure, or portion of a building or structure, that is used	14498
or occupied or is intended, arranged, or designed to be used or	14499
occupied as the home residence, dwelling, dwelling unit, or	14500
sleeping place of one or more individuals, groups, or families	14501
whether or not living independently of each other; and any	14502
vacant land offered for sale or lease. "Housing accommodations"	14503

also includes any housing accommodations held or offered for 14504  
sale or rent by a real estate broker, salesperson, or agent, by 14505  
any other person pursuant to authorization of the owner, by the 14506  
owner, or by the owner's legal representative. 14507

(11) "Restrictive covenant" means any specification 14508  
limiting the transfer, rental, lease, or other use of any 14509  
housing accommodations because of race, color, religion, sex, 14510  
military status, familial status, national origin, disability, 14511  
or ancestry, or any limitation based upon affiliation with or 14512  
approval by any person, directly or indirectly, employing race, 14513  
color, religion, sex, military status, familial status, national 14514  
origin, disability, or ancestry as a condition of affiliation or 14515  
approval. 14516

(12) "Burial lot" means any lot for the burial of deceased 14517  
persons within any public burial ground or cemetery, including, 14518  
but not limited to, cemeteries owned and operated by municipal 14519  
corporations, townships, or companies or associations 14520  
incorporated for cemetery purposes. 14521

(13) "Disability" means a physical or mental impairment 14522  
that substantially limits one or more major life activities, 14523  
including the functions of caring for one's self, performing 14524  
manual tasks, walking, seeing, hearing, speaking, breathing, 14525  
learning, and working; a record of a physical or mental 14526  
impairment; or being regarded as having a physical or mental 14527  
impairment. 14528

(14) Except as otherwise provided in section 4112.021 of 14529  
the Revised Code, "age" means at least forty years old. 14530

(15) "Familial status" means either of the following: 14531

(a) One or more individuals who are under eighteen years 14532

of age and who are domiciled with a parent or guardian having 14533  
legal custody of the individual or domiciled, with the written 14534  
permission of the parent or guardian having legal custody, with 14535  
a designee of the parent or guardian; 14536

(b) Any person who is pregnant or in the process of 14537  
securing legal custody of any individual who is under eighteen 14538  
years of age. 14539

(16) (a) Except as provided in division (A) (16) (b) of this 14540  
section, "physical or mental impairment" includes any of the 14541  
following: 14542

(i) Any physiological disorder or condition, cosmetic 14543  
disfigurement, or anatomical loss affecting one or more of the 14544  
following body systems: neurological; musculoskeletal; special 14545  
sense organs; respiratory, including speech organs; 14546  
cardiovascular; reproductive; digestive; genito-urinary; hemic 14547  
and lymphatic; skin; and endocrine; 14548

(ii) Any mental or psychological disorder, including, but 14549  
not limited to, ~~mental retardation~~ intellectual disability, 14550  
organic brain syndrome, emotional or mental illness, and 14551  
specific learning disabilities; 14552

(iii) Diseases and conditions, including, but not limited 14553  
to, orthopedic, visual, speech, and hearing impairments, 14554  
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple 14555  
sclerosis, cancer, heart disease, diabetes, human 14556  
immunodeficiency virus infection, ~~mental retardation~~ 14557  
intellectual disability, emotional illness, drug addiction, and 14558  
alcoholism. 14559

(b) "Physical or mental impairment" does not include any 14560  
of the following: 14561

(i) Homosexuality and bisexuality;	14562
(ii) Transvestism, transsexualism, pedophilia,	14563
exhibitionism, voyeurism, gender identity disorders not	14564
resulting from physical impairments, or other sexual behavior	14565
disorders;	14566
(iii) Compulsive gambling, kleptomania, or pyromania;	14567
(iv) Psychoactive substance use disorders resulting from	14568
the current illegal use of a controlled substance or the current	14569
use of alcoholic beverages.	14570
(17) "Dwelling unit" means a single unit of residence for	14571
a family of one or more persons.	14572
(18) "Common use areas" means rooms, spaces, or elements	14573
inside or outside a building that are made available for the use	14574
of residents of the building or their guests, and includes, but	14575
is not limited to, hallways, lounges, lobbies, laundry rooms,	14576
refuse rooms, mail rooms, recreational areas, and passageways	14577
among and between buildings.	14578
(19) "Public use areas" means interior or exterior rooms	14579
or spaces of a privately or publicly owned building that are	14580
made available to the general public.	14581
(20) "Controlled substance" has the same meaning as in	14582
section 3719.01 of the Revised Code.	14583
(21) "Disabled tenant" means a tenant or prospective	14584
tenant who is a person with a disability.	14585
(22) "Military status" means a person's status in "service	14586
in the uniformed services" as defined in section 5923.05 of the	14587
Revised Code.	14588

(23) "Aggrieved person" includes both of the following: 14589

(a) Any person who claims to have been injured by any 14590  
unlawful discriminatory practice described in division (H) of 14591  
section 4112.02 of the Revised Code; 14592

(b) Any person who believes that the person will be 14593  
injured by, any unlawful discriminatory practice described in 14594  
division (H) of section 4112.02 of the Revised Code that is 14595  
about to occur. 14596

(B) For the purposes of divisions (A) to (F) of section 14597  
4112.02 of the Revised Code, the terms "because of sex" and "on 14598  
the basis of sex" include, but are not limited to, because of or 14599  
on the basis of pregnancy, any illness arising out of and 14600  
occurring during the course of a pregnancy, childbirth, or 14601  
related medical conditions. Women affected by pregnancy, 14602  
childbirth, or related medical conditions shall be treated the 14603  
same for all employment-related purposes, including receipt of 14604  
benefits under fringe benefit programs, as other persons not so 14605  
affected but similar in their ability or inability to work, and 14606  
nothing in division (B) of section 4111.17 of the Revised Code 14607  
shall be interpreted to permit otherwise. This division shall 14608  
not be construed to require an employer to pay for health 14609  
insurance benefits for abortion, except where the life of the 14610  
mother would be endangered if the fetus were carried to term or 14611  
except where medical complications have arisen from the 14612  
abortion, provided that nothing in this division precludes an 14613  
employer from providing abortion benefits or otherwise affects 14614  
bargaining agreements in regard to abortion. 14615

**Sec. 4303.272.** As used in this section, "incompetent 14616  
person" means a person who is so mentally impaired, as a result 14617  
of a mental or physical illness or disability, ~~or mental~~ 14618

~~retardation as a result of an intellectual disability,~~ or as a 14619  
result of chronic substance abuse, that the person is incapable 14620  
of taking proper care of the person's self or property or fails 14621  
to provide for the person's family or other persons for whom the 14622  
person is charged by law to provide. 14623

Any permit holder whose permit premises are destroyed or 14624  
made unusable for any cause, or whose tenancy is terminated for 14625  
any cause, shall deliver the permit holder's permit to the 14626  
division of liquor control for safekeeping until such time as 14627  
the original permit premises are made available for occupancy or 14628  
new premises are secured by the permit holder or until new 14629  
premises are secured by the permit holder outside the precinct 14630  
affected by a local option election. 14631

Unless the permit is to be cancelled as the result of a 14632  
local option election held pursuant to section 4301.352 of the 14633  
Revised Code, a permit holder whose permit is to be restricted 14634  
or cancelled as the result of a local option election pursuant 14635  
to sections 4301.32 to 4301.41 and 4305.14 of the Revised Code 14636  
may, within the thirty-day period after the certification of the 14637  
results of the election to the division, deliver the permit to 14638  
the division for safekeeping subject to the renewal and transfer 14639  
provision of this section. A permit holder whose permit is to be 14640  
cancelled as the result of a local option election held pursuant 14641  
to section 4301.352 of the Revised Code is not entitled to 14642  
deliver the permit to the division for safekeeping. 14643

If, as the result of the election, the use of a permit is 14644  
made wholly unlawful and the permit holder does not deliver or 14645  
is not entitled to deliver the permit to the division for 14646  
safekeeping as provided in this section, the division shall 14647  
forthwith cancel and pick up the permit. 14648

During the period of time that a permit is held in 14649  
safekeeping by the division, the permit holder shall be allowed 14650  
to transfer the permit to other premises, subject to the 14651  
provisions of Chapters 4301. and 4303. of the Revised Code. 14652

If the expiration date of a permit occurs during the time 14653  
it is held in safekeeping, the permit shall be renewed by the 14654  
division if the permit holder complies with the other provisions 14655  
of Chapters 4301. and 4303. of the Revised Code, pertaining to 14656  
the renewal of a permit. The division shall issue and then 14657  
retain the renewed permit until the original permit premises 14658  
become available for occupancy by the permit holder or until the 14659  
permit holder secures other premises. The division shall return 14660  
to the permit holder a permit renewed while in safekeeping when 14661  
the original permit premises are made available for occupancy or 14662  
new permit premises are secured by the permit holder, if the 14663  
premises meet the requirements of Chapters 4301. and 4303. of 14664  
the Revised Code. 14665

A permit renewed while in safekeeping shall be considered 14666  
in full force and effect and may be transferred by the division. 14667

Should the permit holder be adjudged an incompetent person 14668  
or die while the permit holder's permit is in safekeeping, the 14669  
permit shall be transferred, upon application, by the division 14670  
to the guardian, administrator, executor, or other fiduciary of 14671  
the permit holder who shall have the same rights to the 14672  
transfer, return, and renewal of the permit as is provided in 14673  
this section for the permit holder. 14674

A permit held in safekeeping shall not be renewed more 14675  
than once while so held, unless the building from which the 14676  
permit was taken for safekeeping or the building to which the 14677  
permit is to be transferred is under construction or 14678

reconstruction, in which event the permit shall be held in 14679  
safekeeping and shall, upon the application of the permit 14680  
holder, be renewed at each expiration date until the 14681  
construction or reconstruction of the building is completed. 14682

**Sec. 4399.05.** As used in this section, "incompetent 14683  
person" means a person who is so mentally impaired, as a result 14684  
of a mental or physical illness or disability, ~~or mental~~ 14685  
~~retardation as a result of an intellectual disability,~~ or as a 14686  
result of chronic substance abuse, that the person is incapable 14687  
of taking proper care of the person's self or property or fails 14688  
to provide for the person's family or other persons for whom the 14689  
person is charged by law to provide. 14690

If a person rents or leases to another a building or 14691  
premises to be used or occupied, in whole or in part, for the 14692  
sale of intoxicating liquors, or permits such building or 14693  
premises to be so used or occupied, such building or premises 14694  
shall be liable for and may be sold to pay all fines, costs, and 14695  
damages assessed against a person occupying them. Proceedings 14696  
may be had to subject them to the payment of such fine and costs 14697  
assessed or judgment recovered, or part remaining unpaid, either 14698  
before or after execution issues against the property of the 14699  
person against whom such fine and costs or judgment have been 14700  
adjudged or assessed. When execution issues against the property 14701  
leased or rented, the officer shall proceed to satisfy it out of 14702  
the building or premises so leased or occupied. 14703

If such building or premises belong to a minor or 14704  
incompetent person, the guardian having control thereof shall be 14705  
liable and account to the guardian's ward for all damages on 14706  
account of such use and occupation, and the liabilities for such 14707  
fines, costs, and damages. 14708

**Sec. 4723.071.** (A) As used in this section, "health- 14709  
related activities," "~~MR/DD~~developmental disabilities 14710  
personnel," "prescribed medication," and "tube feeding" have the 14711  
same meanings as in section 5123.41 of the Revised Code. 14712

(B) The board of nursing shall adopt rules as it considers 14713  
necessary to govern nursing delegation as it applies to ~~MR/DD~~ 14714  
developmental disabilities personnel who administer prescribed 14715  
medications, perform health-related activities, and perform tube 14716  
feedings pursuant to the authority granted under section 5123.42 14717  
of the Revised Code. The board shall not establish in the rules 14718  
any requirement that is inconsistent with the authority of ~~MR/DD~~ 14719  
developmental disabilities personnel granted under that section. 14720  
The rules shall be adopted in accordance with Chapter 119. of 14721  
the Revised Code. 14722

(C) The board of nursing may accept complaints from any 14723  
person or government entity regarding the performance or 14724  
qualifications of ~~MR/DD~~developmental disabilities personnel who 14725  
administer prescribed medications, perform health-related 14726  
activities, and perform tube feedings pursuant to the authority 14727  
granted under section 5123.42 of the Revised Code. The board 14728  
shall refer all complaints received to the department of 14729  
developmental disabilities. The board may participate in an 14730  
investigation of a complaint being conducted by the department 14731  
under section 5123.421 of the Revised Code. 14732

**Sec. 4757.41.** (A) This chapter shall not apply to the 14733  
following: 14734

(1) A person certified by the state board of education 14735  
under Chapter 3319. of the Revised Code while performing any 14736  
services within the person's scope of employment by a board of 14737  
education or by a private school meeting the standards 14738

prescribed by the state board of education under division (D) of 14739  
section 3301.07 of the Revised Code or in a program operated 14740  
under Chapter 5126. of the Revised Code for training individuals 14741  
with ~~mental retardation or other~~ developmental disabilities; 14742

(2) Psychologists or school psychologists licensed under 14743  
Chapter 4732. of the Revised Code; 14744

(3) Members of other professions licensed, certified, or 14745  
registered by this state while performing services within the 14746  
recognized scope, standards, and ethics of their respective 14747  
professions; 14748

(4) Rabbis, priests, Christian science practitioners, 14749  
clergy, or members of religious orders and other individuals 14750  
participating with them in pastoral counseling when the 14751  
counseling activities are within the scope of the performance of 14752  
their regular or specialized ministerial duties and are 14753  
performed under the auspices or sponsorship of an established 14754  
and legally cognizable church, denomination, or sect or an 14755  
integrated auxiliary of a church as defined in federal tax 14756  
regulations, paragraph (g) (5) of 26 C.F.R. 1.6033-2 (1995), and 14757  
when the individual rendering the service remains accountable to 14758  
the established authority of that church, denomination, sect, or 14759  
integrated auxiliary; 14760

(5) Any person who is not licensed under this chapter as a 14761  
licensed professional clinical counselor, licensed professional 14762  
counselor, independent social worker, or social worker and is 14763  
employed in the civil service as defined in section 124.01 of 14764  
the Revised Code while engaging in professional counseling or 14765  
social work as a civil service employee, if on ~~the effective~~ 14766  
~~date of this amendment~~ July 10, 2014, the person has at least 14767  
two years of service in that capacity; 14768

- (6) A student in an accredited educational institution while carrying out activities that are part of the student's prescribed course of study if the activities are supervised as required by the educational institution and if the student does not hold herself or himself out as a person licensed or registered under this chapter; 14769  
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- (7) Individuals who hold a license or certificate under Chapter 4758. of the Revised Code who are acting within the scope of their license or certificate as members of the profession of chemical dependency counseling or alcohol and other drug prevention services; 14775  
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- (8) Any person employed by the American red cross while engaging in activities relating to services for military families and veterans and disaster relief, as described in the "American National Red Cross Act," 33 Stat. 599 (1905), 36 U.S.C.A. 1, as amended; 14780  
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- (9) Members of labor organizations who hold union counselor certificates while performing services in their official capacity as union counselors; 14785  
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- (10) Any person employed in a hospital as defined in section 3727.01 of the Revised Code or in a nursing home as defined in section 3721.01 of the Revised Code while providing as a hospital employee or nursing home employee, respectively, social services other than counseling and the use of psychosocial interventions and social psychotherapy; 14788  
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- (11) A vocational rehabilitation professional who is providing rehabilitation services to individuals under section 3304.17 of the Revised Code, or holds certification by the commission on rehabilitation counselor certification and is 14794  
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providing rehabilitation counseling services consistent with the 14798  
commission's standards; 14799

(12) A caseworker not licensed under this chapter as an 14800  
independent social worker or social worker who is employed by a 14801  
public children services agency under section 5153.112 of the 14802  
Revised Code. 14803

(B) Divisions (A) (5) and (10) of this section do not 14804  
prevent a person described in those divisions from obtaining a 14805  
license or certificate of registration under this chapter. 14806

(C) Except as provided in divisions (A) and (D) of this 14807  
section, no employee in the service of the state, including 14808  
public employees as defined by Chapter 4117. of the Revised 14809  
Code, shall engage in the practice of professional counseling, 14810  
social work, or marriage and family therapy without the 14811  
appropriate license issued by the board. Failure to comply with 14812  
this division constitutes nonfeasance under section 124.34 of 14813  
the Revised Code or just cause under a collective bargaining 14814  
agreement. Nothing in this division restricts the director of 14815  
administrative services from developing new classifications 14816  
related to this division or from reassigning affected employees 14817  
to appropriate classifications based on the employee's duties 14818  
and qualifications. 14819

(D) Except as provided in division (A) of this section, an 14820  
employee who was engaged in the practice of professional 14821  
counseling, social work, or marriage and family therapy in the 14822  
service of the state prior to ~~the effective date of this~~ 14823  
~~amendment July 10, 2014~~, including public employees as defined 14824  
by Chapter 4117. of the Revised Code, shall comply with division 14825  
(C) of this section within two years after ~~the effective date of~~ 14826  
~~this amendment July 10, 2014~~. Any such employee who fails to 14827

comply shall be removed from employment. 14828

(E) Nothing in this chapter prevents a public children 14829  
services agency from employing as a caseworker a person not 14830  
licensed under this chapter as an independent social worker or 14831  
social worker who has the qualifications specified in section 14832  
5153.112 of the Revised Code. 14833

**Sec. 4971.16.** As used in this section, "incompetent 14834  
person" means a person who is so mentally impaired, as a result 14835  
of a mental or physical illness or disability, ~~or mental~~ 14836  
~~retardation~~ as a result of an intellectual disability, or as a 14837  
result of chronic substance abuse, that the person is incapable 14838  
of taking proper care of the person's self or property or fails 14839  
to provide for the person's family or other persons for whom the 14840  
person is charged by law to provide. 14841

Persons in interest who fail to become parties to the 14842  
agreement within the four-month period referred to in section 14843  
4971.14 of the Revised Code are entitled to the same rights, 14844  
interest, estate, remedy, liens, and action, and none other, 14845  
which parties in interest of like class and amount who signed 14846  
the agreement obtained by and under it. If a person in interest 14847  
fails for six years after the publication of the notice 14848  
mentioned in such section to apply at the principal office of 14849  
the company, either in person or by proxy, to become a party in 14850  
interest in the agreement, such person, unless an infant or 14851  
incompetent person, shall be barred of all interest, claim, 14852  
right, or action under the agreement or otherwise. In case of 14853  
such disability such rights shall be extended for two years 14854  
after the termination of the disability. 14855

**Sec. 5101.46.** (A) As used in this section: 14856

- (1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 14857  
14858
- (2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health and addiction services, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities. 14859  
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- (3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. 14866  
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- (B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals: 14873  
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- (1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency; 14879  
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- (2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency; 14881  
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- (3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families; 14883  
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- (4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; 14886  
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14888
- (5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions. 14889  
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14891
- (C) (1) All federal funds received under Title XX shall be appropriated as follows: 14892  
14893
- (a) Seventy-two and one-half per cent to the department of job and family services; 14894  
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- (b) Twelve and ninety-three one-hundredths per cent to the department of mental health and addiction services; 14896  
14897
- (c) Fourteen and fifty-seven one-hundredths per cent to the department of developmental disabilities. 14898  
14899
- (2) Each of the state departments shall, subject to the approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies: 14900  
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- (a) The total population of the area that is served by the respective local agency; 14906  
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- (b) The percentage of the population in the area served that falls below the federal poverty guidelines; 14908  
14909
- (c) The respective local agency's history of and ability to utilize Title XX funds. 14910  
14911
- (3) Each of the state departments shall expend for state 14912

administrative costs not more than three per cent of the Title 14913  
XX funds appropriated to the department. 14914

Each state department shall establish for each of its 14915  
respective local agencies the maximum percentage of the Title XX 14916  
funds distributed to the respective local agency that the 14917  
respective local agency may expend for local administrative 14918  
costs. The percentage shall be established by rule and shall 14919  
comply with federal law governing the use of Title XX funds. The 14920  
rules shall be adopted in accordance with section 111.15 of the 14921  
Revised Code as if they were internal management rules. 14922

(4) The department of job and family services shall expend 14923  
for the training of the following not more than two per cent of 14924  
the Title XX funds appropriated to the department: 14925

(a) Employees of county departments of job and family 14926  
services; 14927

(b) Providers of services under contract with the state 14928  
departments' respective local agencies; 14929

(c) Employees of a public children services agency 14930  
directly engaged in providing Title XX services. 14931

(5) Title XX funds distributed for the purpose of 14932  
providing family planning services shall be distributed by the 14933  
respective local agencies according to the same order of 14934  
priority that applies to the department of job and family 14935  
services under section 5101.101 of the Revised Code. 14936

(D) The department of job and family services shall 14937  
prepare an annual comprehensive Title XX social services plan on 14938  
the intended use of Title XX funds. The department shall develop 14939  
a method for obtaining public comment during the development of 14940  
the plan and following its completion. 14941

For each federal fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and addiction services and developmental disabilities shall prepare and submit to the department of job and family services the portions of each annual plan and report that apply to services for mental health and ~~mental retardation and~~ developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of annual plans and reports.

(E) Each county department of job and family services shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their 14972  
respective local agencies may require that an entity under 14973  
contract to provide social services with Title XX funds submit 14974  
to an audit on the basis of alleged misuse or improper 14975  
accounting of funds. If an audit is required, the social 14976  
services provider shall reimburse the state department or 14977  
respective local agency for the cost it incurred in conducting 14978  
the audit or having the audit conducted. 14979

If an audit demonstrates that a social services provider 14980  
is responsible for one or more adverse findings, the provider 14981  
shall reimburse the appropriate state department or its 14982  
respective local agency the amount of the adverse findings. The 14983  
amount shall not be reimbursed with Title XX funds received 14984  
under this section. The three state departments and their 14985  
respective local agencies may terminate or refuse to enter into 14986  
a Title XX contract with a social services provider if there are 14987  
adverse findings in an audit that are the responsibility of the 14988  
provider. 14989

(G) Except with respect to the matters for which each of 14990  
the state departments must adopt rules under division (C) (3) of 14991  
this section, the department of job and family services may 14992  
adopt any rules it considers necessary to implement and carry 14993  
out the purposes of this section. Rules governing financial and 14994  
operational matters of the department or matters between the 14995  
department and county departments of job and family services 14996  
shall be adopted as internal management rules in accordance with 14997  
section 111.15 of the Revised Code. Rules governing eligibility 14998  
for services, program participation, and other matters 14999  
pertaining to applicants and participants shall be adopted in 15000  
accordance with Chapter 119. of the Revised Code. 15001

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of	15002
the Revised Code:	15003
(A) (1) "Association" or "institution" includes all of the	15004
following:	15005
(a) Any incorporated or unincorporated organization,	15006
society, association, or agency, public or private, that	15007
receives or cares for children for two or more consecutive	15008
weeks;	15009
(b) Any individual, including the operator of a foster	15010
home, who, for hire, gain, or reward, receives or cares for	15011
children for two or more consecutive weeks, unless the	15012
individual is related to them by blood or marriage;	15013
(c) Any individual not in the regular employ of a court,	15014
or of an institution or association certified in accordance with	15015
section 5103.03 of the Revised Code, who in any manner becomes a	15016
party to the placing of children in foster homes, unless the	15017
individual is related to such children by blood or marriage or	15018
is the appointed guardian of such children.	15019
(2) "Association" or "institution" does not include any of	15020
the following:	15021
(a) Any organization, society, association, school,	15022
agency, child guidance center, detention or rehabilitation	15023
facility, or children's clinic licensed, regulated, approved,	15024
operated under the direction of, or otherwise certified by the	15025
department of education, a local board of education, the	15026
department of youth services, the department of mental health	15027
and addiction services, or the department of developmental	15028
disabilities;	15029
(b) Any individual who provides care for only a single-	15030

family group, placed there by their parents or other relative	15031
having custody;	15032
(c) A private, nonprofit therapeutic wilderness camp.	15033
(B) "Family foster home" means a foster home that is not a	15034
specialized foster home.	15035
(C) "Foster caregiver" means a person holding a valid	15036
foster home certificate issued under section 5103.03 of the	15037
Revised Code.	15038
(D) "Foster home" means a private residence in which	15039
children are received apart from their parents, guardian, or	15040
legal custodian, by an individual reimbursed for providing the	15041
children nonsecure care, supervision, or training twenty-four	15042
hours a day. "Foster home" does not include care provided for a	15043
child in the home of a person other than the child's parent,	15044
guardian, or legal custodian while the parent, guardian, or	15045
legal custodian is temporarily away. Family foster homes and	15046
specialized foster homes are types of foster homes.	15047
(E) "Medically fragile foster home" means a foster home	15048
that provides specialized medical services designed to meet the	15049
needs of children with intensive health care needs who meet all	15050
of the following criteria:	15051
(1) Under rules adopted by the medicaid director governing	15052
medicaid payments for long-term care services, the children	15053
require a skilled level of care.	15054
(2) The children require the services of a doctor of	15055
medicine or osteopathic medicine at least once a week due to the	15056
instability of their medical conditions.	15057
(3) The children require the services of a registered	15058

nurse on a daily basis. 15059

(4) The children are at risk of institutionalization in a 15060  
hospital, skilled nursing facility, or intermediate care 15061  
facility for individuals with intellectual disabilities. 15062

(F) "Private, nonprofit therapeutic wilderness camp" means 15063  
a structured, alternative residential setting for children who 15064  
are experiencing emotional, behavioral, moral, social, or 15065  
learning difficulties at home or school in which all of the 15066  
following are the case: 15067

(1) The children spend the majority of their time, 15068  
including overnight, either outdoors or in a primitive 15069  
structure. 15070

(2) The children have been placed there by their parents 15071  
or another relative having custody. 15072

(3) The camp accepts no public funds for use in its 15073  
operations. 15074

(G) "Recommending agency" means a public children services 15075  
agency, private child placing agency, or private noncustodial 15076  
agency that recommends that the department of job and family 15077  
services take any of the following actions under section 5103.03 15078  
of the Revised Code regarding a foster home: 15079

(1) Issue a certificate; 15080

(2) Deny a certificate; 15081

(3) Renew a certificate; 15082

(4) Deny renewal of a certificate; 15083

(5) Revoke a certificate. 15084

(H) "Specialized foster home" means a medically fragile 15085

foster home or a treatment foster home. 15086

(I) "Treatment foster home" means a foster home that 15087  
incorporates special rehabilitative services designed to treat 15088  
the specific needs of the children received in the foster home 15089  
and that receives and cares for children who are emotionally or 15090  
behaviorally disturbed, who are chemically dependent, ~~mentally-~~ 15091  
~~retarded, developmentally disabled~~who have developmental 15092  
disabilities, or who otherwise have exceptional needs. 15093

**Sec. 5119.44.** As used in this section, "free clinic" has 15094  
the same meaning as in section 2305.2341 of the Revised Code. 15095

(A) The department of mental health and addiction services 15096  
may provide certain goods and services for the department of 15097  
mental health and addiction services, the department of 15098  
developmental disabilities, the department of rehabilitation and 15099  
correction, the department of youth services, and other state, 15100  
county, or municipal agencies requesting such goods and services 15101  
when the department of mental health and addiction services 15102  
determines that it is in the public interest, and considers it 15103  
advisable, to provide these goods and services. The department 15104  
of mental health and addiction services also may provide goods 15105  
and services to agencies operated by the United States 15106  
government and to public or private nonprofit agencies, other 15107  
than free clinics, that are funded in whole or in part by the 15108  
state if the public or private nonprofit agencies are designated 15109  
for participation in this program by the director of mental 15110  
health and addiction services for community addiction services 15111  
providers and community mental health services providers, the 15112  
director of developmental disabilities for community ~~mental-~~ 15113  
~~retardation and~~ developmental disabilities agencies, the 15114  
director of rehabilitation and correction for community 15115

rehabilitation and correction agencies, or the director of youth services for community youth services agencies. 15116  
15117

Designated community agencies or services providers shall 15118  
receive goods and services through the department of mental 15119  
health and addiction services only in those cases where the 15120  
designating state agency certifies that providing such goods and 15121  
services to the agency or services provider will conserve public 15122  
resources to the benefit of the public and where the provision 15123  
of such goods and services is considered feasible by the 15124  
department of mental health and addiction services. 15125

(B) The department of mental health and addiction services 15126  
may permit free clinics to purchase certain goods and services 15127  
to the extent the purchases fall within the exemption to the 15128  
Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to 15129  
nonprofit institutions, in 15 U.S.C. 13c, as amended. 15130

(C) The goods and services that may be provided by the 15131  
department of mental health and addiction services under 15132  
divisions (A) and (B) of this section may include: 15133

(1) Procurement, storage, processing, and distribution of 15134  
food and professional consultation on food operations; 15135

(2) Procurement, storage, and distribution of medical and 15136  
laboratory supplies, dental supplies, medical records, forms, 15137  
optical supplies, and sundries, subject to section 5120.135 of 15138  
the Revised Code; 15139

(3) Procurement, storage, repackaging, distribution, and 15140  
dispensing of drugs, the provision of professional pharmacy 15141  
consultation, and drug information services; 15142

(4) Other goods and services. 15143

(D) The department of mental health and addiction services 15144  
may provide the goods and services designated in division (C) of 15145  
this section to its institutions and to state-operated 15146  
community-based mental health or addiction services providers. 15147

(E) After consultation with and advice from the director 15148  
of developmental disabilities, the director of rehabilitation 15149  
and correction, and the director of youth services, the 15150  
department of mental health and addiction services may provide 15151  
the goods and services designated in division (C) of this 15152  
section to the department of developmental disabilities, the 15153  
department of rehabilitation and correction, and the department 15154  
of youth services. 15155

(F) The cost of administration of this section shall be 15156  
determined by the department of mental health and addiction 15157  
services and paid by the agencies, services providers, or free 15158  
clinics receiving the goods and services to the department for 15159  
deposit in the state treasury to the credit of the Ohio pharmacy 15160  
services fund, which is hereby created. The fund shall be used 15161  
to pay the cost of administration of this section to the 15162  
department. 15163

(G) Whenever a state agency fails to make a payment for 15164  
goods and services provided under this section within thirty-one 15165  
days after the date the payment was due, the office of budget 15166  
and management may transfer moneys from the state agency to the 15167  
department of mental health and addiction services. The amount 15168  
transferred shall not exceed the amount of overdue payments. 15169  
Prior to making a transfer under this division, the office of 15170  
budget and management shall apply any credits the state agency 15171  
has accumulated in payments for goods and services provided 15172  
under this section. 15173

(H) Purchases of goods and services under this section are 15174  
not subject to section 307.86 of the Revised Code. 15175

**Sec. 5120.051.** The department of rehabilitation and 15176  
correction shall provide for the needs of mentally ill persons 15177  
and ~~mentally-retarded~~ persons with intellectual disabilities who 15178  
are incarcerated in state correctional institutions. The 15179  
department may designate an institution or a unit within an 15180  
institution for the custody, care, special training, treatment, 15181  
and rehabilitation of mentally ill persons or ~~mentally-retarded~~- 15182  
persons with intellectual disabilities. 15183

**Sec. 5120.11.** Within the department of rehabilitation and 15184  
correction, there shall be established and maintained a bureau 15185  
of examination and classification. The bureau shall conduct or 15186  
provide for sociological, psychological, and psychiatric 15187  
examination of each inmate of the correctional institutions. The 15188  
examination shall be made as soon as possible after each inmate 15189  
is admitted to any of the institutions, and further examinations 15190  
may be made, if it is advisable. If the inmate is determined to 15191  
be a ~~mentally-retarded or developmentally disabled~~ person with a 15192  
developmental disability, as defined in section 5123.01 of the 15193  
Revised Code, the bureau shall notify the sentencing court in 15194  
writing of its determination within forty-five days after 15195  
sentencing. 15196

The bureau shall collect such social and other information 15197  
as will aid in the interpretation of its examinations. 15198

Subject to division (C) of section 5120.21 of the Revised 15199  
Code, the bureau shall keep a record of the health, activities, 15200  
and behavior of each inmate while the inmate is in the custody 15201  
of the state. The records, including the findings and 15202  
recommendations of the bureau, shall be made available to the 15203

adult parole authority for use in imposing post-release control 15204  
sanctions under section 2967.28 of the Revised Code or any other 15205  
section of the Revised Code, in granting parole, and in making 15206  
parole, post-release, and rehabilitation plans for the inmate 15207  
when the inmate leaves the institution, and to the department 15208  
for its use in approving transfers of inmates from one 15209  
institution to another. 15210

**Sec. 5120.17.** (A) As used in this section: 15211

(1) "Mental illness" means a substantial disorder of 15212  
thought, mood, perception, orientation, or memory that grossly 15213  
impairs judgment, behavior, capacity to recognize reality, or 15214  
ability to meet the ordinary demands of life. 15215

(2) "Mentally ill person subject to hospitalization" means 15216  
a mentally ill person to whom any of the following applies 15217  
because of the person's mental illness: 15218

(a) The person represents a substantial risk of physical 15219  
harm to the person as manifested by evidence of threats of, or 15220  
attempts at, suicide or serious self-inflicted bodily harm. 15221

(b) The person represents a substantial risk of physical 15222  
harm to others as manifested by evidence of recent homicidal or 15223  
other violent behavior, evidence of recent threats that place 15224  
another in reasonable fear of violent behavior and serious 15225  
physical harm, or other evidence of present dangerousness. 15226

(c) The person represents a substantial and immediate risk 15227  
of serious physical impairment or injury to the person as 15228  
manifested by evidence that the person is unable to provide for 15229  
and is not providing for the person's basic physical needs 15230  
because of the person's mental illness and that appropriate 15231  
provision for those needs cannot be made immediately available 15232

in the correctional institution in which the inmate is currently 15233  
housed. 15234

(d) The person would benefit from treatment in a hospital 15235  
for the person's mental illness and is in need of treatment in a 15236  
hospital as manifested by evidence of behavior that creates a 15237  
grave and imminent risk to substantial rights of others or the 15238  
person. 15239

(3) "Psychiatric hospital" means all or part of a facility 15240  
that is operated and managed by the department of mental health 15241  
and addiction services to provide psychiatric hospitalization 15242  
services in accordance with the requirements of this section 15243  
pursuant to an agreement between the directors of rehabilitation 15244  
and correction and mental health and addiction services or, is 15245  
licensed by the department of mental health and addiction 15246  
services pursuant to section 5119.33 of the Revised Code as a 15247  
psychiatric hospital and is accredited by a health care 15248  
accrediting organization approved by the department of mental 15249  
health and addiction services and the psychiatric hospital is 15250  
any of the following: 15251

(a) Operated and managed by the department of 15252  
rehabilitation and correction within a facility that is operated 15253  
by the department of rehabilitation and correction; 15254

(b) Operated and managed by a contractor for the 15255  
department of rehabilitation and correction within a facility 15256  
that is operated by the department of rehabilitation and 15257  
correction; 15258

(c) Operated and managed in the community by an entity 15259  
that has contracted with the department of rehabilitation and 15260  
correction to provide psychiatric hospitalization services in 15261

accordance with the requirements of this section.	15262
(4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital.	15263 15264
(5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.	15265 15266 15267
(6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:	15268 15269 15270 15271 15272 15273
(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;	15274 15275
(b) The services to be provided to the inmate patient during the inmate patient's hospitalization;	15276 15277
(c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services.	15278 15279 15280 15281 15282
<del>(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.</del>	15283 15284 15285
<del>(8)</del> "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care.	15286 15287 15288 15289

~~(9)~~(8) "Uncontested transfer" means the transfer of a 15290  
mentally ill inmate to a psychiatric hospital when the inmate 15291  
has the mental capacity to, and has waived, the hearing required 15292  
by division (B) of this section. 15293

~~(10)~~(9)(a) "Independent decision-maker" means a person who 15294  
is employed or retained by the department of rehabilitation and 15295  
correction and is appointed by the chief or chief clinical 15296  
officer of mental health services as a hospitalization hearing 15297  
officer to conduct due process hearings. 15298

(b) An independent decision-maker who presides over any 15299  
hearing or issues any order pursuant to this section shall be a 15300  
psychiatrist, psychologist, or attorney, shall not be 15301  
specifically associated with the institution in which the inmate 15302  
who is the subject of the hearing or order resides at the time 15303  
of the hearing or order, and previously shall not have had any 15304  
treatment relationship with nor have represented in any legal 15305  
proceeding the inmate who is the subject of the order. 15306

(B) (1) Except as provided in division (C) of this section, 15307  
if the warden of a state correctional institution or the 15308  
warden's designee believes that an inmate should be transferred 15309  
from the institution to a psychiatric hospital, the department 15310  
shall hold a hearing to determine whether the inmate is a 15311  
mentally ill person subject to hospitalization. The department 15312  
shall conduct the hearing at the state correctional institution 15313  
in which the inmate is confined, and the department shall 15314  
provide qualified independent assistance to the inmate for the 15315  
hearing. An independent decision-maker provided by the 15316  
department shall preside at the hearing and determine whether 15317  
the inmate is a mentally ill person subject to hospitalization. 15318

(2) Except as provided in division (C) of this section, 15319

prior to the hearing held pursuant to division (B)(1) of this section, the warden or the warden's designee shall give written notice to the inmate that the department is considering transferring the inmate to a psychiatric hospital, that it will hold a hearing on the proposed transfer at which the inmate may be present, that at the hearing the inmate has the rights described in division (B)(3) of this section, and that the department will provide qualified independent assistance to the inmate with respect to the hearing. The department shall not hold the hearing until the inmate has received written notice of the proposed transfer and has had sufficient time to consult with the person appointed by the department to provide assistance to the inmate and to prepare for a presentation at the hearing.

(3) At the hearing held pursuant to division (B)(1) of this section, the department shall disclose to the inmate the evidence that it relies upon for the transfer and shall give the inmate an opportunity to be heard. Unless the independent decision-maker finds good cause for not permitting it, the inmate may present documentary evidence and the testimony of witnesses at the hearing and may confront and cross-examine witnesses called by the department.

(4) If the independent decision-maker does not find clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the department shall not transfer the inmate to a psychiatric hospital but shall continue to confine the inmate in the same state correctional institution or in another state correctional institution that the department considers appropriate. If the independent decision-maker finds clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the decision-maker shall

order that the inmate be transported to a psychiatric hospital 15351  
for observation and treatment for a period of not longer than 15352  
thirty days. After the hearing, the independent decision-maker 15353  
shall submit to the department a written decision that states 15354  
one of the findings described in division (B) (4) of this 15355  
section, the evidence that the decision-maker relied on in 15356  
reaching that conclusion, and, if the decision is that the 15357  
inmate should be transferred, the reasons for the transfer. 15358

(C) (1) The department may transfer an inmate to a 15359  
psychiatric hospital under an emergency transfer order if the 15360  
chief clinical officer of mental health services of the 15361  
department or that officer's designee and either a psychiatrist 15362  
employed or retained by the department or, in the absence of a 15363  
psychiatrist, a psychologist employed or retained by the 15364  
department determines that the inmate is mentally ill, presents 15365  
an immediate danger to self or others, and requires hospital- 15366  
level care. 15367

(2) The department may transfer an inmate to a psychiatric 15368  
hospital under an uncontested transfer order if both of the 15369  
following apply: 15370

(a) A psychiatrist employed or retained by the department 15371  
determines all of the following apply: 15372

(i) The inmate has a mental illness or is a mentally ill 15373  
person subject to hospitalization. 15374

(ii) The inmate requires hospital care to address the 15375  
mental illness. 15376

(iii) The inmate has the mental capacity to make a 15377  
reasoned choice regarding the inmate's transfer to a hospital. 15378

(b) The inmate agrees to a transfer to a hospital. 15379

(3) The written notice and the hearing required under 15380  
divisions (B) (1) and (2) of this section are not required for an 15381  
emergency transfer or uncontested transfer under division (C) (1) 15382  
or (2) of this section. 15383

(4) After an emergency transfer under division (C) (1) of 15384  
this section, the department shall hold a hearing for continued 15385  
hospitalization within five working days after admission of the 15386  
transferred inmate to the psychiatric hospital. The department 15387  
shall hold subsequent hearings pursuant to division (F) of this 15388  
section at the same intervals as required for inmate patients 15389  
who are transported to a psychiatric hospital under division (B) 15390  
(4) of this section. 15391

(5) After an uncontested transfer under division (C) (2) of 15392  
this section, the inmate may withdraw consent to the transfer in 15393  
writing at any time. Upon the inmate's withdrawal of consent, 15394  
the hospital shall discharge the inmate, or, within five working 15395  
days, the department shall hold a hearing for continued 15396  
hospitalization. The department shall hold subsequent hearings 15397  
pursuant to division (F) of this section at the same time 15398  
intervals as required for inmate patients who are transported to 15399  
a psychiatric hospital under division (B) (4) of this section. 15400

(D) (1) If an independent decision-maker, pursuant to 15401  
division (B) (4) of this section, orders an inmate transported to 15402  
a psychiatric hospital or if an inmate is transferred pursuant 15403  
to division (C) (1) or (2) of this section, the staff of the 15404  
psychiatric hospital shall examine the inmate patient when 15405  
admitted to the psychiatric hospital as soon as practicable 15406  
after the inmate patient arrives at the hospital and no later 15407  
than twenty-four hours after the time of arrival. The attending 15408  
physician responsible for the inmate patient's care shall give 15409

the inmate patient all information necessary to enable the 15410  
patient to give a fully informed, intelligent, and knowing 15411  
consent to the treatment the inmate patient will receive in the 15412  
hospital. The attending physician shall tell the inmate patient 15413  
the expected physical and medical consequences of any proposed 15414  
treatment and shall give the inmate patient the opportunity to 15415  
consult with another psychiatrist at the hospital and with the 15416  
inmate advisor. 15417

(2) No inmate patient who is transported or transferred 15418  
pursuant to division (B) (4) or (C) (1) or (2) of this section to 15419  
a psychiatric hospital within a facility that is operated by the 15420  
department of rehabilitation and correction shall be subjected 15421  
to any of the following procedures: 15422

(a) Convulsive therapy; 15423

(b) Major aversive interventions; 15424

(c) Any unusually hazardous treatment procedures; 15425

(d) Psychosurgery. 15426

(E) The department of rehabilitation and correction shall 15427  
ensure that an inmate patient hospitalized pursuant to this 15428  
section receives or has all of the following: 15429

(1) Receives sufficient professional care within twenty 15430  
days of admission to ensure that an evaluation of the inmate 15431  
patient's current status, differential diagnosis, probable 15432  
prognosis, and description of the current treatment plan have 15433  
been formulated and are stated on the inmate patient's official 15434  
chart; 15435

(2) Has a written treatment plan consistent with the 15436  
evaluation, diagnosis, prognosis, and goals of treatment; 15437

(3) Receives treatment consistent with the treatment plan;	15438
(4) Receives periodic reevaluations of the treatment plan	15439
by the professional staff at intervals not to exceed thirty	15440
days;	15441
(5) Is provided with adequate medical treatment for	15442
physical disease or injury;	15443
(6) Receives humane care and treatment, including, without	15444
being limited to, the following:	15445
(a) Access to the facilities and personnel required by the	15446
treatment plan;	15447
(b) A humane psychological and physical environment;	15448
(c) The right to obtain current information concerning the	15449
treatment program, the expected outcomes of treatment, and the	15450
expectations for the inmate patient's participation in the	15451
treatment program in terms that the inmate patient reasonably	15452
can understand;	15453
(d) Opportunity for participation in programs designed to	15454
help the inmate patient acquire the skills needed to work toward	15455
discharge from the psychiatric hospital;	15456
(e) The right to be free from unnecessary or excessive	15457
medication and from unnecessary restraints or isolation;	15458
(f) All other rights afforded inmates in the custody of	15459
the department consistent with rules, policy, and procedure of	15460
the department.	15461
(F) The department shall hold a hearing for the continued	15462
hospitalization of an inmate patient who is transported or	15463
transferred to a psychiatric hospital pursuant to division (B)	15464

(4) or (C) (1) of this section prior to the expiration of the 15465  
initial thirty-day period of hospitalization. The department 15466  
shall hold any subsequent hearings, if necessary, not later than 15467  
ninety days after the first thirty-day hearing and then not 15468  
later than each one hundred and eighty days after the 15469  
immediately prior hearing. An independent decision-maker shall 15470  
conduct the hearings at the psychiatric hospital in which the 15471  
inmate patient is confined. The inmate patient shall be afforded 15472  
all of the rights set forth in this section for the hearing 15473  
prior to transfer to the psychiatric hospital. The department 15474  
may not waive a hearing for continued commitment. A hearing for 15475  
continued commitment is mandatory for an inmate patient 15476  
transported or transferred to a psychiatric hospital pursuant to 15477  
division (B) (4) or (C) (1) of this section unless the inmate 15478  
patient has the capacity to make a reasoned choice to execute a 15479  
waiver and waives the hearing in writing. An inmate patient who 15480  
is transferred to a psychiatric hospital pursuant to an 15481  
uncontested transfer under division (C) (2) of this section and 15482  
who has scheduled hearings after withdrawal of consent for 15483  
hospitalization may waive any of the scheduled hearings if the 15484  
inmate has the capacity to make a reasoned choice and executes a 15485  
written waiver of the hearing. 15486

If upon completion of the hearing the independent 15487  
decision-maker does not find by clear and convincing evidence 15488  
that the inmate patient is a mentally ill person subject to 15489  
hospitalization, the independent decision-maker shall order the 15490  
inmate patient's discharge from the psychiatric hospital. If the 15491  
independent decision-maker finds by clear and convincing 15492  
evidence that the inmate patient is a mentally ill person 15493  
subject to hospitalization, the independent decision-maker shall 15494  
order that the inmate patient remain at the psychiatric hospital 15495

for continued hospitalization until the next required hearing. 15496

If at any time prior to the next required hearing for 15497  
continued hospitalization, the medical director of the hospital 15498  
or the attending physician determines that the treatment needs 15499  
of the inmate patient could be met equally well in an available 15500  
and appropriate less restrictive state correctional institution 15501  
or unit, the medical director or attending physician may 15502  
discharge the inmate to that facility. 15503

(G) An inmate patient is entitled to the credits toward 15504  
the reduction of the inmate patient's stated prison term 15505  
pursuant to Chapters 2967. and 5120. of the Revised Code under 15506  
the same terms and conditions as if the inmate patient were in 15507  
any other institution of the department of rehabilitation and 15508  
correction. 15509

(H) The adult parole authority may place an inmate patient 15510  
on parole or under post-release control directly from a 15511  
psychiatric hospital. 15512

(I) If an inmate patient who is a mentally ill person 15513  
subject to hospitalization is to be released from a psychiatric 15514  
hospital because of the expiration of the inmate patient's 15515  
stated prison term, the director of rehabilitation and 15516  
correction or the director's designee, at least fourteen days 15517  
before the expiration date, may file an affidavit under section 15518  
5122.11 or 5123.71 of the Revised Code with the probate court in 15519  
the county where the psychiatric hospital is located or the 15520  
probate court in the county where the inmate will reside, 15521  
alleging that the inmate patient is a mentally ill person 15522  
subject to court order, as defined in section 5122.01 of the 15523  
Revised Code, or a mentally retarded person with an intellectual 15524  
disability subject to institutionalization by court order, as 15525

defined in section 5123.01 of the Revised Code, whichever is 15526  
applicable. The proceedings in the probate court shall be 15527  
conducted pursuant to Chapter 5122. or 5123. of the Revised Code 15528  
except as modified by this division. 15529

Upon the request of the inmate patient, the probate court 15530  
shall grant the inmate patient an initial hearing under section 15531  
5122.141 of the Revised Code or a probable cause hearing under 15532  
section 5123.75 of the Revised Code before the expiration of the 15533  
stated prison term. After holding a full hearing, the probate 15534  
court shall make a disposition authorized by section 5122.15 or 15535  
5123.76 of the Revised Code before the date of the expiration of 15536  
the stated prison term. No inmate patient shall be held in the 15537  
custody of the department of rehabilitation and correction past 15538  
the date of the expiration of the inmate patient's stated prison 15539  
term. 15540

(J) The department of rehabilitation and correction shall 15541  
set standards for treatment provided to inmate patients. 15542

(K) A certificate, application, record, or report that is 15543  
made in compliance with this section and that directly or 15544  
indirectly identifies an inmate or former inmate whose 15545  
hospitalization has been sought under this section is 15546  
confidential. No person shall disclose the contents of any 15547  
certificate, application, record, or report of that nature or 15548  
any other psychiatric or medical record or report regarding a 15549  
mentally ill inmate unless one of the following applies: 15550

(1) The person identified, or the person's legal guardian, 15551  
if any, consents to disclosure, and the chief clinical officer 15552  
or designee of mental health services of the department of 15553  
rehabilitation and correction determines that disclosure is in 15554  
the best interests of the person. 15555

(2) Disclosure is required by a court order signed by a judge. 15556  
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(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons. 15558  
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(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any. 15562  
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(5) An inmate patient's family member who is involved in planning, providing, and monitoring services to the inmate patient may receive medication information, a summary of the inmate patient's diagnosis and prognosis, and a list of the services and personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure. 15570  
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(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of mental health and addiction 15581  
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services and with community mental health services providers and 15586  
boards of alcohol, drug addiction, and mental health services 15587  
with which the department of mental health and addiction 15588  
services has a current agreement for patient care or services to 15589  
ensure continuity of care. Disclosure under this division is 15590  
limited to records regarding a mentally ill inmate's medication 15591  
history, physical health status and history, summary of course 15592  
of treatment, summary of treatment needs, and a discharge 15593  
summary, if any. No office, department, agency, provider, or 15594  
board shall disclose the records and other information unless 15595  
one of the following applies: 15596

(a) The mentally ill inmate is notified of the possible 15597  
disclosure and consents to the disclosure. 15598

(b) The mentally ill inmate is notified of the possible 15599  
disclosure, an attempt to gain the consent of the inmate is 15600  
made, and the office, department, agency, or board documents the 15601  
attempt to gain consent, the inmate's objections, if any, and 15602  
the reasons for disclosure in spite of the inmate's objections. 15603

(7) Information may be disclosed to staff members 15604  
designated by the director of rehabilitation and correction for 15605  
the purpose of evaluating the quality, effectiveness, and 15606  
efficiency of services and determining if the services meet 15607  
minimum standards. 15608

The name of an inmate patient shall not be retained with 15609  
the information obtained during the evaluations. 15610

(L) The director of rehabilitation and correction may 15611  
adopt rules setting forth guidelines for the procedures required 15612  
under divisions (B), (C) (1), and (C) (2) of this section. 15613

**Sec. 5120.173.** Any person who is required to report abuse 15614

or neglect of a child under eighteen years of age that is 15615  
reasonably suspected or believed to have occurred or the threat 15616  
of which is reasonably suspected or believed to exist pursuant 15617  
to division (A) of section 2151.421 of the Revised Code, any 15618  
person who is permitted to report or cause a report to be made 15619  
of reasonably suspected abuse or neglect of a child under 15620  
eighteen years of age pursuant to division (B) of that section, 15621  
any person who is required to report suspected abuse or neglect 15622  
of a person with ~~mental retardation or~~ a developmental 15623  
disability pursuant to division (C) of section 5123.61 of the 15624  
Revised Code, and any person who is permitted to report 15625  
suspected abuse or neglect of a person with ~~mental retardation~~ 15626  
~~or~~ a developmental disability pursuant to division (F) of that 15627  
section and who makes or causes the report to be made, shall 15628  
direct that report to the state highway patrol if the child or 15629  
the person with ~~mental retardation or~~ a developmental disability 15630  
is an inmate in the custody of a state correctional institution. 15631  
If the state highway patrol determines after receipt of the 15632  
report that it is probable that abuse or neglect of the inmate 15633  
occurred, the patrol shall report its findings to the department 15634  
of rehabilitation and correction, to the court that sentenced 15635  
the inmate for the offense for which the inmate is in the 15636  
custody of the department, and to the chairperson and vice- 15637  
chairperson of the correctional institution inspection committee 15638  
established by section 103.71 of the Revised Code. 15639

**Sec. 5121.04.** (A) The department of developmental 15640  
disabilities shall investigate the financial condition of the 15641  
residents in institutions, residents whose care or treatment is 15642  
being paid for in a private facility or home under the control 15643  
of the department, and of the relatives named in section 5121.06 15644  
of the Revised Code as liable for the support of such residents, 15645

in order to determine the ability of any resident or liable 15646  
relatives to pay for the support of the resident and to provide 15647  
suitable clothing as required by the superintendent of the 15648  
institution. 15649

(B) The department shall follow the provisions of this 15650  
division in determining the ability to pay of a resident or the 15651  
resident's liable relatives and the amount to be charged such 15652  
resident or liable relatives. 15653

(1) Subject to divisions (B) (10) and (11) of this section, 15654  
a resident without dependents shall be liable for the full 15655  
applicable cost. A resident without dependents who has a gross 15656  
annual income equal to or exceeding the sum of the full 15657  
applicable cost, plus fifty dollars per month, regardless of the 15658  
source of such income, shall pay currently the full amount of 15659  
the applicable cost; if the resident's gross annual income is 15660  
less than such sum, not more than fifty dollars per month shall 15661  
be kept for personal use by or on behalf of the resident, except 15662  
as permitted in the state plan for providing medical assistance 15663  
under Title XIX of the "Social Security Act," 49 Stat. 620 15664  
(1935), 42 U.S.C. 301, as amended, and the balance shall be paid 15665  
currently on the resident's support. Subject to divisions (B) 15666  
(10) and (11) of this section, the estate of a resident without 15667  
dependents shall pay currently any remaining difference between 15668  
the applicable cost and the amounts prescribed in this section, 15669  
or shall execute an agreement with the department for payment to 15670  
be made at some future date under terms suitable to the 15671  
department. However, no security interest, mortgage, or lien 15672  
shall be taken, granted, or charged against any principal 15673  
residence of a resident without dependents under an agreement or 15674  
otherwise to secure support payments, and no foreclosure actions 15675  
shall be taken on security interests, mortgages, or liens taken, 15676

granted, or charged against principal residences of residents 15677  
prior to October 7, 1977. 15678

(2) The ability to pay of a resident with dependents, or 15679  
of a liable relative of a resident either with or without 15680  
dependents, shall be determined in accordance with the 15681  
resident's or liable relative's income or other assets, the 15682  
needs of others who are dependent on such income and other 15683  
assets for support, and, if applicable, divisions (B) (10) and 15684  
(11) of this section. 15685

For the first thirty days of care and treatment of each 15686  
admission, but in no event for more than thirty days in any 15687  
calendar year, the resident with dependents or the liable 15688  
relative of a resident either with or without dependents shall 15689  
be charged an amount equal to the percentage of the average 15690  
applicable cost determined in accordance with the schedule of 15691  
adjusted gross annual income contained after this paragraph. 15692  
After such first thirty days of care and treatment, such 15693  
resident or such liable relative shall be charged an amount 15694  
equal to the percentage of a base support rate of four dollars 15695  
per day for residents, as determined in accordance with the 15696  
schedule of gross annual income contained after this paragraph, 15697  
or in accordance with division (B) (5) of this section. Beginning 15698  
January 1, 1978, the department shall increase the base rate 15699  
when the consumer price index average is more than 4.0 for the 15700  
preceding calendar year by not more than the average for such 15701  
calendar year. 15702

Adjusted Gross Annual 15703  
Income of Resident 15704  
or Liable Relative (FN a)                      Number of Dependents (FN b) 15705

8 or 15706

	1	2	3	4	5	6	7	more	
									15707
	Rate of Support (In Percentages)								15708
\$15,000 or less	--	--	--	--	--	--	--	--	15709
15,001 to 17,500	20	--	--	--	--	--	--	--	15710
17,501 to 20,000	25	20	--	--	--	--	--	--	15711
20,001 to 21,000	30	25	20	--	--	--	--	--	15712
21,001 to 22,000	35	30	25	20	--	--	--	--	15713
22,001 to 23,000	40	35	30	25	20	--	--	--	15714
23,001 to 24,000	45	40	35	30	25	20	--	--	15715
24,001 to 25,000	50	45	40	35	30	25	20	--	15716
25,001 to 26,000	55	50	45	40	35	30	25	20	15717
26,001 to 27,000	60	55	50	45	40	35	30	25	15718
27,001 to 28,000	70	60	55	50	45	40	35	30	15719
28,001 to 30,000	80	70	60	55	50	45	40	35	15720
30,001 to 40,000	90	80	70	60	55	50	45	40	15721
40,001 and over	100	90	80	70	60	55	50	45	15722

Footnote a. The resident or relative shall furnish a copy of the resident's or relative's federal income tax return as evidence of gross annual income. 15723  
 15724  
 15725

Footnote b. The number of dependents includes the liable relative but excludes a resident in an institution. "Dependent" includes any person who receives more than half the person's support from the resident or the resident's liable relative. 15726  
 15727  
 15728  
 15729

(3) A resident or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished. 15730  
 15731  
 15732  
 15733  
 15734  
 15735  
 15736

(4) Additional dependencies may be claimed if:	15737
(a) The liable relative is blind;	15738
(b) The liable relative is over sixty-five;	15739
(c) A child is a college student with expenses in excess of fifty dollars per month;	15740 15741
(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the resident.	15742 15743 15744
(5) If with respect to any resident with dependents there is chargeable under division (B) (2) of this section less than fifty per cent of the applicable cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such resident there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such resident has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such resident a total of fifty per cent of the applicable cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such resident an agreement with the department for payment to be made at some future date under terms suitable to the department.	15745 15746 15747 15748 15749 15750 15751 15752 15753 15754 15755 15756 15757 15758
(6) When a person has been a resident for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved of any further support charges.	15759 15760 15761 15762
(7) The department shall accept voluntary payments from residents or liable relatives whose incomes are below the minimum shown in the schedule set forth in this division. The	15763 15764 15765

department also shall accept voluntary payments in excess of 15766  
required amounts from both liable and nonliable relatives. 15767

(8) If a resident is covered by an insurance policy, or 15768  
other contract that provides for payment of expenses for care 15769  
and treatment for ~~mental retardation or other~~ a developmental 15770  
disability at or from an institution or facility (including a 15771  
community service unit under the jurisdiction of the 15772  
department), the other provisions of this section, except 15773  
divisions (B) (8), (10), and (11) of this section, and of section 15774  
5121.01 of the Revised Code shall be suspended to the extent 15775  
that such insurance policy or other contract is in force, and 15776  
such resident shall be charged the full amount of the applicable 15777  
cost. Any insurance carrier or other third party payor providing 15778  
coverage for such care and treatment shall pay for this support 15779  
obligation in an amount equal to the lesser of either the 15780  
applicable cost or the benefits provided under the policy or 15781  
other contract. Whether or not an insured, owner of, or other 15782  
person having an interest in such policy or other contract is 15783  
liable for support payments under other provisions of this 15784  
chapter, the insured, policy owner, or other person shall assign 15785  
payment directly to the department of all assignable benefits 15786  
under the policy or other contract and shall pay over to the 15787  
department, within ten days of receipt, all insurance or other 15788  
benefits received as reimbursement or payment for expenses 15789  
incurred by the resident or for any other reason. If the 15790  
insured, policy owner, or other person refuses to assign such 15791  
payment to the department or refuses to pay such received 15792  
reimbursements or payments over to the department within ten 15793  
days of receipt, the insured's, policy owners', or other 15794  
person's total liability for the services equals the applicable 15795  
statutory liability for payment for the services as determined 15796

under other provisions of this chapter, plus the amounts payable 15797  
under the terms of the policy or other contract. In no event 15798  
shall this total liability exceed the full amount of the 15799  
applicable cost. Upon its request, the department is entitled to 15800  
a court order that compels the insured, owner of, or other 15801  
person having an interest in the policy or other contract to 15802  
comply with the assignment requirements of this division or that 15803  
itself serves as a legally sufficient assignment in compliance 15804  
with such requirements. Notwithstanding section 5123.89 of the 15805  
Revised Code and any other law relating to confidentiality of 15806  
records, the managing officer of the institution or facility 15807  
where a person is or has been a resident shall disclose 15808  
pertinent medical information concerning the resident to the 15809  
insurance carrier or other third party payor in question, in 15810  
order to effect collection from the carrier or payor of the 15811  
state's claim for care and treatment under this division. For 15812  
such disclosure, the managing officer is not subject to any 15813  
civil or criminal liability. 15814

(9) The rate to be charged for pre-admission care, after- 15815  
care, day-care, or routine consultation and treatment services 15816  
shall be based upon the ability of the resident or the 15817  
resident's liable relatives to pay. When it is determined by the 15818  
department that a charge shall be made, such charge shall be 15819  
computed as provided in divisions (B) (1) and (2) of this 15820  
section. 15821

(10) If a resident with or without dependents is the 15822  
beneficiary of a trust created pursuant to section 5815.28 of 15823  
the Revised Code, then, notwithstanding any contrary provision 15824  
of this chapter or of a rule adopted pursuant to this chapter, 15825  
divisions (C) and (D) of that section shall apply in determining 15826  
the assets or resources of the resident, the resident's estate, 15827

the settlor, or the settlor's estate and to claims arising under 15828  
this chapter against the resident, the resident's estate, the 15829  
settlor, or the settlor's estate. 15830

(11) If the department waives the liability of an 15831  
individual and the individual's liable relatives pursuant to 15832  
section 5123.194 of the Revised Code, the liability of the 15833  
individual and relative ceases in accordance with the waiver's 15834  
terms. 15835

(C) The department may enter into agreements with a 15836  
resident or a liable relative for support payments to be made in 15837  
the future. However, no security interest, mortgage, or lien 15838  
shall be taken, granted, or charged against any principal family 15839  
residence of a resident with dependents or a liable relative 15840  
under an agreement or otherwise to secure support payments, and 15841  
no foreclosure actions shall be taken on security interests, 15842  
mortgages or liens taken, granted, or charged against principal 15843  
residences of residents or liable relatives prior to October 7, 15844  
1977. 15845

(D) The department shall make all investigations and 15846  
determinations required by this section within ninety days after 15847  
a resident is admitted to an institution under the department's 15848  
control and immediately shall notify by mail the persons liable 15849  
of the amount to be charged. 15850

(E) All actions to enforce the collection of payments 15851  
agreed upon or charged by the department shall be commenced 15852  
within six years after the date of default of an agreement to 15853  
pay support charges or the date such payment becomes delinquent. 15854  
If a payment is made pursuant to an agreement which is in 15855  
default, a new six-year period for actions to enforce the 15856  
collection of payments under such agreement shall be computed 15857

from the date of such payment. For purposes of this division an 15858  
agreement is in default or a payment is delinquent if a payment 15859  
is not made within thirty days after it is incurred or a 15860  
payment, pursuant to an agreement, is not made within thirty 15861  
days after the date specified for such payment. In all actions 15862  
to enforce the collection of payment for the liability for 15863  
support, every court of record shall receive into evidence the 15864  
proof of claim made by the state together with all debts and 15865  
credits, and it shall be prima-facie evidence of the facts 15866  
contained in it. 15867

**Sec. 5122.01.** As used in this chapter and Chapter 5119. of 15868  
the Revised Code: 15869

(A) "Mental illness" means a substantial disorder of 15870  
thought, mood, perception, orientation, or memory that grossly 15871  
impairs judgment, behavior, capacity to recognize reality, or 15872  
ability to meet the ordinary demands of life. 15873

(B) "Mentally ill person subject to court order" means a 15874  
mentally ill person who, because of the person's illness: 15875

(1) Represents a substantial risk of physical harm to self 15876  
as manifested by evidence of threats of, or attempts at, suicide 15877  
or serious self-inflicted bodily harm; 15878

(2) Represents a substantial risk of physical harm to 15879  
others as manifested by evidence of recent homicidal or other 15880  
violent behavior, evidence of recent threats that place another 15881  
in reasonable fear of violent behavior and serious physical 15882  
harm, or other evidence of present dangerousness; 15883

(3) Represents a substantial and immediate risk of serious 15884  
physical impairment or injury to self as manifested by evidence 15885  
that the person is unable to provide for and is not providing 15886

for the person's basic physical needs because of the person's 15887  
mental illness and that appropriate provision for those needs 15888  
cannot be made immediately available in the community; ~~or~~ 15889

(4) Would benefit from treatment for the person's mental 15890  
illness and is in need of such treatment as manifested by 15891  
evidence of behavior that creates a grave and imminent risk to 15892  
substantial rights of others or the person; 15893

(5) (a) Would benefit from treatment as manifested by 15894  
evidence of behavior that indicates all of the following: 15895

(i) The person is unlikely to survive safely in the 15896  
community without supervision, based on a clinical 15897  
determination. 15898

(ii) The person has a history of lack of compliance with 15899  
treatment for mental illness and one of the following applies: 15900

(I) At least twice within the thirty-six months prior to 15901  
the filing of an affidavit seeking court-ordered treatment of 15902  
the person under section 5122.111 of the Revised Code, the lack 15903  
of compliance has been a significant factor in necessitating 15904  
hospitalization in a hospital or receipt of services in a 15905  
forensic or other mental health unit of a correctional facility, 15906  
provided that the thirty-six-month period shall be extended by 15907  
the length of any hospitalization or incarceration of the person 15908  
that occurred within the thirty-six-month period. 15909

(II) Within the forty-eight months prior to the filing of 15910  
an affidavit seeking court-ordered treatment of the person under 15911  
section 5122.111 of the Revised Code, the lack of compliance 15912  
resulted in one or more acts of serious violent behavior toward 15913  
self or others or threats of, or attempts at, serious physical 15914  
harm to self or others, provided that the forty-eight-month 15915

period shall be extended by the length of any hospitalization or 15916  
incarceration of the person that occurred within the forty- 15917  
eight-month period. 15918

(iii) The person, as a result of the person's mental 15919  
illness, is unlikely to voluntarily participate in necessary 15920  
treatment. 15921

(iv) In view of the person's treatment history and current 15922  
behavior, the person is in need of treatment in order to prevent 15923  
a relapse or deterioration that would be likely to result in 15924  
substantial risk of serious harm to the person or others. 15925

(b) An individual who meets only the criteria described in 15926  
division (B) (5) (a) of this section is not subject to 15927  
hospitalization. 15928

(C) (1) "Patient" means, subject to division (C) (2) of this 15929  
section, a person who is admitted either voluntarily or 15930  
involuntarily to a hospital or other place under section 15931  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code 15932  
subsequent to a finding of not guilty by reason of insanity or 15933  
incompetence to stand trial or under this chapter, who is under 15934  
observation or receiving treatment in such place. 15935

(2) "Patient" does not include a person admitted to a 15936  
hospital or other place under section 2945.39, 2945.40, 15937  
2945.401, or 2945.402 of the Revised Code to the extent that the 15938  
reference in this chapter to patient, or the context in which 15939  
the reference occurs, is in conflict with any provision of 15940  
sections 2945.37 to 2945.402 of the Revised Code. 15941

(D) "Licensed physician" means a person licensed under the 15942  
laws of this state to practice medicine or a medical officer of 15943  
the government of the United States while in this state in the 15944

performance of the person's official duties. 15945

(E) "Psychiatrist" means a licensed physician who has 15946  
satisfactorily completed a residency training program in 15947  
psychiatry, as approved by the residency review committee of the 15948  
American medical association, the committee on post-graduate 15949  
education of the American osteopathic association, or the 15950  
American osteopathic board of neurology and psychiatry, or who 15951  
on July 1, 1989, has been recognized as a psychiatrist by the 15952  
Ohio state medical association or the Ohio osteopathic 15953  
association on the basis of formal training and five or more 15954  
years of medical practice limited to psychiatry. 15955

(F) "Hospital" means a hospital or inpatient unit licensed 15956  
by the department of mental health and addiction services under 15957  
section 5119.33 of the Revised Code, and any institution, 15958  
hospital, or other place established, controlled, or supervised 15959  
by the department under Chapter 5119. of the Revised Code. 15960

(G) "Public hospital" means a facility that is tax- 15961  
supported and under the jurisdiction of the department of mental 15962  
health and addiction services. 15963

(H) "Community mental health services provider" means an 15964  
agency, association, corporation, individual, or program that 15965  
provides community mental health services that are certified by 15966  
the director of mental health and addiction services under 15967  
section 5119.36 of the Revised Code. 15968

(I) "Licensed clinical psychologist" means a person who 15969  
holds a current valid psychologist license issued under section 15970  
4732.12 of the Revised Code, and in addition, meets the 15971  
educational requirements set forth in division (B) of section 15972  
4732.10 of the Revised Code and has a minimum of two years' 15973

full-time professional experience, or the equivalent as 15974  
determined by rule of the state board of psychology, at least 15975  
one year of which shall be a predoctoral internship, in clinical 15976  
psychological work in a public or private hospital or clinic or 15977  
in private practice, diagnosing and treating problems of mental 15978  
illness or ~~mental retardation~~ intellectual disability under the 15979  
supervision of a psychologist who is licensed or who holds a 15980  
diploma issued by the American board of professional psychology, 15981  
or whose qualifications are substantially similar to those 15982  
required for licensure by the state board of psychology when the 15983  
supervision has occurred prior to enactment of laws governing 15984  
the practice of psychology. 15985

(J) "Health officer" means any public health physician; 15986  
public health nurse; or other person authorized ~~by~~ or designated 15987  
by a city ~~health district; a~~ or general health district; or a 15988  
board of alcohol, drug addiction, and mental health services to 15989  
perform the duties of a health officer under this chapter. 15990

(K) "Chief clinical officer" means the medical director of 15991  
a hospital, ~~or a~~ community mental health services provider, or a 15992  
board of alcohol, drug addiction, and mental health services, 15993  
or, if there is no medical director, the licensed physician 15994  
responsible for the treatment provided by a hospital or 15995  
community mental health services provider ~~provides~~. The chief 15996  
clinical officer may delegate to the attending physician 15997  
responsible for a patient's care the duties imposed on the chief 15998  
clinical officer by this chapter. Within a community mental 15999  
health services provider, the chief clinical officer shall be 16000  
designated by the governing body of the services provider and 16001  
shall be a licensed physician or licensed clinical psychologist 16002  
who supervises diagnostic and treatment services. A licensed 16003  
physician or licensed clinical psychologist designated by the 16004

chief clinical officer may perform the duties and accept the 16005  
responsibilities of the chief clinical officer in the chief 16006  
clinical officer's absence. 16007

(L) "Working day" or "court day" means Monday, Tuesday, 16008  
Wednesday, Thursday, and Friday, except when such day is a 16009  
holiday. 16010

(M) "Indigent" means unable without deprivation of 16011  
satisfaction of basic needs to provide for the payment of an 16012  
attorney and other necessary expenses of legal representation, 16013  
including expert testimony. 16014

(N) "Respondent" means the person whose detention, 16015  
commitment, hospitalization, continued hospitalization or 16016  
commitment, or discharge is being sought in any proceeding under 16017  
this chapter. 16018

(O) "Ohio protection and advocacy system" has the same 16019  
meaning as in section 5123.60 of the Revised Code. 16020

(P) "Independent expert evaluation" means an evaluation 16021  
conducted by a licensed clinical psychologist, psychiatrist, or 16022  
licensed physician who has been selected by the respondent or 16023  
the respondent's counsel and who consents to conducting the 16024  
evaluation. 16025

(Q) "Court" means the probate division of the court of 16026  
common pleas. 16027

(R) "Expunge" means: 16028

(1) The removal and destruction of court files and 16029  
records, originals and copies, and the deletion of all index 16030  
references; 16031

(2) The reporting to the person of the nature and extent 16032

of any information about the person transmitted to any other 16033  
person by the court; 16034

(3) Otherwise insuring that any examination of court files 16035  
and records in question shall show no record whatever with 16036  
respect to the person; 16037

(4) That all rights and privileges are restored, and that 16038  
the person, the court, and any other person may properly reply 16039  
that no such record exists, as to any matter expunged. 16040

(S) "Residence" means a person's physical presence in a 16041  
county with intent to remain there, except that: 16042

(1) If a person is receiving a mental health service at a 16043  
facility that includes nighttime sleeping accommodations, 16044  
residence means that county in which the person maintained the 16045  
person's primary place of residence at the time the person 16046  
entered the facility; 16047

(2) If a person is committed pursuant to section 2945.38, 16048  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 16049  
residence means the county where the criminal charges were 16050  
filed. 16051

When the residence of a person is disputed, the matter of 16052  
residence shall be referred to the department of mental health 16053  
and addiction services for investigation and determination. 16054  
Residence shall not be a basis for a board's denying services to 16055  
any person present in the board's service district, and the 16056  
board shall provide services for a person whose residence is in 16057  
dispute while residence is being determined and for a person in 16058  
an emergency situation. 16059

(T) "Admission" to a hospital or other place means that a 16060  
patient is accepted for and stays at least one night at the 16061

hospital or other place. 16062

(U) "Prosecutor" means the prosecuting attorney, village 16063  
solicitor, city director of law, or similar chief legal officer 16064  
who prosecuted a criminal case in which a person was found not 16065  
guilty by reason of insanity, who would have had the authority 16066  
to prosecute a criminal case against a person if the person had 16067  
not been found incompetent to stand trial, or who prosecuted a 16068  
case in which a person was found guilty. 16069

(V) (1) "Treatment plan" means a written statement of 16070  
reasonable objectives and goals for an individual established by 16071  
the treatment team, with specific criteria to evaluate progress 16072  
towards achieving those objectives. 16073

(2) The active participation of the patient in 16074  
establishing the objectives and goals shall be documented. The 16075  
treatment plan shall be based on patient needs and include 16076  
services to be provided to the patient while the patient is 16077  
hospitalized, after the patient is discharged, or in an 16078  
outpatient setting. The treatment plan shall address services to 16079  
be provided. In the establishment of the treatment plan, 16080  
consideration should be given to the availability of services, 16081  
which may include but are not limited to all of the following: 16082

(a) Community psychiatric supportive treatment; 16083

(b) Assertive community treatment; 16084

(c) Medications; 16085

(d) Individual or group therapy; 16086

(e) Peer support services; 16087

(f) Financial services; 16088

(g) Housing or supervised living services;	16089
(h) Alcohol or substance abuse treatment;	16090
(i) Any other services prescribed to treat the patient's mental illness and to either assist the patient in living and functioning in the community or to help prevent a relapse or a deterioration of the patient's current condition.	16091 16092 16093 16094
(3) If the person subject to the treatment plan has executed an advanced directive for mental health treatment, the treatment team shall consider any directions included in such advanced directive in developing the treatment plan.	16095 16096 16097 16098
(W) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	16099 16100
(X) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	16101 16102
(Y) "Local correctional facility" has the same meaning as in section 2903.13 of the Revised Code.	16103 16104
<b>Sec. 5123.01.</b> As used in this chapter:	16105
(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for <del>the mentally retarded persons with developmental disabilities</del> with the approval of the director of developmental disabilities to provide medical treatment for residents of the institution.	16106 16107 16108 16109 16110
(B) "Chief program director" means a person with special training and experience in the diagnosis and management of <del>the mentally retarded persons with developmental disabilities</del> , certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for <del>the mentally retarded persons with</del>	16111 16112 16113 16114 16115 16116

developmental disabilities with the approval of the director to 16117  
provide habilitation and care for residents of the institution. 16118

(C) "Comprehensive evaluation" means a study, including a 16119  
sequence of observations and examinations, of a person leading 16120  
to conclusions and recommendations formulated jointly, with 16121  
dissenting opinions if any, by a group of persons with special 16122  
training and experience in the diagnosis and management of 16123  
persons with ~~mental retardation or a~~ developmental 16124  
~~disability~~disabilities, which group shall include individuals 16125  
who are professionally qualified in the fields of medicine, 16126  
psychology, and social work, together with such other 16127  
specialists as the individual case may require. 16128

(D) "Education" means the process of formal training and 16129  
instruction to facilitate the intellectual and emotional 16130  
development of residents. 16131

(E) "Habilitation" means the process by which the staff of 16132  
the institution assists the resident in acquiring and 16133  
maintaining those life skills that enable the resident to cope 16134  
more effectively with the demands of the resident's own person 16135  
and of the resident's environment and in raising the level of 16136  
the resident's physical, mental, social, and vocational 16137  
efficiency. Habilitation includes but is not limited to programs 16138  
of formal, structured education and training. 16139

(F) "Health officer" means any public health physician, 16140  
public health nurse, or other person authorized or designated by 16141  
a city or general health district. 16142

(G) "Home and community-based services" means medicaid- 16143  
funded home and community-based services specified in division 16144  
(A) (1) of section 5166.20 of the Revised Code provided under the 16145

medicaid waiver components the department of developmental 16146  
disabilities administers pursuant to section 5166.21 of the 16147  
Revised Code. Except as provided in section 5123.0412 of the 16148  
Revised Code, home and community-based services provided under 16149  
the medicaid waiver component known as the transitions 16150  
developmental disabilities waiver are to be considered to be 16151  
home and community-based services for the purposes of this 16152  
chapter, and Chapters 5124. and 5126. of the Revised Code, only 16153  
to the extent, if any, provided by the contract required by 16154  
section 5166.21 of the Revised Code regarding the waiver. 16155

(H) "ICF/IID" has the same meaning as in section 5124.01 16156  
of the Revised Code. 16157

(I) "Indigent person" means a person who is unable, 16158  
without substantial financial hardship, to provide for the 16159  
payment of an attorney and for other necessary expenses of legal 16160  
representation, including expert testimony. 16161

(J) "Institution" means a public or private facility, or a 16162  
part of a public or private facility, that is licensed by the 16163  
appropriate state department and is equipped to provide 16164  
residential habilitation, care, and treatment for ~~the mentally~~ 16165  
~~retarded~~ persons with developmental disabilities. 16166

(K) "Licensed physician" means a person who holds a valid 16167  
certificate issued under Chapter 4731. of the Revised Code 16168  
authorizing the person to practice medicine and surgery or 16169  
osteopathic medicine and surgery, or a medical officer of the 16170  
government of the United States while in the performance of the 16171  
officer's official duties. 16172

(L) "Managing officer" means a person who is appointed by 16173  
the director of developmental disabilities to be in executive 16174

control of an institution ~~for the mentally retarded~~ under the 16175  
jurisdiction of the department of developmental disabilities. 16176

(M) "Medicaid case management services" means case 16177  
management services provided to an individual with ~~mental-~~ 16178  
~~retardation or other~~ a developmental disability that the state 16179  
medicaid plan requires. 16180

(N) "~~Mentally retarded person~~ Intellectual disability" 16181  
means a ~~person~~ disability characterized by having significantly 16182  
subaverage general intellectual functioning existing 16183  
concurrently with deficiencies in adaptive behavior, manifested 16184  
during the developmental period. 16185

(O) "~~Mentally retarded person~~ Person with an intellectual 16186  
disability subject to institutionalization by court order" means 16187  
a person eighteen years of age or older ~~who is~~ with at least 16188  
~~moderately mentally retarded~~ a moderate level of intellectual 16189  
disability and in relation to whom, because of the person's 16190  
~~retardation~~ disability, either of the following conditions 16191  
~~exist~~ exists: 16192

(1) The person represents a very substantial risk of 16193  
physical impairment or injury to self as manifested by evidence 16194  
that the person is unable to provide for and is not providing 16195  
for the person's most basic physical needs and that provision 16196  
for those needs is not available in the community; 16197

(2) The person needs and is susceptible to significant 16198  
habilitation in an institution. 16199

(P) "~~A person who is at least moderately mentally~~ 16200  
~~retarded~~ Moderate level of intellectual disability" means the 16201  
condition in which a person ~~who is found~~, following a 16202  
comprehensive evaluation, is found to be impaired in adaptive 16203

~~behavior to a have at least moderate degree and to be~~ 16204  
~~functioning at the moderate level of deficits in overall~~ 16205  
~~intellectual functioning, as measured by a full-scale~~ 16206  
~~intelligence quotient test, and at least moderate deficits in~~ 16207  
~~adaptive behavior, as determined in accordance with ~~standard-~~~~ 16208  
~~measurements as recorded in the most current revision of the~~ 16209  
~~manual of terminology and classification in mental retardation-~~ 16210  
~~the criteria established in the fifth edition of the diagnostic~~ 16211  
~~and statistical manual of mental disorders published by the~~ 16212  
~~American psychiatric association ~~on mental retardation.~~~~ 16213

~~(Q) As used in this division, "developmental delay" has~~ 16214  
~~the meaning established pursuant to section 5123.011 of the~~ 16215  
~~Revised Code.~~ 16216

"Developmental disability" means a severe, chronic 16217  
disability that is characterized by all of the following: 16218

(1) It is attributable to a mental or physical impairment 16219  
or a combination of mental and physical impairments, other than 16220  
a mental or physical impairment solely caused by mental illness, 16221  
as defined in division (A) of section 5122.01 of the Revised 16222  
Code. 16223

(2) It is manifested before age twenty-two. 16224

(3) It is likely to continue indefinitely. 16225

(4) It results in one of the following: 16226

(a) In the case of a person under three years of age, at 16227  
least one developmental delay, as defined in rules adopted under 16228  
section 5123.011 of the Revised Code, or a diagnosed physical or 16229  
mental condition that has a high probability of resulting in a 16230  
developmental delay, as defined in those rules; 16231

(b) In the case of a person at least three years of age 16232  
but under six years of age, at least two developmental delays, 16233  
as defined in rules adopted under section 5123.011 of the 16234  
Revised Code; 16235

(c) In the case of a person six years of age or older, a 16236  
substantial functional limitation in at least three of the 16237  
following areas of major life activity, as appropriate for the 16238  
person's age: self-care, receptive and expressive language, 16239  
learning, mobility, self-direction, capacity for independent 16240  
living, and, if the person is at least sixteen years of age, 16241  
capacity for economic self-sufficiency. 16242

(5) It causes the person to need a combination and 16243  
sequence of special, interdisciplinary, or other type of care, 16244  
treatment, or provision of services for an extended period of 16245  
time that is individually planned and coordinated for the 16246  
person. 16247

"Developmental disability" includes intellectual 16248  
disability. 16249

(R) ~~"Developmentally disabled person" means a person with~~ 16250  
~~a developmental disability.~~ 16251

~~(S)~~ "State institution" means an institution that is tax- 16252  
supported and under the jurisdiction of the department of 16253  
developmental disabilities. 16254

~~(T)~~ (S) "Residence" and "legal residence" have the same 16255  
meaning as "legal settlement," which is acquired by residing in 16256  
Ohio for a period of one year without receiving general 16257  
assistance prior to July 17, 1995, under former Chapter 5113. of 16258  
the Revised Code, financial assistance under Chapter 5115. of 16259  
the Revised Code, or assistance from a private agency that 16260

maintains records of assistance given. A person having a legal 16261  
settlement in the state shall be considered as having legal 16262  
settlement in the assistance area in which the person resides. 16263  
No adult person coming into this state and having a spouse or 16264  
minor children residing in another state shall obtain a legal 16265  
settlement in this state as long as the spouse or minor children 16266  
are receiving public assistance, care, or support at the expense 16267  
of the other state or its subdivisions. For the purpose of 16268  
determining the legal settlement of a person who is living in a 16269  
public or private institution or in a home subject to licensing 16270  
by the department of job and family services, the department of 16271  
mental health and addiction services, or the department of 16272  
developmental disabilities, the residence of the person shall be 16273  
considered as though the person were residing in the county in 16274  
which the person was living prior to the person's entrance into 16275  
the institution or home. Settlement once acquired shall continue 16276  
until a person has been continuously absent from Ohio for a 16277  
period of one year or has acquired a legal residence in another 16278  
state. A woman who marries a man with legal settlement in any 16279  
county immediately acquires the settlement of her husband. The 16280  
legal settlement of a minor is that of the parents, surviving 16281  
parent, sole parent, parent who is designated the residential 16282  
parent and legal custodian by a court, other adult having 16283  
permanent custody awarded by a court, or guardian of the person 16284  
of the minor, provided that: 16285

(1) A minor female who marries shall be considered to have 16286  
the legal settlement of her husband and, in the case of death of 16287  
her husband or divorce, she shall not thereby lose her legal 16288  
settlement obtained by the marriage. 16289

(2) A minor male who marries, establishes a home, and who 16290  
has resided in this state for one year without receiving general 16291

assistance prior to July 17, 1995, under former Chapter 5113. of 16292  
the Revised Code, financial assistance under Chapter 5115. of 16293  
the Revised Code, or assistance from a private agency that 16294  
maintains records of assistance given shall be considered to 16295  
have obtained a legal settlement in this state. 16296

(3) The legal settlement of a child under eighteen years 16297  
of age who is in the care or custody of a public or private 16298  
child caring agency shall not change if the legal settlement of 16299  
the parent changes until after the child has been in the home of 16300  
the parent for a period of one year. 16301

No person, adult or minor, may establish a legal 16302  
settlement in this state for the purpose of gaining admission to 16303  
any state institution. 16304

~~(U)~~(T) (1) "Resident" means, subject to division ~~(U)~~(T) (2) 16305  
of this section, a person who is admitted either voluntarily or 16306  
involuntarily to an institution or other facility pursuant to 16307  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 16308  
Code subsequent to a finding of not guilty by reason of insanity 16309  
or incompetence to stand trial or under this chapter who is 16310  
under observation or receiving habilitation and care in an 16311  
institution. 16312

(2) "Resident" does not include a person admitted to an 16313  
institution or other facility under section 2945.39, 2945.40, 16314  
2945.401, or 2945.402 of the Revised Code to the extent that the 16315  
reference in this chapter to resident, or the context in which 16316  
the reference occurs, is in conflict with any provision of 16317  
sections 2945.37 to 2945.402 of the Revised Code. 16318

~~(V)~~(U) "Respondent" means the person whose detention, 16319  
commitment, or continued commitment is being sought in any 16320

proceeding under this chapter. 16321

~~(W)~~(V) "Working day" and "court day" mean Monday, 16322  
Tuesday, Wednesday, Thursday, and Friday, except when such day 16323  
is a legal holiday. 16324

~~(X)~~(W) "Prosecutor" means the prosecuting attorney, 16325  
village solicitor, city director of law, or similar chief legal 16326  
officer who prosecuted a criminal case in which a person was 16327  
found not guilty by reason of insanity, who would have had the 16328  
authority to prosecute a criminal case against a person if the 16329  
person had not been found incompetent to stand trial, or who 16330  
prosecuted a case in which a person was found guilty. 16331

~~(Y)~~(X) "Court" means the probate division of the court of 16332  
common pleas. 16333

~~(Z)~~(Y) "Supported living" and "residential services" have 16334  
the same meanings as in section 5126.01 of the Revised Code. 16335

**Sec. 5123.012.** (A) As used in this section, "preschool 16336  
child with a disability" has the same meaning as in section 16337  
3323.01 of the Revised Code. 16338

(B) Except as provided in division (C) of this section, 16339  
the department of developmental disabilities shall make 16340  
eligibility determinations in accordance with the definition of 16341  
"developmental disability" contained in section 5123.01 of the 16342  
Revised Code. The department may adopt rules in accordance with 16343  
Chapter 119. of the Revised Code establishing eligibility for 16344  
programs and services for any preschool child with a disability 16345  
eligible for services under section 3323.02 of the Revised Code 16346  
whose disability is not attributable solely to mental illness, 16347  
as defined in section 5122.01 of the Revised Code. 16348

(C) (1) The department shall make determinations of 16349

eligibility for protective services in accordance with sections 16350  
5123.55 to 5123.59 of the Revised Code. 16351

(2) Determinations of whether a ~~mentally retarded~~ person 16352  
with an intellectual disability is subject to 16353  
institutionalization by court order shall be made in accordance 16354  
with sections 5123.71 to 5123.76 of the Revised Code and shall 16355  
be based on the definition of "~~mentally retarded person with an~~  
intellectual disability subject to institutionalization by court 16356  
order" contained in section 5123.01 of the Revised Code. 16357  
16358

(3) All persons who were eligible for services and 16359  
enrolled in programs offered by the department of developmental 16360  
disabilities pursuant to this chapter on July 1, 1991, shall 16361  
continue to be eligible for those services and to be enrolled in 16362  
those programs as long as they are in need of services. 16363

**Sec. 5123.014.** Whenever the department or director of 16364  
mental retardation and developmental disabilities is referred to 16365  
or designated in any statute, rule, contract, grant, or other 16366  
document, the reference or designation ~~shall be~~ is deemed to 16367  
refer to the department or director of developmental 16368  
disabilities, as the case may be. 16369

Whenever "mental retardation" or any derivation of that 16370  
term is referred to or designated in any statute, rule, 16371  
contract, grant, or other document, the reference or designation 16372  
is deemed to have the same meaning established by or derived 16373  
from the definition of "intellectual disability" contained in 16374  
section 5123.01 or 5126.01 of the Revised Code, as the case may 16375  
be. 16376

Whenever "mentally retarded person subject to 16377  
institutionalization by court order" or any derivation of that 16378

term is referred to or designated in any statute, rule, 16379  
contract, grant, or other document, the reference or designation 16380  
is deemed to have the same meaning established by or derived 16381  
from the definition of "person with an intellectual disability 16382  
subject to institutionalization by court order" contained in 16383  
section 5123.01 of the Revised Code, including the definition of 16384  
"moderate level of intellectual disability" contained in that 16385  
section. 16386

**Sec. 5123.02.** The department of developmental disabilities 16387  
shall do the following: 16388

(A) Promote comprehensive statewide programs and services 16389  
for persons with ~~mental retardation or a developmental~~ 16390  
~~disability disabilities~~ and their families wherever they reside 16391  
in the state. These programs shall include public education, 16392  
prevention, diagnosis, treatment, training, and care. 16393

(B) Provide administrative leadership for statewide 16394  
services which include residential facilities, evaluation 16395  
centers, and community classes which are wholly or in part 16396  
financed by the department of developmental disabilities as 16397  
provided by section 5123.26 of the Revised Code; 16398

(C) Develop and maintain, to the extent feasible, data on 16399  
all services and programs ~~for persons with mental retardation or~~ 16400  
~~a developmental disability, that are provided by governmental~~ 16401  
and private agencies provide for persons with developmental 16402  
disabilities; 16403

(D) Make periodic determinations of the number of persons 16404  
with ~~mental retardation or a developmental disability~~ 16405  
disabilities requiring services in the state; 16406

(E) Provide leadership to local authorities in planning 16407

and developing community-wide services for persons with ~~mental-~~ 16408  
~~retardation or a developmental disability~~ disabilities and their 16409  
families; 16410

(F) Promote programs of professional training and research 16411  
in cooperation with other state departments, agencies, and 16412  
institutions of higher learning. 16413

**Sec. 5123.03.** (A) The department of developmental 16414  
disabilities shall do all of the following: 16415

(1) Maintain, operate, manage, and govern all state 16416  
institutions for the care, treatment, and training of ~~the~~ 16417  
~~mentally retarded~~ persons with developmental disabilities; 16418

(2) Designate all such institutions by appropriate names; 16419

(3) Provide and designate facilities for the custody, 16420  
care, and special treatment of persons of the following classes: 16421

(a) Dangerous persons in state institutions for ~~the~~ 16422  
~~mentally retarded~~ persons with developmental disabilities who 16423  
represent a serious threat to the safety of the other patients 16424  
of the institution; 16425

(b) Persons charged with crimes who are found incompetent 16426  
to stand trial or not guilty by reason of insanity and who are 16427  
also ~~mentally retarded~~ persons with intellectual disabilities 16428  
subject to institutionalization by court order. 16429

(4) Have control of all institutions maintained in part by 16430  
the state for the care, treatment, and training of ~~the mentally~~ 16431  
~~retarded~~ persons with developmental disabilities; 16432

(5) Administer the laws relative to persons in such 16433  
institutions in an efficient, economical, and humane manner; 16434

(6) Ascertain by actual examinations and inquiry whether institutionalizations are made according to law. 16435  
16436

(B) The department may do any of the following: 16437

(1) Subject to section 5139.08 of the Revised Code, 16438  
receive from the department of youth services for observation, 16439  
diagnosis, care, habilitation, or placement any children in the 16440  
custody of the department of youth services; 16441

(2) Receive for observation any minor from a public 16442  
institution other than an institution under the jurisdiction of 16443  
the department of developmental disabilities, from a private 16444  
charitable institution, or from a person having legal custody of 16445  
such a minor, upon such terms as are proper; 16446

(3) Receive from the department of mental health and 16447  
addiction services any patient in the custody of the department 16448  
who is transferred to the department of developmental 16449  
disabilities upon such terms and conditions as may be agreed 16450  
upon by the two departments. 16451

(C) In addition to the powers and duties expressly 16452  
conferred by this section, the department may take any other 16453  
action necessary for the full and efficient executive, 16454  
administrative, and fiscal supervision of the state institutions 16455  
described in this section. 16456

**Sec. 5123.033.** The program fee fund is hereby created in 16457  
the state treasury. All fees collected pursuant to sections 16458  
5123.161, 5123.164, and 5123.19 of the Revised Code shall be 16459  
credited to the fund. Money credited to the fund shall be used 16460  
solely for the department of developmental disabilities' duties 16461  
under sections 5123.16 to 5123.1611 and 5123.19 of the Revised 16462  
Code and to provide continuing education and professional 16463

training to providers of services to individuals with ~~mental-~~ 16464  
~~retardation or a developmental disability~~disabilities. If the 16465  
money credited to the fund is inadequate to pay all of the 16466  
department's costs in performing those duties and providing the 16467  
continuing education and professional training, the department 16468  
may use other available funds appropriated to the department to 16469  
pay the remaining costs of performing those duties and providing 16470  
the continuing education and professional training. 16471

**Sec. 5123.04.** (A) The director of developmental 16472  
disabilities is the executive head of the department of 16473  
developmental disabilities. All duties conferred on the 16474  
department and its institutions by law or by order of the 16475  
director shall be performed under such rules as the director 16476  
prescribes, and shall be under the director's control. The 16477  
director shall establish bylaws for the government of all 16478  
institutions under the jurisdiction of the department. Except as 16479  
otherwise is provided as to appointments by chiefs of divisions, 16480  
the director shall appoint such employees as are necessary for 16481  
the efficient conduct of the department, and shall prescribe 16482  
their titles and duties. If the director is not a licensed 16483  
physician, decisions relating to medical diagnosis and treatment 16484  
shall be the responsibility of a licensed physician appointed by 16485  
the director. 16486

(B) The director shall adopt rules for the proper 16487  
execution of the powers and duties of the department. 16488

(C) The director shall adopt rules establishing standards 16489  
that ~~mental-retardation~~ programs and facilities for persons with 16490  
developmental disabilities shall follow when performing 16491  
evaluations of the mental condition of defendants ordered by the 16492  
court under section 2919.271 or 2945.371 of the Revised Code, 16493

and for the treatment of defendants who have been found 16494  
incompetent to stand trial under section 2945.38 of the Revised 16495  
Code, and certify the compliance of such programs and facilities 16496  
with the standards. 16497

(D) On behalf of the department, the director has the 16498  
authority to, and responsibility for, entering into contracts 16499  
and other agreements. 16500

(E) The director shall adopt rules in accordance with 16501  
Chapter 119. of the Revised Code that do all of the following: 16502

(1) Specify the supplemental services that may be provided 16503  
through a trust authorized by section 5815.28 of the Revised 16504  
Code; 16505

(2) Establish standards for the maintenance and 16506  
distribution to a beneficiary of assets of a trust authorized by 16507  
section 5815.28 of the Revised Code. 16508

(F) The director shall provide monitoring of county boards 16509  
of developmental disabilities. 16510

**Sec. 5123.044.** The department of developmental 16511  
disabilities shall determine whether county boards of 16512  
developmental disabilities violate the rights that individuals 16513  
with ~~mental retardation or other~~ developmental disabilities have 16514  
under section 5126.046 of the Revised Code to obtain home and 16515  
community-based services, nonmedicaid residential services, or 16516  
nonmedicaid supported living from qualified and willing 16517  
providers. The department shall provide assistance to an 16518  
individual with ~~mental retardation or other~~ a developmental 16519  
disability who requests assistance with the individual's rights 16520  
under that section if the department is notified of a county 16521  
board's alleged violation of the individual's rights under that 16522

section. 16523

**Sec. 5123.0410.** An individual with ~~mental retardation or~~ 16524  
~~other~~ a developmental disability who moves from one county in 16525  
this state to another county in this state shall receive home 16526  
and community-based services in the new county that are 16527  
comparable in scope to the home and community-based services the 16528  
individual receives in the prior county at the time the 16529  
individual moves. If the county board serving the county to 16530  
which the individual moves determines under section 5126.041 of 16531  
the Revised Code that the individual is eligible for county 16532  
board services, the county board shall ensure that the 16533  
individual receives the comparable services. If the county board 16534  
determines that the individual is not eligible for county board 16535  
services, the department of developmental disabilities shall 16536  
ensure that the individual receives the comparable services. 16537

If the home and community-based services that the 16538  
individual receives at the time the individual moves include 16539  
supported living or residential services, the department shall 16540  
reduce the amount the department allocates to the county board 16541  
serving the county the individual left for those supported 16542  
living or residential services by an amount that equals the 16543  
payment the department authorizes or projects, or both, for 16544  
those supported living or residential services from the last day 16545  
the individual resides in the county to the last day of the 16546  
state fiscal year in which the individual moves. The department 16547  
shall increase the amount the department allocates to the county 16548  
board serving the county the individual moves to by the same 16549  
amount. The department shall make the reduction and increase 16550  
effective the day the department determines the individual has 16551  
residence in the new county. The department shall determine the 16552  
amount that is to be reduced and increased in accordance with 16553

the department's rules for authorizing payments for home and 16554  
community-based services established adopted under section 16555  
5123.049 of the Revised Code. The department shall annualize the 16556  
reduction and increase for the subsequent state fiscal year as 16557  
necessary. 16558

**Sec. 5123.0412.** (A) The department of developmental 16559  
disabilities shall charge each county board of developmental 16560  
disabilities an annual fee equal to one and one-quarter per cent 16561  
of the total value of all medicaid paid claims for home and 16562  
community-based services provided during the year to an 16563  
individual eligible for services from the county board. ~~However,~~ 16564  
except that the department shall not charge the fee for home and 16565  
community-based services provided under the medicaid waiver 16566  
component known as the transitions developmental disabilities 16567  
waiver. ~~No~~ A county board shall not pass on to a provider of 16568  
home and community-based services the cost of a fee charged to 16569  
the county board under this section ~~on to another provider of~~ 16570  
~~these services.~~ 16571

(B) The ~~fees~~ amounts collected from the fees charged under 16572  
this section shall be deposited into the ~~ODDD~~ department of 16573  
developmental disabilities administration and oversight fund, 16574  
which is hereby created in the state treasury. The department 16575  
shall use the money in the ~~ODDD administration and oversight~~ 16576  
fund for both of the following purposes: 16577

(1) Medicaid administrative costs, including 16578  
administrative and oversight costs of medicaid case management 16579  
services and home and community-based services. The 16580  
administrative and oversight costs of medicaid case management 16581  
services and home and community-based services shall include 16582  
costs for staff, systems, and other resources the department 16583

needs and dedicates solely to the following duties associated 16584  
with the services: 16585

- (a) Eligibility determinations; 16586
- (b) Training; 16587
- (c) Fiscal management; 16588
- (d) Claims processing; 16589
- (e) Quality assurance oversight; 16590
- (f) Other duties the department identifies. 16591

(2) Providing technical support to county ~~boards'~~boards 16592  
with respect to their medicaid local administrative authority 16593  
under section 5126.055 of the Revised Code for the services. 16594

(C) The department shall submit an annual report to the 16595  
director of budget and management certifying how the department 16596  
spent the money in the ~~ODDD administration and oversight~~ fund 16597  
for the purposes specified in division (B) of this section. 16598

**Sec. 5123.0413.** The department of developmental 16599  
disabilities, in consultation with the department of ~~job and~~ 16600  
~~family services~~medicaid, office of budget and management, and 16601  
county boards of developmental disabilities, shall adopt rules 16602  
in accordance with Chapter 119. of the Revised Code to establish 16603  
both of the following in the event a county property tax levy 16604  
for services for individuals with ~~mental retardation or other~~ 16605  
developmental ~~disability~~disabilities fails: 16606

- (A) A method of paying for home and community-based 16607  
services; 16608
- (B) A method of reducing the number of individuals a 16609  
county board would otherwise be required by section 5126.0512 of 16610

the Revised Code to ensure are enrolled in home and community- 16611  
based services. 16612

**Sec. 5123.0417.** (A) The director of developmental 16613  
disabilities shall establish one or more programs for 16614  
individuals under twenty-two years of age who have intensive 16615  
behavioral needs, including such individuals with a primary 16616  
diagnosis of autism spectrum disorder. The programs may include 16617  
one or more medicaid waiver components that the director 16618  
administers pursuant to section 5166.21 of the Revised Code. The 16619  
programs may do one or more of the following: 16620

(1) Establish models that incorporate elements common to 16621  
effective intervention programs and evidence-based practices in 16622  
services for children with intensive behavioral needs; 16623

(2) Design a template for individualized education ~~plans~~ 16624  
programs and individual service plans that provide consistent 16625  
intervention programs and evidence-based practices for the care 16626  
and treatment of children with intensive behavioral needs; 16627

(3) Disseminate best practice guidelines for use by 16628  
families of children with intensive behavioral needs and 16629  
professionals working with such families; 16630

(4) Develop a transition planning model for effectively 16631  
mainstreaming school-age children with intensive behavioral 16632  
needs to their public school district; 16633

(5) Contribute to the field of early and effective 16634  
identification and intervention programs for children with 16635  
intensive behavioral needs by providing financial support for 16636  
scholarly research and publication of clinical findings. 16637

(B) The director of developmental disabilities shall 16638  
collaborate with the medicaid director and consult with the 16639

executive director of the Ohio center for autism and low 16640  
incidence and university-based programs that specialize in 16641  
services for individuals with developmental disabilities when 16642  
establishing programs under this section. 16643

**Sec. 5123.0418.** (A) In addition to other authority granted 16644  
the director of developmental disabilities for use of funds 16645  
appropriated to the department of developmental disabilities, 16646  
the director may use such funds for the following purposes: 16647

(1) All of the following to assist persons with ~~mental-~~ 16648  
~~retardation or a developmental disability~~ disabilities remain in 16649  
the community and avoid institutionalization: 16650

(a) Behavioral and short-term interventions; 16651

(b) Residential services; 16652

(c) Supported living. 16653

(2) Respite care services; 16654

(3) Staff training to help the following personnel serve 16655  
persons with ~~mental-retardation or a developmental disability-~~ 16656  
disabilities in the community: 16657

(a) Employees of, and personnel under contract with, 16658  
county boards of developmental disabilities; 16659

(b) Employees of providers of supported living; 16660

(c) Employees of providers of residential services; 16661

(d) Other personnel the director identifies. 16662

(B) The director may establish priorities for using funds 16663  
for the purposes specified in division (A) of this section. The 16664  
director shall use the funds in a manner consistent with the 16665  
appropriations that authorize the director to use the funds and 16666

all other state and federal laws governing the use of the funds. 16667

**Sec. 5123.081.** (A) As used in this section: 16668

(1) (a) "Applicant" means any of the following: 16669

(i) A person who is under final consideration for 16670  
appointment to or employment with the department of 16671  
developmental disabilities or a county board of developmental 16672  
disabilities; 16673

(ii) A person who is being transferred to the department 16674  
or a county board; 16675

(iii) An employee who is being recalled to or reemployed 16676  
by the department or a county board after a layoff; 16677

(iv) A person under final consideration for a direct 16678  
services position with a provider or subcontractor. 16679

(b) Neither of the following is an applicant: 16680

(i) A person who is employed by a responsible entity in a 16681  
position for which a criminal records check is required by this 16682  
section and either is being considered for a different position 16683  
with the responsible entity or is returning after a leave of 16684  
absence or seasonal break in employment, unless the responsible 16685  
entity has reason to believe that the person has committed a 16686  
disqualifying offense; 16687

(ii) A person who is to provide only respite care under a 16688  
family support services program established under section 16689  
5126.11 of the Revised Code if a family member of the individual 16690  
with ~~mental retardation or~~ a developmental disability who is to 16691  
receive the respite care selects the person. 16692

(2) "Criminal records check" has the same meaning as in 16693

section 109.572 of the Revised Code. 16694

(3) "Direct services position" means an employment 16695  
position in which the employee has the opportunity to be alone 16696  
with or exercises supervision or control over one or more 16697  
individuals with ~~mental retardation or a~~ developmental 16698  
~~disability~~ disabilities. 16699

(4) "Disqualifying offense" means any of the offenses 16700  
listed or described in divisions (A) (3) (a) to (e) of section 16701  
109.572 of the Revised Code. 16702

(5) (a) "Employee" means either of the following: 16703

(i) A person appointed to or employed by the department of 16704  
developmental disabilities or a county board of developmental 16705  
disabilities; 16706

(ii) A person employed in a direct services position by a 16707  
provider or subcontractor. 16708

(b) "Employee" does not mean a person who provides only 16709  
respite care under a family support services program established 16710  
under section 5126.11 of the Revised Code if a family member of 16711  
the individual with ~~mental retardation or a~~ developmental 16712  
disability who receives the respite care selected the person. 16713

(6) "Minor drug possession offense" has the same meaning 16714  
as in section 2925.01 of the Revised Code. 16715

(7) "Provider" means a person that provides specialized 16716  
services to individuals with ~~mental retardation or a~~ 16717  
developmental ~~disability~~ disabilities and employs one or more 16718  
persons in direct services positions. 16719

(8) "Responsible entity" means the following: 16720

- (a) The department of developmental disabilities in the case of either of the following: 16721  
16722
- (i) A person who is an applicant because the person is under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff; 16723  
16724  
16725  
16726
- (ii) A person who is an employee because the person is appointed to or employed by the department. 16727  
16728
- (b) A county board of developmental disabilities in the case of either of the following: 16729  
16730
- (i) A person who is an applicant because the person is under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff; 16731  
16732  
16733  
16734  
16735
- (ii) A person who is an employee because the person is appointed to or employed by the county board. 16736  
16737
- (c) A provider in the case of either of the following: 16738
- (i) A person who is an applicant because the person is under final consideration for a direct services position with the provider; 16739  
16740  
16741
- (ii) A person who is an employee because the person is employed in a direct services position by the provider. 16742  
16743
- (d) A subcontractor in the case of either of the following: 16744  
16745
- (i) A person who is an applicant because the person is under final consideration for a direct services position with 16746  
16747

the subcontractor; 16748

(ii) A person who is an employee because the person is 16749  
employed in a direct services position by the subcontractor. 16750

(9) "Specialized services" means any program or service 16751  
designed and operated to serve primarily individuals with ~~mental-~~ 16752  
~~retardation or a developmental disability~~ disabilities, 16753  
including a program or service provided by an entity licensed or 16754  
certified by the department of developmental disabilities. If 16755  
there is a question as to whether a provider or subcontractor is 16756  
providing specialized services, the provider or subcontractor 16757  
may request that the director of developmental disabilities make 16758  
a determination. The director's determination is final. 16759

(10) "Subcontractor" means a person to which both of the 16760  
following apply: 16761

(a) The person has either of the following: 16762

(i) A subcontract with a provider to provide specialized 16763  
services included in the contract between the provider and the 16764  
department of developmental disabilities or a county board of 16765  
developmental disabilities; 16766

(ii) A subcontract with another subcontractor to provide 16767  
specialized services included in a subcontract between the other 16768  
subcontractor and a provider or other subcontractor. 16769

(b) The person employs one or more persons in direct 16770  
services positions. 16771

(B) A responsible entity shall not employ an applicant or 16772  
continue to employ an employee if either of the following 16773  
applies: 16774

(1) The applicant or employee fails to comply with 16775

division (D) (3) of this section. 16776

(2) Except as provided in rules adopted under this 16777  
section, the applicant or employee is found by a criminal 16778  
records check required by this section to have been convicted 16779  
of, pleaded guilty to, or been found eligible for intervention 16780  
in lieu of conviction for a disqualifying offense. 16781

(C) Before employing an applicant in a position for which 16782  
a criminal records check is required by this section, a 16783  
responsible entity shall require the applicant to submit a 16784  
statement with the applicant's signature attesting that the 16785  
applicant has not been convicted of, pleaded guilty to, or been 16786  
found eligible for intervention in lieu of conviction for a 16787  
disqualifying offense. The responsible entity also shall require 16788  
the applicant to sign an agreement under which the applicant 16789  
agrees to notify the responsible entity within fourteen calendar 16790  
days if, while employed by the responsible entity, the applicant 16791  
is formally charged with, is convicted of, pleads guilty to, or 16792  
is found eligible for intervention in lieu of conviction for a 16793  
disqualifying offense. The agreement shall provide that the 16794  
applicant's failure to provide the notification may result in 16795  
termination of the applicant's employment. 16796

(D) (1) As a condition of employing any applicant in a 16797  
position for which a criminal records check is required by this 16798  
section, a responsible entity shall request the superintendent 16799  
of the bureau of criminal identification and investigation to 16800  
conduct a criminal records check of the applicant. If rules 16801  
adopted under this section require an employee to undergo a 16802  
criminal records check, a responsible entity shall request the 16803  
superintendent to conduct a criminal records check of the 16804  
employee at times specified in the rules as a condition of the 16805

responsible entity's continuing to employ the employee in a 16806  
position for which a criminal records check is required by this 16807  
section. If an applicant or employee does not present proof that 16808  
the applicant or employee has been a resident of this state for 16809  
the five-year period immediately prior to the date upon which 16810  
the criminal records check is requested, the responsible entity 16811  
shall request that the superintendent obtain information from 16812  
the federal bureau of investigation as a part of the criminal 16813  
records check. If the applicant or employee presents proof that 16814  
the applicant or employee has been a resident of this state for 16815  
that five-year period, the responsible entity may request that 16816  
the superintendent include information from the federal bureau 16817  
of investigation in the criminal records check. For purposes of 16818  
this division, an applicant or employee may provide proof of 16819  
residency in this state by presenting, with a notarized 16820  
statement asserting that the applicant or employee has been a 16821  
resident of this state for that five-year period, a valid 16822  
driver's license, notification of registration as an elector, a 16823  
copy of an officially filed federal or state tax form 16824  
identifying the applicant's or employee's permanent residence, 16825  
or any other document the responsible entity considers 16826  
acceptable. 16827

(2) A responsible entity shall do all of the following: 16828

(a) Provide to each applicant and employee for whom a 16829  
criminal records check is required by this section a copy of the 16830  
form prescribed pursuant to division (C)(1) of section 109.572 16831  
of the Revised Code and a standard impression sheet to obtain 16832  
fingerprint impressions prescribed pursuant to division (C)(2) 16833  
of section 109.572 of the Revised Code; 16834

(b) Obtain the completed form and standard impression 16835

sheet from the applicant or employee; 16836

(c) Forward the completed form and standard impression 16837  
sheet to the superintendent at the time the criminal records 16838  
check is requested. 16839

(3) Any applicant or employee who receives pursuant to 16840  
this division a copy of the form prescribed pursuant to division 16841  
(C) (1) of section 109.572 of the Revised Code and a copy of the 16842  
standard impression sheet prescribed pursuant to division (C) (2) 16843  
of that section and who is requested to complete the form and 16844  
provide a set of the applicant's or employee's fingerprint 16845  
impressions shall complete the form or provide all the 16846  
information necessary to complete the form and shall provide the 16847  
standard impression sheet with the impressions of the 16848  
applicant's or employee's fingerprints. 16849

(4) A responsible entity shall pay to the bureau of 16850  
criminal identification and investigation the fee prescribed 16851  
pursuant to division (C) (3) of section 109.572 of the Revised 16852  
Code for each criminal records check requested and conducted 16853  
pursuant to this section. 16854

(E) A responsible entity may request any other state or 16855  
federal agency to supply the responsible entity with a written 16856  
report regarding the criminal record of an applicant or 16857  
employee. If an employee holds an occupational or professional 16858  
license or other credentials, the responsible entity may request 16859  
that the state or federal agency that regulates the employee's 16860  
occupation or profession supply the responsible entity with a 16861  
written report of any information pertaining to the employee's 16862  
criminal record that the agency obtains in the course of 16863  
conducting an investigation or in the process of renewing the 16864  
employee's license or other credentials. The responsible entity 16865

may consider the reports when determining whether to employ the 16866  
applicant or to continue to employ the employee. 16867

(F) As a condition of employing an applicant in a position 16868  
for which a criminal records check is required by this section 16869  
and that involves transporting individuals with ~~mental-~~ 16870  
~~retardation or~~ developmental disabilities or operating a 16871  
responsible entity's vehicles for any purpose, the responsible 16872  
entity shall obtain the applicant's driving record from the 16873  
bureau of motor vehicles. If rules adopted under this section 16874  
require a responsible entity to obtain an employee's driving 16875  
record, the responsible entity shall obtain the employee's 16876  
driving record from the bureau at times specified in the rules 16877  
as a condition of continuing to employ the employee. The 16878  
responsible entity may consider the applicant's or employee's 16879  
driving record when determining whether to employ the applicant 16880  
or to continue to employ the employee. 16881

(G) A responsible entity may employ an applicant 16882  
conditionally pending receipt of a report regarding the 16883  
applicant requested under this section. The responsible entity 16884  
shall terminate the applicant's employment if it is determined 16885  
from a report that the applicant failed to inform the 16886  
responsible entity that the applicant had been convicted of, 16887  
pleaded guilty to, or been found eligible for intervention in 16888  
lieu of conviction for a disqualifying offense. 16889

(H) A responsible entity may charge an applicant a fee for 16890  
costs the responsible entity incurs in obtaining a report 16891  
regarding the applicant under this section if the responsible 16892  
entity notifies the applicant of the amount of the fee at the 16893  
time of the applicant's initial application for employment and 16894  
that, unless the fee is paid, the responsible entity will not 16895

consider the applicant for employment. The fee shall not exceed 16896  
the amount of the fee, if any, the responsible entity pays for 16897  
the report. 16898

(I) (1) Any report obtained pursuant to this section is not 16899  
a public record for purposes of section 149.43 of the Revised 16900  
Code and shall not be made available to any person, other than 16901  
the following: 16902

(a) The applicant or employee who is the subject of the 16903  
report or the applicant's or employee's representative; 16904

(b) The responsible entity that requested the report or 16905  
its representative; 16906

(c) The department if a county board, provider, or 16907  
subcontractor is the responsible entity that requested the 16908  
report and the department requests the responsible entity to 16909  
provide a copy of the report to the department; 16910

(d) A county board if a provider or subcontractor is the 16911  
responsible entity that requested the report and the county 16912  
board requests the responsible entity to provide a copy of the 16913  
report to the county board; 16914

(e) Any court, hearing officer, or other necessary 16915  
individual involved in a case dealing with any of the following: 16916

(i) The denial of employment to the applicant or employee; 16917

(ii) The denial, suspension, or revocation of a 16918  
certificate under section 5123.166 or 5123.45 of the Revised 16919  
Code; 16920

(iii) A civil or criminal action regarding the medicaid 16921  
program or a program the department administers. 16922

(2) An applicant or employee for whom the responsible entity has obtained reports under this section may submit a written request to the responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the responsible entity shall send copies of the reports to the agencies or entities specified.

(3) A responsible entity may request that a state agency, entity of local government, or private entity send copies to the responsible entity of any report regarding a records check or criminal records check that the agency or entity possesses, if the responsible entity obtains the written consent of the individual who is the subject of the report.

(4) A responsible entity shall provide each applicant and employee with a copy of any report obtained about the applicant or employee under this section.

(J) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo criminal records checks under this section;

(b) Require responsible entities to obtain the driving records of employees under this section;

(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more

classes of employees from the requirements. 16952

(2) The rules shall do both of the following: 16953

(a) If the rules require employees to undergo criminal 16954  
records checks, require responsible entities to obtain the 16955  
driving records of employees, or both, specify the times at 16956  
which the criminal records checks are to be conducted and the 16957  
driving records are to be obtained; 16958

(b) Specify circumstances under which a responsible entity 16959  
may employ an applicant or employee who is found by a criminal 16960  
records check required by this section to have been convicted 16961  
of, pleaded guilty to, or been found eligible for intervention 16962  
in lieu of conviction for a disqualifying offense but meets 16963  
standards in regard to rehabilitation set by the director. 16964

**Sec. 5123.092.** (A) There is hereby established at each 16965  
institution and branch institution under the control of the 16966  
department of developmental disabilities a citizen's advisory 16967  
council consisting of thirteen members. At least seven of the 16968  
members shall be persons who are not providers of ~~mental-~~ 16969  
~~retardation~~ services for persons with developmental 16970  
disabilities. Each council shall include parents or other 16971  
relatives of residents of institutions under the control of the 16972  
department, community leaders, professional persons in relevant 16973  
fields, and persons who have an interest in or knowledge of 16974  
~~mental-retardation~~ developmental disabilities. The managing 16975  
officer of the institution shall be a nonvoting member of the 16976  
council. 16977

(B) The director of developmental disabilities shall be 16978  
the appointing authority for the voting members of each 16979  
citizen's advisory council. Each time the term of a voting 16980

member expires, the remaining members of the council shall 16981  
recommend to the director one or more persons to serve on the 16982  
council. The director may accept a nominee of the council or 16983  
reject the nominee or nominees. If the director rejects the 16984  
nominee or nominees, the remaining members of the advisory 16985  
council shall further recommend to the director one or more 16986  
other persons to serve on the advisory council. This procedure 16987  
shall continue until a member is appointed to the advisory 16988  
council. 16989

Each advisory council shall elect from its appointed 16990  
members a chairperson, vice-chairperson, and a secretary to 16991  
serve for terms of one year. Advisory council officers shall not 16992  
serve for more than two consecutive terms in the same office. A 16993  
majority of the advisory council members constitutes a quorum. 16994

(C) Terms of office shall be for three years, each term 16995  
ending on the same day of the same month of the year as did the 16996  
term which it succeeds. No member shall serve more than two 16997  
consecutive terms, except that any former member may be 16998  
appointed if one year or longer has elapsed since the member 16999  
served two consecutive terms. Each member shall hold office from 17000  
the date of appointment until the end of the term for which the 17001  
member was appointed. Any vacancy shall be filled in the same 17002  
manner in which the original appointment was made, and the 17003  
appointee to a vacancy in an unexpired term shall serve the 17004  
balance of the term of the original appointee. Any member shall 17005  
continue in office subsequent to the expiration date of the 17006  
member's term until the member's successor takes office, or 17007  
until a period of sixty days has elapsed, whichever occurs 17008  
first. 17009

(D) Members shall be expected to attend all meetings of 17010

the advisory council. Unexcused absence from two successive 17011  
regularly scheduled meetings shall be considered prima-facie 17012  
evidence of intent not to continue as a member. The chairperson 17013  
of the board shall, after a member has been absent for two 17014  
successive regularly scheduled meetings, direct a letter to the 17015  
member asking if the member wishes to remain in membership. If 17016  
an affirmative reply is received, the member shall be retained 17017  
as a member except that, if, after having expressed a desire to 17018  
remain a member, the member then misses a third successive 17019  
regularly scheduled meeting without being excused, the 17020  
chairperson shall terminate the member's membership. 17021

(E) A citizen's advisory council shall meet six times 17022  
annually, or more frequently if three council members request 17023  
the chairperson to call a meeting. The council shall keep 17024  
minutes of each meeting and shall submit them to the managing 17025  
officer of the institution with which the council is associated 17026  
and the department of developmental disabilities. 17027

(F) Members of citizen's advisory councils shall receive 17028  
no compensation for their services, except that they shall be 17029  
reimbursed for their actual and necessary expenses incurred in 17030  
the performance of their official duties by the institution with 17031  
which they are associated from funds allocated to it, provided 17032  
that reimbursement for those expenses shall not exceed limits 17033  
imposed upon the department of developmental disabilities by 17034  
administrative rules regulating travel within this state. 17035

(G) The councils shall have reasonable access to all 17036  
patient treatment and living areas and records of the 17037  
institution, except those records of a strictly personal or 17038  
confidential nature. The councils shall have access to a 17039  
patient's personal records with the consent of the patient or 17040

the patient's legal guardian or, if the patient is a minor, with 17041  
the consent of the parent or legal guardian of the patient. 17042

(H) As used in this section, "branch institution" means a 17043  
facility that is located apart from an institution and is under 17044  
the control of the managing officer of the institution. 17045

**Sec. 5123.093.** The citizen's advisory councils established 17046  
under section 5123.092 of the Revised Code shall do all of the 17047  
following: 17048

(A) Transmit to the director of developmental disabilities 17049  
verbal or written information, received from any person or 17050  
organization associated with the institution or within the 17051  
community, that an advisory council considers important, ~~to the~~ 17052  
~~director of developmental disabilities;~~ 17053

(B) Review the records of all applicants to any 17054  
unclassified position at the institution, except for resident 17055  
physician positions filled under section 5123.11 of the Revised 17056  
Code; 17057

(C) Review and evaluate institutional employee training 17058  
and continuing education programs; 17059

(D) On or before the thirty-first day of January of each 17060  
year, submit a written report to the director of developmental 17061  
disabilities regarding matters affecting the institution 17062  
including, but not limited to, allegations of dehumanizing 17063  
practices and violations of individual or legal rights; 17064

(E) Review institutional budgets, programs, services, and 17065  
planning; 17066

(F) Develop and maintain ~~relationships~~ within the 17067  
community relationships with community ~~mental retardation and~~ 17068

developmental disabilities organizations; 17069

(G) Participate in the formulation of the institution's 17070  
objectives, administrative procedures, program philosophy, and 17071  
long range goals; 17072

(H) Bring any matter that an advisory council considers 17073  
important to the attention of ~~the joint council on developmental~~ 17074  
~~disabilities and~~ the director of developmental disabilities; 17075

(I) Recommend to the director of developmental 17076  
disabilities persons for appointment to citizen's advisory 17077  
councils; 17078

(J) Adopt any rules or procedures necessary to carry out 17079  
this section. 17080

The chairperson of the advisory council or the 17081  
chairperson's designee shall be notified within twenty-four 17082  
hours of any alleged incident of abuse to a resident or staff 17083  
member by anyone. Incidents of resident or staff abuse shall 17084  
include, but not be limited to, sudden deaths, accidents, 17085  
suicides, attempted suicides, injury caused by other persons, 17086  
alleged criminal acts, errors in prescribing or administering 17087  
medication, theft from clients, fires, epidemic disease, 17088  
administering unprescribed drugs, unauthorized use of restraint, 17089  
withholding of information concerning alleged abuse, neglect, or 17090  
any deprivation of rights as defined in Chapter 5122. or 5123. 17091  
of the Revised Code. 17092

**Sec. 5123.122.** Notwithstanding section 5121.04 of the 17093  
Revised Code and except as provided in section 5123.194 of the 17094  
Revised Code, the liable relative of a ~~mentally retarded or~~ 17095  
~~developmentally disabled~~ person with a developmental disability 17096  
who is a minor receiving residential services pursuant to a 17097

contract entered into with the department of developmental 17098  
disabilities under section 5123.18 of the Revised Code shall be 17099  
charged for the minor's support the percentage of a base support 17100  
rate determined in accordance with division (B) (2) of section 17101  
5121.04 of the Revised Code. 17102

**Sec. 5123.165.** (A) Except as provided in division (B) of 17103  
this section, no person or government entity may provide 17104  
supported living to an individual with ~~mental retardation or a~~ 17105  
developmental disability if the person or government entity also 17106  
provides the individual a residence. 17107

(B) A person may provide supported living to an individual 17108  
with ~~mental retardation or a~~ developmental disability even 17109  
though the person also provides the individual a residence if 17110  
either of the following apply: 17111

(1) The person also resides in the residence with the 17112  
individual and does not provide at any one time supported living 17113  
to more than a total of three individuals with ~~mental-~~ 17114  
~~retardation or a~~ developmental disability disabilities who 17115  
reside in that residence; 17116

(2) The person is an association of family members related 17117  
to two or more of the individuals with ~~mental retardation or a~~ 17118  
developmental disability disabilities who reside in the 17119  
residence and does not provide at any one time supported living 17120  
to more than a total of four individuals with ~~mental retardation-~~ 17121  
~~or a~~ developmental disability disabilities who reside in that 17122  
residence. 17123

**Sec. 5123.169.** (A) The director of developmental 17124  
disabilities shall not issue a supported living certificate to 17125  
an applicant or renew an applicant's supported living 17126

certificate if either of the following applies: 17127

(1) The applicant fails to comply with division (C) (2) of 17128  
this section; 17129

(2) Except as provided in rules adopted under section 17130  
5123.1611 of the Revised Code, the applicant is found by a 17131  
criminal records check required by this section to have been 17132  
convicted of, pleaded guilty to, or been found eligible for 17133  
intervention in lieu of conviction for a disqualifying offense. 17134

(B) Before issuing a supported living certificate to an 17135  
applicant or renewing an applicant's supported living 17136  
certificate, the director shall require the applicant to submit 17137  
a statement with the applicant's signature attesting that the 17138  
applicant has not been convicted of, pleaded guilty to, or been 17139  
found eligible for intervention in lieu of conviction for a 17140  
disqualifying offense. The director also shall require the 17141  
applicant to sign an agreement under which the applicant agrees 17142  
to notify the director within fourteen calendar days if, while 17143  
holding a supported living certificate, the applicant is 17144  
formally charged with, is convicted of, pleads guilty to, or is 17145  
found eligible for intervention in lieu of conviction for a 17146  
disqualifying offense. The agreement shall provide that the 17147  
applicant's failure to provide the notification may result in 17148  
action being taken by the director against the applicant under 17149  
section 5123.166 of the Revised Code. 17150

(C) (1) As a condition of receiving a supported living 17151  
certificate or having a supported living certificate renewed, an 17152  
applicant shall request the superintendent of the bureau of 17153  
criminal identification and investigation to conduct a criminal 17154  
records check of the applicant. If an applicant does not present 17155  
proof to the director that the applicant has been a resident of 17156

this state for the five-year period immediately prior to the 17157  
date that the applicant applies for issuance or renewal of the 17158  
supported living certificate, the director shall require the 17159  
applicant to request that the superintendent obtain information 17160  
from the federal bureau of investigation as a part of the 17161  
criminal records check. If the applicant presents proof to the 17162  
director that the applicant has been a resident of this state 17163  
for that five-year period, the director may require the 17164  
applicant to request that the superintendent include information 17165  
from the federal bureau of investigation in the criminal records 17166  
check. For purposes of this division, an applicant may provide 17167  
proof of residency in this state by presenting, with a notarized 17168  
statement asserting that the applicant has been a resident of 17169  
this state for that five-year period, a valid driver's license, 17170  
notification of registration as an elector, a copy of an 17171  
officially filed federal or state tax form identifying the 17172  
applicant's permanent residence, or any other document the 17173  
director considers acceptable. 17174

(2) Each applicant shall do all of the following: 17175

(a) Obtain a copy of the form prescribed pursuant to 17176  
division (C) (1) of section 109.572 of the Revised Code and a 17177  
standard impression sheet prescribed pursuant to division (C) (2) 17178  
of section 109.572 of the Revised Code; 17179

(b) Complete the form and provide the applicant's 17180  
fingerprint impressions on the standard impression sheet; 17181

(c) Forward the completed form and standard impression 17182  
sheet to the superintendent at the time the criminal records 17183  
check is requested; 17184

(d) Instruct the superintendent to submit the completed 17185

report of the criminal records check directly to the director; 17186

(e) Pay to the bureau of criminal identification and 17187  
investigation the fee prescribed pursuant to division (C) (3) of 17188  
section 109.572 of the Revised Code for each criminal records 17189  
check of the applicant requested and conducted pursuant to this 17190  
section. 17191

(D) The director may request any other state or federal 17192  
agency to supply the director with a written report regarding 17193  
the criminal record of an applicant. The director may consider 17194  
the reports when determining whether to issue a supported living 17195  
certificate to the applicant or to renew an applicant's 17196  
supported living certificate. 17197

(E) An applicant who seeks to be an independent provider 17198  
or is an independent provider seeking renewal of the applicant's 17199  
supported living certificate shall obtain the applicant's 17200  
driving record from the bureau of motor vehicles and provide a 17201  
copy of the record to the director if the supported living that 17202  
the applicant will provide involves transporting individuals 17203  
with ~~mental retardation or~~ developmental disabilities. The 17204  
director may consider the applicant's driving record when 17205  
determining whether to issue the applicant a supported living 17206  
certificate or to renew the applicant's supported living 17207  
certificate. 17208

(F) (1) A report obtained pursuant to this section is not a 17209  
public record for purposes of section 149.43 of the Revised Code 17210  
and shall not be made available to any person, other than the 17211  
following: 17212

(a) The applicant who is the subject of the report or the 17213  
applicant's representative; 17214

(b) The director or the director's representative;	17215
(c) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	17216 17217
(i) The denial of a supported living certificate or refusal to renew a supported living certificate;	17218 17219
(ii) The denial, suspension, or revocation of a certificate under section 5123.45 of the Revised Code;	17220 17221
(iii) A civil or criminal action regarding the medicaid program.	17222 17223
(2) An applicant for whom the director has obtained reports under this section may submit a written request to the director to have copies of the reports sent to any person or state or local government entity. The applicant shall specify in the request the person or entities to which the copies are to be sent. On receiving the request, the director shall send copies of the reports to the persons or entities specified.	17224 17225 17226 17227 17228 17229 17230
(3) The director may request that a person or state or local government entity send copies to the director of any report regarding a records check or criminal records check that the person or entity possesses, if the director obtains the written consent of the individual who is the subject of the report.	17231 17232 17233 17234 17235 17236
(4) The director shall provide each applicant with a copy of any report obtained about the applicant under this section.	17237 17238
<b>Sec. 5123.17.</b> The department of developmental disabilities may provide for the custody, supervision, control, treatment, and training of persons with <del>mental retardation or a</del> developmental <del>disability</del> <u>disabilities</u> elsewhere than within the	17239 17240 17241 17242

enclosure of an institution under its jurisdiction, if the 17243  
department so determines with respect to any individual or group 17244  
of individuals. In all such cases, the department shall ensure 17245  
adequate and proper supervision for the protection of those 17246  
persons and of the public. 17247

**Sec. 5123.171.** As used in this section, "respite care" 17248  
means appropriate, short-term, temporary care provided to a 17249  
~~mentally retarded or developmentally disabled~~ person with a 17250  
developmental disability to sustain the family structure or to 17251  
meet planned or emergency needs of the family. 17252

The department of developmental disabilities shall provide 17253  
respite care services to persons with ~~mental retardation or a~~ 17254  
developmental ~~disability~~ disabilities for the purpose of 17255  
promoting self-sufficiency and normalization, preventing or 17256  
reducing inappropriate institutional care, and furthering the 17257  
unity of the family by enabling the family to meet the special 17258  
needs of a ~~mentally retarded or developmentally disabled~~ person 17259  
with a developmental disability. 17260

In order to be eligible for respite care services under 17261  
this section, the ~~mentally retarded or developmentally disabled~~ 17262  
person with a developmental disability must be in need of 17263  
services that are part of habilitation services, as defined in 17264  
section 5126.01 of the Revised Code. 17265

Respite care may be provided in a residential facility 17266  
licensed under section 5123.19 of the Revised Code, including a 17267  
residential facility certified as an ICF/IID, and a respite care 17268  
home certified under section 5126.05 of the Revised Code. 17269

The department shall develop a system for locating vacant 17270  
beds that are available for respite care and for making 17271

information on vacant beds available to users of respite care 17272  
services. ICFs/IID shall report vacant beds to the department 17273  
but shall not be required to accept respite care clients. 17274

The director of developmental disabilities shall adopt, 17275  
and may amend or rescind, rules in accordance with Chapter 119. 17276  
of the Revised Code for both of the following: 17277

(A) Certification by county boards of developmental 17278  
disabilities of respite care homes; 17279

(B) Provision of respite care services authorized by this 17280  
section. Rules adopted under this division shall establish all 17281  
of the following: 17282

(1) A formula for distributing funds appropriated for 17283  
respite care services; 17284

(2) Standards for supervision, training, and quality 17285  
control in the provision of respite care services; 17286

(3) Eligibility criteria for emergency respite care 17287  
services. 17288

**Sec. 5123.18.** ~~(A)~~ The department of developmental 17289  
disabilities may enter into a contract with a person or 17290  
government agency to provide residential services to individuals 17291  
with ~~mental retardation or~~ developmental disabilities in need of 17292  
residential services. To be eligible to enter into a contract 17293  
with the department under this section, a person or government 17294  
entity and the home in which the residential services are 17295  
provided must meet all applicable standards for licensing or 17296  
certification by the appropriate government entity. 17297

**Sec. 5123.19.** (A) As used in sections 5123.19 to 5123.20 17298  
of the Revised Code: 17299

(1) "Independent living arrangement" means an arrangement 17300  
in which ~~a mentally retarded or developmentally disabled person~~ 17301  
an individual with a developmental disability resides in an 17302  
individualized setting chosen by the ~~person~~ individual or the 17303  
~~person's~~ individual's guardian, which is not dedicated 17304  
principally to the provision of residential services for ~~mentally~~ 17305  
~~retarded or developmentally disabled persons~~ individuals with 17306  
developmental disabilities, and for which no financial support 17307  
is received for rendering such service from any governmental 17308  
agency by a provider of residential services. 17309

(2) "Licensee" means the person or government agency that 17310  
has applied for a license to operate a residential facility and 17311  
to which the license was issued under this section. 17312

(3) "Political subdivision" means a municipal corporation, 17313  
county, or township. 17314

(4) "Related party" has the same meaning as in section 17315  
5123.16 of the Revised Code except that "provider" as used in 17316  
the definition of "related party" means a person or government 17317  
entity that held or applied for a license to operate a 17318  
residential facility, rather than a person or government entity 17319  
certified to provide supported living. 17320

(5) (a) Except as provided in division (A) (5) (b) of this 17321  
section, "residential facility" means a home or facility, 17322  
including an ICF/IID, in which an individual with ~~mental~~ 17323  
~~retardation or~~ a developmental disability resides. 17324

(b) "Residential facility" does not mean any of the 17325  
following: 17326

(i) The home of a relative or legal guardian in which an 17327  
individual with ~~mental retardation or~~ a developmental disability 17328

resides; 17329

(ii) A respite care home certified under section 5126.05 17330  
of the Revised Code; 17331

(iii) A county home or district home operated pursuant to 17332  
Chapter 5155. of the Revised Code; 17333

(iv) A dwelling in which the only residents with ~~mental-~~ 17334  
~~retardation or~~ developmental disabilities are in independent 17335  
living arrangements or are being provided supported living. 17336

(B) Every person or government agency desiring to operate 17337  
a residential facility shall apply for licensure of the facility 17338  
to the director of developmental disabilities unless the 17339  
residential facility is subject to section 3721.02, 5103.03, 17340  
5119.33, or division (B)(1)(b) of section 5119.34 of the Revised 17341  
Code. 17342

(C) Subject to section 5123.196 of the Revised Code, the 17343  
director of developmental disabilities shall license the 17344  
operation of residential facilities. An initial license shall be 17345  
issued for a period that does not exceed one year, unless the 17346  
director denies the license under division (D) of this section. 17347  
A license shall be renewed for a period that does not exceed 17348  
three years, unless the director refuses to renew the license 17349  
under division (D) of this section. The director, when issuing 17350  
or renewing a license, shall specify the period for which the 17351  
license is being issued or renewed. A license remains valid for 17352  
the length of the licensing period specified by the director, 17353  
unless the license is terminated, revoked, or voluntarily 17354  
surrendered. 17355

(D) If it is determined that an applicant or licensee is 17356  
not in compliance with a provision of this chapter that applies 17357

to residential facilities or the rules adopted under such a 17358  
provision, the director may deny issuance of a license, refuse 17359  
to renew a license, terminate a license, revoke a license, issue 17360  
an order for the suspension of admissions to a facility, issue 17361  
an order for the placement of a monitor at a facility, issue an 17362  
order for the immediate removal of residents, or take any other 17363  
action the director considers necessary consistent with the 17364  
director's authority under this chapter regarding residential 17365  
facilities. In the director's selection and administration of 17366  
the sanction to be imposed, all of the following apply: 17367

(1) The director may deny, refuse to renew, or revoke a 17368  
license, if the director determines that the applicant or 17369  
licensee has demonstrated a pattern of serious noncompliance or 17370  
that a violation creates a substantial risk to the health and 17371  
safety of residents of a residential facility. 17372

(2) The director may terminate a license if more than 17373  
twelve consecutive months have elapsed since the residential 17374  
facility was last occupied by a resident or a notice required by 17375  
division (J) of this section is not given. 17376

(3) The director may issue an order for the suspension of 17377  
admissions to a facility for any violation that may result in 17378  
sanctions under division (D)(1) of this section and for any 17379  
other violation specified in rules adopted under division (G)(2) 17380  
of this section. If the suspension of admissions is imposed for 17381  
a violation that may result in sanctions under division (D)(1) 17382  
of this section, the director may impose the suspension before 17383  
providing an opportunity for an adjudication under Chapter 119. 17384  
of the Revised Code. The director shall lift an order for the 17385  
suspension of admissions when the director determines that the 17386  
violation that formed the basis for the order has been 17387

corrected. 17388

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected. 17389  
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(5) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. Except in the case of a licensee that is an ICF/IID, the county board shall send a copy of the letter to each of the following: 17395  
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(a) Each resident who receives services from the licensee; 17405

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian; 17406  
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(c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor. 17408  
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(6) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents. 17410  
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(7) In determining whether a residential facility is being operated in compliance with a provision of this chapter that 17415  
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applies to residential facilities or the rules adopted under 17417  
such a provision, or whether conditions at a residential 17418  
facility present an immediate danger of physical or 17419  
psychological harm to the residents, the director may rely on 17420  
information obtained by a county board of developmental 17421  
disabilities or other governmental agencies. 17422

(8) In proceedings initiated to deny, refuse to renew, or 17423  
revoke licenses, the director may deny, refuse to renew, or 17424  
revoke a license regardless of whether some or all of the 17425  
deficiencies that prompted the proceedings have been corrected 17426  
at the time of the hearing. 17427

(E) (1) Except as provided in division (E) (2) of this 17428  
section, appeals from proceedings initiated to impose a sanction 17429  
under division (D) of this section shall be conducted in 17430  
accordance with Chapter 119. of the Revised Code. 17431

(2) Appeals from proceedings initiated to order the 17432  
suspension of admissions to a facility shall be conducted in 17433  
accordance with Chapter 119. of the Revised Code, unless the 17434  
order was issued before providing an opportunity for an 17435  
adjudication, in which case all of the following apply: 17436

(a) The licensee may request a hearing not later than ten 17437  
days after receiving the notice specified in section 119.07 of 17438  
the Revised Code. 17439

(b) If a timely request for a hearing that includes the 17440  
licensee's current address is made, the hearing shall commence 17441  
not later than thirty days after the department receives the 17442  
request. 17443

(c) After commencing, the hearing shall continue 17444  
uninterrupted, except for Saturdays, Sundays, and legal 17445

holidays, unless other interruptions are agreed to by the 17446  
licensee and the director. 17447

(d) If the hearing is conducted by a hearing examiner, the 17448  
hearing examiner shall file a report and recommendations not 17449  
later than ten days after the last of the following: 17450

(i) The close of the hearing; 17451

(ii) If a transcript of the proceedings is ordered, the 17452  
hearing examiner receives the transcript; 17453

(iii) If post-hearing briefs are timely filed, the hearing 17454  
examiner receives the briefs. 17455

(e) A copy of the written report and recommendation of the 17456  
hearing examiner shall be sent, by certified mail, to the 17457  
licensee and the licensee's attorney, if applicable, not later 17458  
than five days after the report is filed. 17459

(f) Not later than five days after the hearing examiner 17460  
files the report and recommendations, the licensee may file 17461  
objections to the report and recommendations. 17462

(g) Not later than fifteen days after the hearing examiner 17463  
files the report and recommendations, the director shall issue 17464  
an order approving, modifying, or disapproving the report and 17465  
recommendations. 17466

(h) Notwithstanding the pendency of the hearing, the 17467  
director shall lift the order for the suspension of admissions 17468  
when the director determines that the violation that formed the 17469  
basis for the order has been corrected. 17470

(F) Neither a person or government agency whose 17471  
application for a license to operate a residential facility is 17472  
denied nor a related party of the person or government agency 17473

may apply for a license to operate a residential facility before 17474  
the date that is five years after the date of the denial. 17475  
Neither a licensee whose residential facility license is revoked 17476  
nor a related party of the licensee may apply for a residential 17477  
facility license before the date that is five years after the 17478  
date of the revocation. 17479

(G) In accordance with Chapter 119. of the Revised Code, 17480  
the director shall adopt and may amend and rescind rules for 17481  
licensing and regulating the operation of residential 17482  
facilities. The rules for residential facilities that are 17483  
ICFs/IID may differ from those for other residential facilities. 17484  
The rules shall establish and specify the following: 17485

(1) Procedures and criteria for issuing and renewing 17486  
licenses, including procedures and criteria for determining the 17487  
length of the licensing period that the director must specify 17488  
for each license when it is issued or renewed; 17489

(2) Procedures and criteria for denying, refusing to 17490  
renew, terminating, and revoking licenses and for ordering the 17491  
suspension of admissions to a facility, placement of a monitor 17492  
at a facility, and the immediate removal of residents from a 17493  
facility; 17494

(3) Fees for issuing and renewing licenses, which shall be 17495  
deposited into the program fee fund created under section 17496  
5123.033 of the Revised Code; 17497

(4) Procedures for surveying residential facilities; 17498

(5) Classifications for the various types of residential 17499  
facilities; 17500

(6) The maximum number of ~~persons~~ individuals who may be 17501  
served in a particular type of residential facility; 17502

(7) Uniform procedures for admission of <del>persons</del>	17503
<u>individuals</u> to and transfers and discharges of <del>persons</del>	17504
<u>individuals</u> from residential facilities;	17505
(8) Other standards for the operation of residential	17506
facilities and the services provided at residential facilities;	17507
(9) Procedures for waiving any provision of any rule	17508
adopted under this section.	17509
(H) (1) Before issuing a license, the director shall	17510
conduct a survey of the residential facility for which	17511
application is made. The director shall conduct a survey of each	17512
licensed residential facility at least once during the period	17513
the license is valid and may conduct additional inspections as	17514
needed. A survey includes but is not limited to an on-site	17515
examination and evaluation of the residential facility, its	17516
personnel, and the services provided there. The director may	17517
assign to a county board of developmental disabilities or the	17518
department of health the responsibility to conduct any survey or	17519
inspection under this section.	17520
(2) In conducting surveys, the director shall be given	17521
access to the residential facility; all records, accounts, and	17522
any other documents related to the operation of the facility;	17523
the licensee; the residents of the facility; and all persons	17524
acting on behalf of, under the control of, or in connection with	17525
the licensee. The licensee and all persons on behalf of, under	17526
the control of, or in connection with the licensee shall	17527
cooperate with the director in conducting the survey.	17528
(3) Following each survey, the director shall provide the	17529
licensee with a report listing the date of the survey, any	17530
citations issued as a result of the survey, and the statutes or	17531

rules that purportedly have been violated and are the bases of 17532  
the citations. The director shall also do both of the following: 17533

(a) Specify a date by which the licensee may appeal any of 17534  
the citations; 17535

(b) When appropriate, specify a timetable within which the 17536  
licensee must submit a plan of correction describing how the 17537  
problems specified in the citations will be corrected and, the 17538  
date by which the licensee anticipates the problems will be 17539  
corrected. 17540

(4) If the director initiates a proceeding to revoke a 17541  
license, the director shall include the report required by 17542  
division (H) (3) of this section with the notice of the proposed 17543  
revocation the director sends to the licensee. In this 17544  
circumstance, the licensee may not submit a plan of correction. 17545

(5) After a plan of correction is submitted, the director 17546  
shall approve or disapprove the plan. If the plan of correction 17547  
is approved, a copy of the approved plan shall be provided, not 17548  
later than five business days after it is approved, to any 17549  
person or government entity who requests it and made available 17550  
on the internet web site maintained by the department of 17551  
developmental disabilities. If the plan of correction is not 17552  
approved and the director initiates a proceeding to revoke the 17553  
license, a copy of the survey report shall be provided to any 17554  
person or government entity that requests it and shall be made 17555  
available on the internet web site maintained by the department. 17556

(6) The director shall initiate disciplinary action 17557  
against any department employee who notifies or causes the 17558  
notification to any unauthorized person of an unannounced survey 17559  
of a residential facility by an authorized representative of the 17560

department. 17561

(I) In addition to any other information which may be 17562  
required of applicants for a license pursuant to this section, 17563  
the director shall require each applicant to provide a copy of 17564  
an approved plan for a proposed residential facility pursuant to 17565  
section 5123.042 of the Revised Code. This division does not 17566  
apply to renewal of a license or to an applicant for an initial 17567  
or modified license who meets the requirements of section 17568  
5123.197 of the Revised Code. 17569

(J) (1) A licensee shall notify the owner of the building 17570  
in which the licensee's residential facility is located of any 17571  
significant change in the identity of the licensee or management 17572  
contractor before the effective date of the change if the 17573  
licensee is not the owner of the building. 17574

(2) Pursuant to rules, which shall be adopted in 17575  
accordance with Chapter 119. of the Revised Code, the director 17576  
may require notification to the department of any significant 17577  
change in the ownership of a residential facility or in the 17578  
identity of the licensee or management contractor. If the 17579  
director determines that a significant change of ownership is 17580  
proposed, the director shall consider the proposed change to be 17581  
an application for development by a new operator pursuant to 17582  
section 5123.042 of the Revised Code and shall advise the 17583  
applicant within sixty days of the notification that the current 17584  
license shall continue in effect or a new license will be 17585  
required pursuant to this section. If the director requires a 17586  
new license, the director shall permit the facility to continue 17587  
to operate under the current license until the new license is 17588  
issued, unless the current license is revoked, refused to be 17589  
renewed, or terminated in accordance with Chapter 119. of the 17590

Revised Code. 17591

(3) A licensee shall transfer to the new licensee or 17592  
management contractor all records related to the residents of 17593  
the facility following any significant change in the identity of 17594  
the licensee or management contractor. 17595

(K) A county board of developmental disabilities and any 17596  
interested person may file complaints alleging violations of 17597  
statute or department rule relating to residential facilities 17598  
with the department. All complaints shall state the facts 17599  
constituting the basis of the allegation. The department shall 17600  
not reveal the source of any complaint unless the complainant 17601  
agrees in writing to waive the right to confidentiality or until 17602  
so ordered by a court of competent jurisdiction. 17603

The department shall adopt rules in accordance with 17604  
Chapter 119. of the Revised Code establishing procedures for the 17605  
receipt, referral, investigation, and disposition of complaints 17606  
filed with the department under this division. 17607

(L) Before issuing a license under this section to a 17608  
residential facility that will accommodate at any time more than 17609  
one ~~mentally retarded or developmentally disabled~~ individual 17610  
with a developmental disability, the director shall, by first 17611  
class mail, notify the following: 17612

(1) If the facility will be located in a municipal 17613  
corporation, the clerk of the legislative authority of the 17614  
municipal corporation; 17615

(2) If the facility will be located in unincorporated 17616  
territory, the clerk of the appropriate board of county 17617  
commissioners and the fiscal officer of the appropriate board of 17618  
township trustees. 17619

The director shall not issue the license for ten days 17620  
after mailing the notice, excluding Saturdays, Sundays, and 17621  
legal holidays, in order to give the notified local officials 17622  
time in which to comment on the proposed issuance. 17623

Any legislative authority of a municipal corporation, 17624  
board of county commissioners, or board of township trustees 17625  
that receives notice under this division of the proposed 17626  
issuance of a license for a residential facility may comment on 17627  
it in writing to the director within ten days after the director 17628  
mailed the notice, excluding Saturdays, Sundays, and legal 17629  
holidays. If the director receives written comments from any 17630  
notified officials within the specified time, the director shall 17631  
make written findings concerning the comments and the director's 17632  
decision on the issuance of the license. If the director does 17633  
not receive written comments from any notified local officials 17634  
within the specified time, the director shall continue the 17635  
process for issuance of the license. 17636

(M) Any person may operate a licensed residential facility 17637  
that provides room and board, personal care, habilitation 17638  
services, and supervision in a family setting for at least six 17639  
but not more than eight ~~persons~~ individuals with ~~mental~~ 17640  
~~retardation or a developmental~~ disability disabilities as a 17641  
permitted use in any residential district or zone, including any 17642  
single-family residential district or zone, of any political 17643  
subdivision. These residential facilities may be required to 17644  
comply with area, height, yard, and architectural compatibility 17645  
requirements that are uniformly imposed upon all single-family 17646  
residences within the district or zone. 17647

(N) Any person may operate a licensed residential facility 17648  
that provides room and board, personal care, habilitation 17649

services, and supervision in a family setting for at least nine 17650  
but not more than sixteen ~~persons~~ individuals with ~~mental~~ 17651  
~~retardation or a developmental disability~~ disabilities as a 17652  
permitted use in any multiple-family residential district or 17653  
zone of any political subdivision, except that a political 17654  
subdivision that has enacted a zoning ordinance or resolution 17655  
establishing planned unit development districts may exclude 17656  
these residential facilities from those districts, and a 17657  
political subdivision that has enacted a zoning ordinance or 17658  
resolution may regulate these residential facilities in 17659  
multiple-family residential districts or zones as a 17660  
conditionally permitted use or special exception, in either 17661  
case, under reasonable and specific standards and conditions set 17662  
out in the zoning ordinance or resolution to: 17663

(1) Require the architectural design and site layout of 17664  
the residential facility and the location, nature, and height of 17665  
any walls, screens, and fences to be compatible with adjoining 17666  
land uses and the residential character of the neighborhood; 17667

(2) Require compliance with yard, parking, and sign 17668  
regulation; 17669

(3) Limit excessive concentration of these residential 17670  
facilities. 17671

(O) This section does not prohibit a political subdivision 17672  
from applying to residential facilities nondiscriminatory 17673  
regulations requiring compliance with health, fire, and safety 17674  
regulations and building standards and regulations. 17675

(P) Divisions (M) and (N) of this section are not 17676  
applicable to municipal corporations that had in effect on June 17677  
15, 1977, an ordinance specifically permitting in residential 17678

zones licensed residential facilities by means of permitted 17679  
uses, conditional uses, or special exception, so long as such 17680  
ordinance remains in effect without any substantive 17681  
modification. 17682

(Q) (1) The director may issue an interim license to 17683  
operate a residential facility to an applicant for a license 17684  
under this section if either of the following is the case: 17685

(a) The director determines that an emergency exists 17686  
requiring immediate placement of ~~persons~~individuals in a 17687  
residential facility, that insufficient licensed beds are 17688  
available, and that the residential facility is likely to 17689  
receive a permanent license under this section within thirty 17690  
days after issuance of the interim license. 17691

(b) The director determines that the issuance of an 17692  
interim license is necessary to meet a temporary need for a 17693  
residential facility. 17694

(2) To be eligible to receive an interim license, an 17695  
applicant must meet the same criteria that must be met to 17696  
receive a permanent license under this section, except for any 17697  
differing procedures and time frames that may apply to issuance 17698  
of a permanent license. 17699

(3) An interim license shall be valid for thirty days and 17700  
may be renewed by the director for a period not to exceed one 17701  
hundred eighty days. 17702

(4) The director shall adopt rules in accordance with 17703  
Chapter 119. of the Revised Code as the director considers 17704  
necessary to administer the issuance of interim licenses. 17705

(R) Notwithstanding rules adopted pursuant to this section 17706  
establishing the maximum number of ~~persons~~individuals who may 17707

be served in a particular type of residential facility, a 17708  
residential facility shall be permitted to serve the same number 17709  
of ~~persons~~individuals being served by the facility on the 17710  
effective date of the rules or the number of ~~persons~~individuals 17711  
for which the facility is authorized pursuant to a current 17712  
application for a certificate of need with a letter of support 17713  
from the department of developmental disabilities and which is 17714  
in the review process prior to April 4, 1986. 17715

This division does not preclude the department from 17716  
suspending new admissions to a residential facility pursuant to 17717  
a written order issued under section 5124.70 of the Revised 17718  
Code. 17719

(S) The director may enter at any time, for purposes of 17720  
investigation, any home, facility, or other structure that has 17721  
been reported to the director or that the director has 17722  
reasonable cause to believe is being operated as a residential 17723  
facility without a license issued under this section. 17724

The director may petition the court of common pleas of the 17725  
county in which an unlicensed residential facility is located 17726  
for an order enjoining the person or governmental agency 17727  
operating the facility from continuing to operate without a 17728  
license. The court may grant the injunction on a showing that 17729  
the person or governmental agency named in the petition is 17730  
operating a residential facility without a license. The court 17731  
may grant the injunction, regardless of whether the residential 17732  
facility meets the requirements for receiving a license under 17733  
this section. 17734

**Sec. 5123.196.** (A) Except as provided in division (E) of 17735  
this section, the director of developmental disabilities shall 17736  
not issue a license under section 5123.19 of the Revised Code on 17737

or after July 1, 2003, if issuance will result in there being 17738  
more beds in all residential facilities licensed under that 17739  
section than is permitted under division (B) of this section. 17740

(B) The maximum number of beds for the purpose of division 17741  
(A) of this section shall not exceed ten thousand eight hundred 17742  
thirty-eight minus, except as provided in division (C) of this 17743  
section, both of the following: 17744

(1) The number of such beds that cease to be residential 17745  
facility beds on or after July 1, 2003, because a residential 17746  
facility license is revoked, terminated, or not renewed for any 17747  
reason or is surrendered in accordance with section 5123.19 of 17748  
the Revised Code; 17749

(2) The number of such beds for which a licensee 17750  
voluntarily converts to use for supported living on or after 17751  
July 1, 2003. 17752

(C) The director is not required to reduce the maximum 17753  
number of beds pursuant to division (B) of this section by a bed 17754  
that ceases to be a residential facility bed if the director 17755  
determines that the bed is needed to provide services to an 17756  
individual with ~~mental retardation~~ or a developmental disability 17757  
who resided in the residential facility in which the bed was 17758  
located. 17759

(D) The director shall maintain an up-to-date written 17760  
record of the maximum number of residential facility beds 17761  
provided for by division (B) of this section. 17762

(E) The director may issue an interim license under 17763  
division (Q) of section 5123.19 of the Revised Code and issue, 17764  
pursuant to rules adopted under division (G)(9) of that section, 17765  
a waiver allowing a residential facility to admit more residents 17766

than the facility is licensed to admit regardless of whether the 17767  
interim license or waiver will result in there being more beds 17768  
in all residential facilities licensed under that section than 17769  
is permitted under division (B) of this section. 17770

**Sec. 5123.20.** No person or government agency shall operate 17771  
a residential facility or receive ~~a mentally retarded or~~ 17772  
~~developmentally disabled person~~ an individual with a 17773  
developmental disability as a resident of a residential facility 17774  
unless the facility is licensed under section 5123.19 of the 17775  
Revised Code, and no person or governmental agency shall operate 17776  
a respite care home or receive ~~a mentally retarded or~~ 17777  
~~developmentally disabled person~~ an individual with a 17778  
developmental disability in a respite care home unless the home 17779  
is certified under section 5126.05 of the Revised Code. 17780

**Sec. 5123.27.** The director of developmental disabilities 17781  
may accept, hold, and administer in trust on behalf of the 17782  
state, if it is for the public interest, any grant, devise, 17783  
gift, or bequest of money or property made to the state for the 17784  
use or benefit of any institution under the jurisdiction of the 17785  
department of developmental disabilities or for the use and 17786  
benefit of persons with ~~mental retardation or a developmental~~ 17787  
~~disability~~ disabilities under the control of the department. If 17788  
the trust so provides, the money or property may be used for any 17789  
work which the department is authorized to undertake. 17790

The department shall keep such gift, grant, devise, or 17791  
bequest as a distinct property or fund and, if it is in money, 17792  
shall invest it in the manner provided by law. The department 17793  
may deposit in a proper trust company or savings bank any money 17794  
left in trust during a specified life or lives and shall adopt 17795  
rules governing the deposit, transfer, withdrawal, or investment 17796

of the money and the income from it. 17797

The department shall, in the manner prescribed by the 17798  
director of budget and management pursuant to section 126.21 of 17799  
the Revised Code, account for all money or property received or 17800  
expended under this section. The records, together with a 17801  
statement certified by the depository showing the money 17802  
deposited there to the credit of the trust, shall be open to 17803  
public inspection. The director of budget and management may 17804  
require the department to file a report with the director on any 17805  
particular portion, or the whole, of any trust property received 17806  
or expended by it. 17807

The department shall, upon the expiration of any trust 17808  
according to its terms, dispose of the money or property held 17809  
under the trust in the manner provided in the instrument 17810  
creating the trust. If the instrument creating the trust failed 17811  
to make any terms of disposition, or if no trust was in 17812  
evidence, the decedent resident's money, saving or commercial 17813  
deposits, dividends or distributions, bonds, or any other 17814  
interest-bearing debt certificate or stamp issued by the United 17815  
States government shall escheat to the state. All such unclaimed 17816  
intangible personal property of a former resident shall be 17817  
retained by the managing officer in such institution for the 17818  
period of one year, during which time every possible effort 17819  
shall be made to find the former resident or the former 17820  
resident's legal representative. 17821

If after a period of one year from the time the resident 17822  
has left the institution or has died, the managing officer has 17823  
been unable to locate the person or the person's legal 17824  
representative, then, upon proper notice of that fact, the 17825  
director shall at that time formulate in writing a method of 17826

disposition on the minutes of the department authorizing the 17827  
managing officer to convert such intangible personal property to 17828  
cash to be paid into the state treasury to the credit of the 17829  
general revenue fund. 17830

The department shall include in its annual report a 17831  
statement of all such money and property and the terms and 17832  
conditions relating to them. 17833

**Sec. 5123.34.** This chapter attempts to do all of the 17834  
following: 17835

(A) Provide humane and scientific treatment and care and 17836  
the highest attainable degree of individual development for 17837  
persons with ~~mental retardation or a developmental~~ 17838  
~~disability~~disabilities; 17839

(B) Promote the study of the causes of ~~mental retardation~~ 17840  
~~and developmental disabilities~~, with a view to ultimate 17841  
prevention; 17842

(C) Secure by uniform and systematic management the 17843  
highest attainable degree of economy in the administration of 17844  
the institutions under the control of the department of 17845  
developmental disabilities. 17846

Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 17847  
5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code 17848  
shall be liberally construed to attain these purposes. 17849

**Sec. 5123.35.** (A) There is hereby created the Ohio 17850  
developmental disabilities council, which shall serve as an 17851  
advocate for all persons with developmental disabilities. The 17852  
council shall act in accordance with the "Developmental 17853  
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 17854  
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint 17855

the members of the council in accordance with 42 U.S.C. 6024. 17856

(B) The ~~Ohio developmental disabilities~~ council shall 17857  
develop the state plan required by federal law as a condition of 17858  
receiving federal assistance under 42 U.S.C. 6021 to 6030. The 17859  
department of developmental disabilities, as the state agency 17860  
selected by the governor for purposes of receiving the federal 17861  
assistance, shall receive, account for, and disburse funds based 17862  
on the state plan and shall provide assurances and other 17863  
administrative support services required as a condition of 17864  
receiving the federal assistance. 17865

(C) The federal funds may be disbursed through grants to 17866  
or contracts with persons and government agencies for the 17867  
provision of necessary or useful goods and services for 17868  
~~developmentally disabled persons with developmental~~ 17869  
disabilities. The ~~Ohio developmental disabilities~~ council may 17870  
award the grants or enter into the contracts. 17871

(D) The ~~Ohio developmental disabilities~~ council may award 17872  
grants to or enter into contracts with a member of the council 17873  
or an entity that the member represents if all of the following 17874  
apply: 17875

(1) The member serves on the council as a representative 17876  
of one of the principal state agencies concerned with services 17877  
for persons with developmental disabilities as specified in 42 17878  
U.S.C. 6024(b) (3), a representative of a university affiliated 17879  
program as defined in 42 U.S.C. 6001(18), or a representative of 17880  
the ~~legal rights service created under Ohio protection and~~ 17881  
advocacy system, as defined in section 5123.60 of the Revised 17882  
Code. 17883

(2) The council determines that the member or the entity 17884

the member represents is capable of providing the goods or 17885  
services specified under the terms of the grant or contract. 17886

(3) The member has not taken part in any discussion or 17887  
vote of the council related to awarding the grant or entering 17888  
into the contract, including service as a member of a review 17889  
panel established by the council to award grants or enter into 17890  
contracts or to make recommendations with regard to awarding 17891  
grants or entering into contracts. 17892

(E) A member of the ~~Ohio developmental disabilities~~ 17893  
council is not in violation of Chapter 102. or section 2921.42 17894  
of the Revised Code with regard to receiving a grant or entering 17895  
into a contract under this section if the requirements of 17896  
division (D) of this section have been met. 17897

(F)(1) Notwithstanding division (C) of section 121.22 of 17898  
the Revised Code, the requirement for a member's presence in 17899  
person at a meeting in order to be part of a quorum or to vote 17900  
does not apply if the council holds a meeting by interactive 17901  
video conference and all of the following apply: 17902

(a) A primary meeting location that is open and accessible 17903  
to the public is established for the meeting of the council; 17904

(b) A clear video and audio connection is established that 17905  
enables all meeting participants at the primary meeting location 17906  
to witness the participation of each member; 17907

(c) A roll call vote is recorded for each vote taken; 17908

(d) The minutes of the council identify which members 17909  
participated by interactive video conference. 17910

(2) Notwithstanding division (C) of section 121.22 of the 17911  
Revised Code, the requirement for a member's presence in person 17912

at a meeting in order to be part of a quorum or to vote does not 17913  
apply if the council holds a meeting by teleconference and all 17914  
of the following apply: 17915

(a) The council has determined its membership does not 17916  
have access to and the council cannot provide access to the 17917  
equipment needed to conduct interactive video conferencing; 17918

(b) A primary meeting location that is open and accessible 17919  
to the public is established for the meeting of the council; 17920

(c) A clear audio connection is established that enables 17921  
all meeting participants at the primary meeting location to hear 17922  
the participation of each member; 17923

(d) A roll call vote is recorded for each vote taken; 17924

(e) The minutes of the council identify which members 17925  
participated by teleconference. 17926

(3) The ~~Ohio developmental disabilities~~ council shall 17927  
adopt any rules the council considers necessary to implement 17928  
this section. The rules shall be adopted in accordance with 17929  
Chapter 119. of the Revised Code. At a minimum, the rules shall 17930  
do all of the following: 17931

(a) Authorize council members to remotely attend a council 17932  
meeting by interactive video conference or teleconference in 17933  
lieu of attending the meeting in person; 17934

(b) Establish a minimum number of members required to be 17935  
physically present in person at the primary meeting location if 17936  
the council conducts a meeting by interactive video conference 17937  
or teleconference; 17938

(c) Establish geographic restrictions for participation in 17939  
meetings by interactive video conference or teleconference; 17940

(d) Establish a policy for distributing and circulating 17941  
necessary documents to council members, the public, and the 17942  
media in advance of a meeting at which members are permitted to 17943  
attend by interactive video conference or teleconference; 17944

(e) Establish a method for verifying the identity of a 17945  
member who remotely attends a meeting by teleconference. 17946

**Sec. 5123.351.** The director of developmental disabilities, 17947  
with respect to the eligibility for state reimbursement of 17948  
expenses incurred by facilities and programs established and 17949  
operated under Chapter 5126. of the Revised Code for persons 17950  
with ~~mental retardation or a developmental~~ 17951  
~~disability~~disabilities, shall do all of the following: 17952

(A) Make rules that may be necessary to carry out the 17953  
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 17954  
5123.36 of the Revised Code; 17955

(B) Define minimum standards for qualifications of 17956  
personnel, professional services, and in-service training and 17957  
educational leave programs; 17958

(C) Review and evaluate community programs and make 17959  
recommendations for needed improvements to county boards of 17960  
developmental disabilities and to program directors; 17961

(D) Withhold state reimbursement, in whole or in part, 17962  
from any county or combination of counties for failure to comply 17963  
with Chapter 5126. or section 5123.35 or 5123.351 of the Revised 17964  
Code or rules of the department of developmental disabilities; 17965

(E) Withhold state funds from an agency, corporation, or 17966  
association denying or rendering service on the basis of race, 17967  
color, sex, religion, ancestry, national origin, disability as 17968  
defined in section 4112.01 of the Revised Code, or inability to 17969

pay; 17970

(F) Provide consultative staff service to communities to 17971  
assist in ascertaining needs and in planning and establishing 17972  
programs. 17973

**Sec. 5123.36.** (A) To the extent funds are available and on 17974  
application by a county board of developmental disabilities or 17975  
private nonprofit agency incorporated to provide ~~mental-~~ 17976  
~~retardation or~~ developmental disability services, the director 17977  
of developmental disabilities may enter into an agreement with 17978  
the county board or agency to assist the county board or agency 17979  
with a ~~mental retardation or~~ developmental disability 17980  
construction project. Except as provided by division (B) of this 17981  
section, the director may provide up to ninety per cent of the 17982  
total project cost where circumstances warrant. The director 17983  
may, where circumstances warrant, use existing facilities or 17984  
other in-kind match for the local share of the communities' 17985  
share of the cost. 17986

(B) Upon the recommendation of the director, for projects 17987  
of the highest priority of the department of developmental 17988  
disabilities, the controlling board may authorize the director 17989  
to provide more than ninety per cent of the total cost of a 17990  
project under this section. 17991

(C) A county board is eligible for funds under this 17992  
section for a project bid on or after January 1, 1992, under 17993  
either section 153.07 or 307.86 of the Revised Code, as long as 17994  
all other applicable requirements were followed. 17995

(D) A private nonprofit agency that receives funds 17996  
pursuant to this section for the construction of a single-family 17997  
home, including, where appropriate, the acquisition and 17998

installation of a single-family home fabricated in an off-site facility, is not subject to the requirements of Chapter 153. of the Revised Code with respect to the construction project, notwithstanding any provision of that chapter to the contrary.

(E) The director may not assist a project under this section unless the controlling board or director of budget and management also approves the project pursuant to section 126.14 of the Revised Code.

**Sec. 5123.37.** A county board of developmental disabilities or private, nonprofit agency that receives state funds pursuant to an agreement with the director of developmental disabilities under section 5123.36 of the Revised Code to acquire a facility may apply to the director for approval to sell the facility before the terms of the agreement expire for the purpose of acquiring a replacement facility to be used to provide ~~mental-retardation or~~ developmental disability services to individuals the county board or agency serves. The application shall be made on a form the director shall prescribe. The county board or agency shall include in the application the specific purpose for which the replacement facility is to be used. The director may refuse to approve the application if the director determines that any of the following apply:

(A) The application is incomplete or indicates that the county board or agency is unable to purchase a replacement facility.

(B) The replacement facility would not be used to continue to provide ~~mental-retardation or~~ developmental disability services that the director determines are appropriate for the individuals the county board or agency serves.

(C) The county board or agency has failed to comply with a provision of Chapter 5123. or 5126. of the Revised Code or a rule adopted by the director.

(D) Approving the application would be inconsistent with the plans and priorities of the department of developmental disabilities.

**Sec. 5123.374.** (A) The director of developmental disabilities may rescind approval of an application submitted under section 5123.37 of the Revised Code if either of the following occurs:

(1) The county board of developmental disabilities or private, nonprofit agency that submitted the application fails, on or before the deadline or, if any, the last extended deadline established under section 5123.372 of the Revised Code for the county board or agency, to notify the director that the county board or agency is ready to acquire the replacement facility.

(2) The county board or agency at any time notifies the director that the county board or agency no longer intends to acquire a replacement facility.

(B) If the director rescinds approval of an application, the director shall use any funds the county board or agency paid to the director under section 5123.371 of the Revised Code to assist ~~mental retardation or~~ developmental disabilities construction projects under section 5123.36 of the Revised Code.

**Sec. 5123.375.** The developmental disabilities community capital replacement facilities fund is hereby created in the state treasury. The director of developmental disabilities shall credit all amounts paid to the director under section 5123.371 of the Revised Code to the fund. The director shall use the

money in the fund as follows: 18057

(A) To make payments to county boards of developmental 18058  
disabilities and private, nonprofit agencies pursuant to 18059  
agreements entered into under section 5123.373 of the Revised 18060  
Code; 18061

(B) To provide, pursuant to section 5123.374 of the 18062  
Revised Code, assistance for ~~mental retardation or~~ developmental 18063  
disabilities construction projects under section 5123.36 of the 18064  
Revised Code. 18065

**Sec. 5123.40.** There is hereby created in the state 18066  
treasury the services fund for individuals with ~~mental-~~ 18067  
~~retardation and~~ developmental disabilities. On the death of the 18068  
beneficiary of a trust created pursuant to section 5815.28 of 18069  
the Revised Code, the portion of the remaining assets of the 18070  
trust specified in the trust instrument shall be deposited to 18071  
the credit of the fund. 18072

Money credited to the fund shall be used for individuals 18073  
with ~~mental retardation and~~ developmental disabilities. In 18074  
accordance with Chapter 119. of the Revised Code, the department 18075  
of developmental disabilities may adopt any rules necessary to 18076  
implement this section. 18077

**Sec. 5123.41.** As used in this section and sections 5123.42 18078  
to 5123.47 of the Revised Code: 18079

(A) "Adult services" has the same meaning as in section 18080  
5126.01 of the Revised Code. 18081

(B) "Certified supported living provider" means a person 18082  
or government entity certified under section 5123.161 of the 18083  
Revised Code. 18084

- (C) "Drug" has the same meaning as in section 4729.01 of the Revised Code. 18085  
18086
- (D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code. 18087  
18088
- (E) "Health-related activities" means the following: 18089
- (1) Taking vital signs; 18090
  - (2) Application of clean dressings that do not require health assessment; 18091  
18092
  - (3) Basic measurement of bodily intake and output; 18093
  - (4) Oral suctioning; 18094
  - (5) Use of glucometers; 18095
  - (6) External urinary catheter care; 18096
  - (7) Emptying and replacing colostomy bags; 18097
  - (8) Collection of specimens by noninvasive means. 18098
- (F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code. 18099  
18100  
18101
- (G) "~~MR/DD~~ Developmental disabilities personnel" means the employees and the workers under contract who provide specialized services to individuals with ~~mental retardation and~~ developmental disabilities. "~~MR/DD~~ Developmental disabilities personnel" includes those who provide the services as follows: 18102  
18103  
18104  
18105  
18106
- (1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities; 18107  
18108  
18109
  - (2) Through an entity under contract with the department 18110

of developmental disabilities or a county board of developmental 18111  
disabilities; 18112

(3) Through direct employment or by being under contract 18113  
with private entities, including private entities that operate 18114  
residential facilities. 18115

(H) "Nursing delegation" means the process established in 18116  
rules adopted by the board of nursing pursuant to Chapter 4723. 18117  
of the Revised Code under which a registered nurse or licensed 18118  
practical nurse acting at the direction of a registered nurse 18119  
transfers the performance of a particular nursing activity or 18120  
task to another person who is not otherwise authorized to 18121  
perform the activity or task. 18122

(I) "Prescribed medication" means a drug that is to be 18123  
administered according to the instructions of a licensed health 18124  
professional authorized to prescribe drugs. 18125

(J) "Residential facility" means a facility licensed under 18126  
section 5123.19 of the Revised Code. 18127

(K) "Specialized services" has the same meaning as in 18128  
section 5123.50 of the Revised Code. 18129

(L) "Tube feeding" means the provision of nutrition to an 18130  
individual through a gastrostomy tube or a jejunostomy tube. 18131

**Sec. 5123.42.** (A) ~~Beginning nine months after March 31,~~ 18132  
~~2003, MR/DD~~ Developmental disabilities personnel who are not 18133  
specifically authorized by other provisions of the Revised Code 18134  
to administer prescribed medications, perform health-related 18135  
activities, or perform tube feedings may do so pursuant to this 18136  
section as part of the specialized services the ~~MR/DD~~ 18137  
developmental disabilities personnel provide to individuals with 18138  
~~mental retardation and~~ developmental disabilities in the 18139

following categories:	18140
(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18141 18142 18143
(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18144 18145
(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18146 18147 18148
(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18149 18150 18151
(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with <del>mental retardation</del> and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18152 18153 18154 18155 18156 18157 18158
(6) Recipients of services not included in divisions (A) (1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	18159 18160 18161
(7) Residents of a residential facility with five or fewer resident beds;	18162 18163
(8) Residents of a residential facility with at least six but not more than sixteen resident beds;	18164 18165
(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if	18166 18167

all of the following are the case: 18168

(a) The field trip is sponsored by the facility for 18169  
purposes of complying with federal medicaid statutes and 18170  
regulations, state medicaid statutes and rules, or other federal 18171  
or state statutes, regulations, or rules that require the 18172  
facility to provide habilitation, community integration, or 18173  
normalization services to its residents. 18174

(b) Not more than ten field trip participants are 18175  
residents who have health needs requiring the administration of 18176  
prescribed medications, excluding participants who self- 18177  
administer prescribed medications or receive assistance with 18178  
self-administration of prescribed medications. 18179

(c) The facility staffs the field trip with ~~MR/DD-~~ 18180  
developmental disabilities personnel in such a manner that one 18181  
person will administer prescribed medications, perform health- 18182  
related activities, or perform tube feedings for not more than 18183  
four participants if one or more of those participants have 18184  
health needs requiring the person to administer prescribed 18185  
medications through a gastrostomy or jejunostomy tube. 18186

(d) According to the instructions of a health care 18187  
professional acting within the scope of the professional's 18188  
practice, the health needs of the participants who require 18189  
administration of prescribed medications by ~~MR/DD-~~developmental 18190  
disabilities personnel are such that the participants must 18191  
receive the medications during the field trip to avoid 18192  
jeopardizing their health and safety. 18193

(B) (1) In the case of recipients of early intervention, 18194  
preschool, and school-age services, as specified in division (A) 18195  
(1) of this section, all of the following apply: 18196

(a) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18197
<u>disabilities</u> personnel may perform health-related activities.	18198
(b) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18199
<u>disabilities</u> personnel may administer oral and topical	18200
prescribed medications.	18201
(c) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18202
<u>disabilities</u> personnel may administer prescribed medications	18203
through gastrostomy and jejunostomy tubes, if the tubes being	18204
used are stable and labeled.	18205
(d) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18206
<u>disabilities</u> personnel may perform routine tube feedings, if the	18207
gastrostomy and jejunostomy tubes being used are stable and	18208
labeled.	18209
(2) In the case of recipients of adult services, as	18210
specified in division (A) (2) of this section, all of the	18211
following apply:	18212
(a) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18213
<u>disabilities</u> personnel may perform health-related activities.	18214
(b) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18215
<u>disabilities</u> personnel may administer oral and topical	18216
prescribed medications.	18217
(c) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18218
<u>disabilities</u> personnel may administer prescribed medications	18219
through gastrostomy and jejunostomy tubes, if the tubes being	18220
used are stable and labeled.	18221
(d) With nursing delegation, <del>MR/DD</del> - <u>developmental</u>	18222
<u>disabilities</u> personnel may perform routine tube feedings, if the	18223
gastrostomy and jejunostomy tubes being used are stable and	18224

labeled. 18225

(3) In the case of recipients of family support services, 18226  
as specified in division (A)(3) of this section, all of the 18227  
following apply: 18228

(a) Without nursing delegation, ~~MR/DD-developmental~~ 18229  
disabilities personnel may perform health-related activities. 18230

(b) Without nursing delegation, ~~MR/DD-developmental~~ 18231  
disabilities personnel may administer oral and topical 18232  
prescribed medications. 18233

(c) With nursing delegation, ~~MR/DD-developmental~~ 18234  
disabilities personnel may administer prescribed medications 18235  
through gastrostomy and jejunostomy tubes, if the tubes being 18236  
used are stable and labeled. 18237

(d) With nursing delegation, ~~MR/DD-developmental~~ 18238  
disabilities personnel may perform routine tube feedings, if the 18239  
gastrostomy and jejunostomy tubes being used are stable and 18240  
labeled. 18241

(e) With nursing delegation, ~~MR/DD-developmental~~ 18242  
disabilities personnel may administer routine doses of insulin 18243  
through subcutaneous injections and insulin pumps. 18244

(4) In the case of recipients of services from certified 18245  
supported living providers, as specified in division (A)(4) of 18246  
this section, all of the following apply: 18247

(a) Without nursing delegation, ~~MR/DD-developmental~~ 18248  
disabilities personnel may perform health-related activities. 18249

(b) Without nursing delegation, ~~MR/DD-developmental~~ 18250  
disabilities personnel may administer oral and topical 18251  
prescribed medications. 18252

(c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:

(a) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities.

(b) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

- (e) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps. 18281  
18282  
18283
- (6) In the case of recipients of services not included in divisions (A) (1) to (5) of this section, as specified in division (A) (6) of this section, all of the following apply: 18284  
18285  
18286
- (a) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities. 18287  
18288
- (b) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer oral and topical prescribed medications. 18289  
18290  
18291
- (c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 18292  
18293  
18294  
18295
- (d) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 18296  
18297  
18298  
18299
- (7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A) (7) of this section, all of the following apply: 18300  
18301  
18302
- (a) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities. 18303  
18304
- (b) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer oral and topical prescribed medications. 18305  
18306  
18307
- (c) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities. 18308

disabilities personnel may administer prescribed medications 18309  
through gastrostomy and jejunostomy tubes, if the tubes being 18310  
used are stable and labeled. 18311

(d) With nursing delegation, ~~MR/DD-developmental~~ 18312  
disabilities personnel may perform routine tube feedings, if the 18313  
gastrostomy and jejunostomy tubes being used are stable and 18314  
labeled. 18315

(e) With nursing delegation, ~~MR/DD-developmental~~ 18316  
disabilities personnel may administer routine doses of insulin 18317  
through subcutaneous injections and insulin pumps. 18318

(8) In the case of residents of a residential facility 18319  
with at least six but not more than sixteen resident beds, as 18320  
specified in division (A) (8) of this section, all of the 18321  
following apply: 18322

(a) With nursing delegation, ~~MR/DD-developmental~~ 18323  
disabilities personnel may perform health-related activities. 18324

(b) With nursing delegation, ~~MR/DD-developmental~~ 18325  
disabilities personnel may administer oral and topical 18326  
prescribed medications. 18327

(c) With nursing delegation, ~~MR/DD-developmental~~ 18328  
disabilities personnel may administer prescribed medications 18329  
through gastrostomy and jejunostomy tubes, if the tubes being 18330  
used are stable and labeled. 18331

(d) With nursing delegation, ~~MR/DD-developmental~~ 18332  
disabilities personnel may perform routine tube feedings, if the 18333  
gastrostomy and jejunostomy tubes being used are stable and 18334  
labeled. 18335

(9) In the case of residents of a residential facility 18336

with seventeen or more resident beds who are on a field trip 18337  
from the facility, all of the following apply during the field 18338  
trip, subject to the limitations specified in division (A) (9) of 18339  
this section: 18340

(a) With nursing delegation, ~~MR/DD-developmental~~ 18341  
disabilities personnel may perform health-related activities. 18342

(b) With nursing delegation, ~~MR/DD-developmental~~ 18343  
disabilities personnel may administer oral and topical 18344  
prescribed medications. 18345

(c) With nursing delegation, ~~MR/DD-developmental~~ 18346  
disabilities personnel may administer prescribed medications 18347  
through gastrostomy and jejunostomy tubes, if the tubes being 18348  
used are stable and labeled. 18349

(d) With nursing delegation, ~~MR/DD-developmental~~ 18350  
disabilities personnel may perform routine tube feedings, if the 18351  
gastrostomy and jejunostomy tubes being used are stable and 18352  
labeled. 18353

(C) The authority of ~~MR/DD-developmental disabilities~~ 18354  
personnel to administer prescribed medications, perform health- 18355  
related activities, and perform tube feedings pursuant to this 18356  
section is subject to all of the following: 18357

(1) To administer prescribed medications, perform health- 18358  
related activities, or perform tube feedings for individuals in 18359  
the categories specified under divisions (A) (1) to (8) of this 18360  
section, ~~MR/DD-developmental disabilities~~ personnel shall obtain 18361  
the certificate or certificates required by the department of 18362  
developmental disabilities and issued under section 5123.45 of 18363  
the Revised Code. ~~MR/DD-Developmental disabilities~~ personnel 18364  
shall administer prescribed medication, perform health-related 18365

activities, and perform tube feedings only as authorized by the 18366  
certificate or certificates held. 18367

(2) To administer prescribed medications, perform health- 18368  
related activities, or perform tube feedings for individuals in 18369  
the category specified under division (A) (9) of this section, 18370  
~~MR/DD-developmental disabilities~~ personnel shall successfully 18371  
complete the training course or courses developed under section 18372  
5123.43 of the Revised Code for the ~~MR/DD-developmental~~ 18373  
~~disabilities~~ personnel. ~~MR/DD-Developmental disabilities~~ 18374  
personnel shall administer prescribed medication, perform 18375  
health-related activities, and perform tube feedings only as 18376  
authorized by the training completed. 18377

(3) If nursing delegation is required under division (B) 18378  
of this section, ~~MR/DD-developmental disabilities~~ personnel 18379  
shall not act without nursing delegation or in a manner that is 18380  
inconsistent with the delegation. 18381

(4) The employer of ~~MR/DD-developmental disabilities~~ 18382  
personnel shall ensure that ~~MR/DD-developmental disabilities~~ 18383  
personnel have been trained specifically with respect to each 18384  
individual for whom they administer prescribed medications, 18385  
perform health-related activities, or perform tube feedings. 18386  
~~MR/DD-Developmental disabilities~~ personnel shall not administer 18387  
prescribed medications, perform health-related activities, or 18388  
perform tube feedings for any individual for whom they have not 18389  
been specifically trained. 18390

(5) If the employer of ~~MR/DD-developmental disabilities~~ 18391  
personnel believes that ~~MR/DD-developmental disabilities~~ 18392  
personnel have not or will not safely administer prescribed 18393  
medications, perform health-related activities, or perform tube 18394  
feedings, the employer shall prohibit the action from continuing 18395

or commencing. ~~MR/DD-Developmental disabilities~~ personnel shall 18396  
not engage in the action or actions subject to an employer's 18397  
prohibition. 18398

(D) In accordance with section 5123.46 of the Revised 18399  
Code, the department of developmental disabilities shall adopt 18400  
rules governing its implementation of this section. The rules 18401  
shall include the following: 18402

(1) Requirements for documentation of the administration 18403  
of prescribed medications, performance of health-related 18404  
activities, and performance of tube feedings by ~~MR/DD-~~ 18405  
developmental disabilities personnel pursuant to the authority 18406  
granted under this section; 18407

(2) Procedures for reporting errors that occur in the 18408  
administration of prescribed medications, performance of health- 18409  
related activities, and performance of tube feedings by ~~MR/DD-~~ 18410  
developmental disabilities personnel pursuant to the authority 18411  
granted under this section; 18412

(3) Other standards and procedures the department 18413  
considers necessary for implementation of this section. 18414

**Sec. 5123.421.** The department of developmental 18415  
disabilities shall accept complaints from any person or 18416  
government entity regarding the administration of prescribed 18417  
medications, performance of health-related activities, and 18418  
performance of tube feedings by ~~MR/DD-~~developmental disabilities 18419  
personnel pursuant to the authority granted under section 18420  
5123.42 of the Revised Code. The department shall conduct 18421  
investigations of complaints as it considers appropriate. The 18422  
department shall adopt rules in accordance with section 5123.46 18423  
of the Revised Code establishing procedures for accepting 18424

complaints and conducting investigations under this section. 18425

**Sec. 5123.422.** ~~MR/DD~~ Developmental disabilities personnel 18426  
who administer prescribed medications, perform health-related 18427  
activities, or perform tube feedings pursuant to the authority 18428  
granted under section 5123.42 of the Revised Code are not liable 18429  
for any injury caused by administering the medications, 18430  
performing the health-related activities, or performing the tube 18431  
feedings, if both of the following apply: 18432

(A) The ~~MR/DD~~ developmental disabilities personnel acted 18433  
in accordance with the methods taught in training completed in 18434  
compliance with section 5123.42 of the Revised Code; 18435

(B) The ~~MR/DD~~ developmental disabilities personnel did not 18436  
act in a manner that constitutes wanton or reckless misconduct. 18437

**Sec. 5123.43.** (A) The department of developmental 18438  
disabilities shall develop courses for the training of ~~MR/DD~~ 18439  
developmental disabilities personnel in the administration of 18440  
prescribed medications, performance of health-related 18441  
activities, and performance of tube feedings pursuant to the 18442  
authority granted under section 5123.42 of the Revised Code. The 18443  
department may develop separate or combined training courses for 18444  
the administration of prescribed medications, performance of 18445  
health-related activities, and performance of tube feedings. 18446  
Training in the administration of prescribed medications through 18447  
gastrostomy and jejunostomy tubes may be included in a course 18448  
providing training in tube feedings. Training in the 18449  
administration of insulin may be developed as a separate course 18450  
or included in a course providing training in the administration 18451  
of other prescribed medications. 18452

(B) (1) The department shall adopt rules in accordance with 18453

section 5123.46 of the Revised Code that specify the content and 18454  
length of the training courses developed under this section. The 18455  
rules may include any other standards the department considers 18456  
necessary for the training courses. 18457

(2) In adopting rules that specify the content of a 18458  
training course or part of a training course that trains ~~MR/DD-~~ 18459  
developmental disabilities personnel in the administration of 18460  
prescribed medications, the department shall ensure that the 18461  
content includes all of the following: 18462

(a) Infection control and universal precautions; 18463

(b) Correct and safe practices, procedures, and techniques 18464  
for administering prescribed medication; 18465

(c) Assessment of drug reaction, including known side 18466  
effects, interactions, and the proper course of action if a side 18467  
effect occurs; 18468

(d) The requirements for documentation of medications 18469  
administered to each individual; 18470

(e) The requirements for documentation and notification of 18471  
medication errors; 18472

(f) Information regarding the proper storage and care of 18473  
medications; 18474

(g) Information about proper receipt of prescriptions and 18475  
transcription of prescriptions into an individual's medication 18476  
administration record, except when the ~~MR/DD-~~ 18477  
developmental 18478  
disabilities personnel being trained will administer prescribed 18479  
medications only to residents of a residential facility with 18480  
seventeen or more resident beds who are participating in a field 18481  
trip, as specified in division (A) (9) of section 5123.42 of the

Revised Code; 18482

(h) Course completion standards that require successful 18483  
demonstration of proficiency in administering prescribed 18484  
medications; 18485

(i) Any other material or course completion standards that 18486  
the department considers relevant to the administration of 18487  
prescribed medications by ~~MR/DD~~ developmental disabilities 18488  
personnel. 18489

**Sec. 5123.44.** The department of developmental disabilities 18490  
shall develop courses that train registered nurses to provide 18491  
the ~~MR/DD~~ developmental disabilities personnel training courses 18492  
developed under section 5123.43 of the Revised Code. The 18493  
department may develop courses that train registered nurses to 18494  
provide all of the courses developed under section 5123.43 of 18495  
the Revised Code or any one or more of the courses developed 18496  
under that section. 18497

The department shall adopt rules in accordance with 18498  
section 5123.46 of the Revised Code that specify the content and 18499  
length of the training courses. The rules may include any other 18500  
standards the department considers necessary for the training 18501  
courses. 18502

**Sec. 5123.441.** (A) Each ~~MR/DD~~ developmental disabilities 18503  
personnel training course developed under section 5123.43 of the 18504  
Revised Code shall be provided by a registered nurse. 18505

(B) (1) Except as provided in division (B) (2) of this 18506  
section, to provide a training course or courses to ~~MR/DD~~ 18507  
developmental disabilities personnel, a registered nurse shall 18508  
obtain the certificate or certificates required by the 18509  
department and issued under section 5123.45 of the Revised Code. 18510

The registered nurse shall provide only the training course or 18511  
courses authorized by the certificate or certificates the 18512  
registered nurse holds. 18513

(2) A registered nurse is not required to obtain a 18514  
certificate to provide a training course to ~~MR/DD~~developmental 18515  
disabilities personnel if the only ~~MR/DD~~ personnel to whom the 18516  
course or courses are provided are those who administer 18517  
prescribed medications, perform health-related activities, or 18518  
perform tube feedings for residents of a residential facility 18519  
with seventeen or more resident beds who are on a field trip 18520  
from the facility, as specified in division (A)(9) of section 18521  
5123.42 of the Revised Code. To provide the training course or 18522  
courses, the registered nurse shall successfully complete the 18523  
training required by the department through the courses it 18524  
develops under section 5123.44 of the Revised Code. The 18525  
registered nurse shall provide only the training courses 18526  
authorized by the training the registered nurse completes. 18527

**Sec. 5123.45.** (A) The department of developmental 18528  
disabilities shall establish a program under which the 18529  
department issues certificates to the following: 18530

(1) ~~MR/DD~~Developmental disabilities personnel, for 18531  
purposes of meeting the requirement of division (C)(1) of 18532  
section 5123.42 of the Revised Code to obtain a certificate or 18533  
certificates to administer prescribed medications, perform 18534  
health-related activities, and perform tube feedings; 18535

(2) Registered nurses, for purposes of meeting the 18536  
requirement of division (B)(1) of section 5123.441 of the 18537  
Revised Code to obtain a certificate or certificates to provide 18538  
the ~~MR/DD~~developmental disabilities personnel training courses 18539  
developed under section 5123.43 of the Revised Code. 18540

(B) (1) Except as provided in division (B) (2) of this section, to receive a certificate issued under this section, ~~MR/DD~~ developmental disabilities personnel and registered nurses shall successfully complete the applicable training course or courses and meet all other applicable requirements established in rules adopted pursuant to this section. The department shall issue the appropriate certificate or certificates to ~~MR/DD~~ developmental disabilities personnel and registered nurses who meet the requirements for the certificate or certificates.

(2) The department shall include provisions in the program for issuing certificates to ~~MR/DD~~ personnel and registered nurses who were required to be included in the certificate program pursuant to division (B) (2) of this section as that division existed immediately before ~~the effective date of this amendment September 29, 2011.~~ ~~MR/DD~~ personnel Personnel who receive a certificate under division (B) (2) of this section shall not administer insulin until they have been trained by a registered nurse who has received a certificate under this section that allows the registered nurse to provide training courses to ~~MR/DD~~ personnel in the administration of insulin. A registered nurse who receives a certificate under division (B) (2) of this section shall not provide training courses to ~~MR/DD~~ personnel in the administration of insulin unless the registered nurse completes a course developed under section 5123.44 of the Revised Code that enables the registered nurse to receive a certificate to provide training courses to ~~MR/DD~~ personnel in the administration of insulin.

(C) Certificates issued to ~~MR/DD~~ developmental disabilities personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed.

To be eligible for renewal, ~~MR/DD-developmental~~ disabilities personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section 5123.46 of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that ~~MR/DD-developmental disabilities~~ personnel and registered nurses must meet to be eligible to take a training course;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Procedures to be followed in applying for a certificate and issuing a certificate;

(4) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of ~~MR/DD-developmental disabilities~~ personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications;

(5) Standards and procedures for suspending or revoking a certificate;

(6) Standards and procedures for suspending a certificate 18601  
without a hearing pending the outcome of an investigation; 18602

(7) Any other standards or procedures the department 18603  
considers necessary to administer the certification program. 18604

**Sec. 5123.451.** The department of developmental 18605  
disabilities shall establish and maintain a registry that lists 18606  
all ~~MR/DD~~ developmental disabilities personnel and registered 18607  
nurses holding valid certificates issued under section 5123.45 18608  
of the Revised Code. The registry shall specify the type of 18609  
certificate held and any limitations that apply to a certificate 18610  
holder. The department shall make the information in the 18611  
registry available to the public in computerized form or any 18612  
other manner that provides continuous access to the information 18613  
in the registry. 18614

**Sec. 5123.47.** (A) As used in this section: 18615

(1) "In-home care" means the supportive services provided 18616  
within the home of an individual with ~~mental retardation or a~~ 18617  
developmental disability who receives funding for the services 18618  
through a county board of developmental disabilities, including 18619  
any recipient of residential services funded as home and 18620  
community-based services, family support services provided under 18621  
section 5126.11 of the Revised Code, or supported living 18622  
provided in accordance with sections 5126.41 to 5126.47 of the 18623  
Revised Code. "In-home care" includes care that is provided 18624  
outside an individual's home in places incidental to the home, 18625  
and while traveling to places incidental to the home, except 18626  
that "in-home care" does not include care provided in the 18627  
facilities of a county board of developmental disabilities or 18628  
care provided in schools. 18629

- (2) "Parent" means either parent of a child, including an adoptive parent but not a foster parent. 18630  
18631
- (3) "Unlicensed in-home care worker" means an individual who provides in-home care but is not a health care professional. 18632  
18633
- (4) "Family member" means a parent, sibling, spouse, son, daughter, grandparent, aunt, uncle, cousin, or guardian of the individual with ~~mental retardation or a~~ developmental disability 18634  
18635  
if the individual with ~~mental retardation or a~~ developmental 18636  
~~disabilities~~ disability lives with the person and is dependent 18637  
18638  
on the person to the extent that, if the supports were 18639  
18640  
withdrawn, another living arrangement would have to be found.
- (5) "Health care professional" means any of the following: 18641
- (a) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code; 18642  
18643
- (b) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code; 18644  
18645
- (c) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code; 18646  
18647
- (d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code; 18648  
18649
- (e) A person who holds a valid certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited brand of medicine; 18650  
18651  
18652  
18653
- (f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code; 18654  
18655
- (g) An occupational therapist or occupational therapy 18656

assistant or a physical therapist or physical therapist 18657  
assistant who holds a valid license issued under Chapter 4755. 18658  
of the Revised Code; 18659

(h) A respiratory care professional who holds a valid 18660  
license issued under Chapter 4761. of the Revised Code. 18661

(6) "Health care task" means a task that is prescribed, 18662  
ordered, delegated, or otherwise directed by a health care 18663  
professional acting within the scope of the professional's 18664  
practice. 18665

(B) Except as provided in division (E) of this section, a 18666  
family member of an individual with ~~mental retardation or a~~ 18667  
developmental disability may authorize an unlicensed in-home 18668  
care worker to administer oral and topical prescribed 18669  
medications or perform other health care tasks as part of the 18670  
in-home care the worker provides to the individual, if all of 18671  
the following apply: 18672

(1) The family member is the primary supervisor of the 18673  
care. 18674

(2) The unlicensed in-home care worker has been selected 18675  
by the family member or the individual receiving care and is 18676  
under the direct supervision of the family member. 18677

(3) The unlicensed in-home care worker is providing the 18678  
care through an employment or other arrangement entered into 18679  
directly with the family member and is not otherwise employed by 18680  
or under contract with a person or government entity to provide 18681  
services to individuals with ~~mental retardation and~~ 18682  
developmental disabilities. 18683

(C) A family member shall obtain a prescription, if 18684  
applicable, and written instructions from a health care 18685

professional for the care to be provided to the individual. The 18686  
family member shall authorize the unlicensed in-home care worker 18687  
to provide the care by preparing a written document granting the 18688  
authority. The family member shall provide the unlicensed in- 18689  
home care worker with appropriate training and written 18690  
instructions in accordance with the instructions obtained from 18691  
the health care professional. 18692

(D) A family member who authorizes an unlicensed in-home 18693  
care worker to administer oral and topical prescribed 18694  
medications or perform other health care tasks retains full 18695  
responsibility for the health and safety of the individual 18696  
receiving the care and for ensuring that the worker provides the 18697  
care appropriately and safely. No entity that funds or monitors 18698  
the provision of in-home care may be held liable for the results 18699  
of the care provided under this section by an unlicensed in-home 18700  
care worker, including such entities as the county board of 18701  
developmental disabilities and the department of developmental 18702  
disabilities. 18703

An unlicensed in-home care worker who is authorized under 18704  
this section by a family member to provide care to an individual 18705  
may not be held liable for any injury caused in providing the 18706  
care, unless the worker provides the care in a manner that is 18707  
not in accordance with the training and instructions received or 18708  
the worker acts in a manner that constitutes wanton or reckless 18709  
misconduct. 18710

(E) A county board of developmental disabilities may 18711  
evaluate the authority granted by a family member under this 18712  
section to an unlicensed in-home care worker at any time it 18713  
considers necessary and shall evaluate the authority on receipt 18714  
of a complaint. If the board determines that a family member has 18715

acted in a manner that is inappropriate for the health and 18716  
safety of the individual receiving the care, the authorization 18717  
granted by the family member to an unlicensed in-home care 18718  
worker is void, and the family member may not authorize other 18719  
unlicensed in-home care workers to provide the care. In making 18720  
such a determination, the board shall use appropriately licensed 18721  
health care professionals and shall provide the family member an 18722  
opportunity to file a complaint under section 5126.06 of the 18723  
Revised Code. 18724

**Sec. 5123.50.** As used in sections 5123.50 to 5123.542 of 18725  
the Revised Code: 18726

(A) "Abuse" means all of the following: 18727

(1) The use of physical force that can reasonably be 18728  
expected to result in physical harm or serious physical harm; 18729

(2) Sexual abuse; 18730

(3) Verbal abuse. 18731

(B) "Misappropriation" means depriving, defrauding, or 18732  
otherwise obtaining the real or personal property of an 18733  
individual by any means prohibited by the Revised Code, 18734  
including violations of Chapter 2911. or 2913. of the Revised 18735  
Code. 18736

(C) "~~MR/DD~~ Developmental disabilities employee" means all 18737  
of the following: 18738

(1) An employee of the department of developmental 18739  
disabilities; 18740

(2) An employee of a county board of developmental 18741  
disabilities; 18742

(3) An employee in a position that includes providing 18743  
specialized services to an individual with ~~mental retardation or~~ 18744  
~~another a~~ developmental disability; 18745

(4) An independent provider as defined in section 5123.16 18746  
of the Revised Code. 18747

(D) "Neglect" means, when there is a duty to do so, 18748  
failing to provide an individual with any treatment, care, 18749  
goods, or services that are necessary to maintain the health and 18750  
safety of the individual. 18751

(E) "Offense of violence" has the same meaning as in 18752  
section 2901.01 of the Revised Code. 18753

(F) "Physical harm" and "serious physical harm" have the 18754  
same meanings as in section 2901.01 of the Revised Code. 18755

(G) "Prescribed medication" has the same meaning as in 18756  
section 5123.41 of the Revised Code. 18757

(H) "Sexual abuse" means unlawful sexual conduct or sexual 18758  
contact. 18759

(I) "Specialized services" means any program or service 18760  
designed and operated to serve primarily individuals with ~~mental~~ 18761  
~~retardation or a developmental disability~~ disabilities, 18762  
including a program or service provided by an entity licensed or 18763  
certified by the department of developmental disabilities. A 18764  
program or service available to the general public is not a 18765  
specialized service. 18766

(J) "Verbal abuse" means purposely using words to 18767  
threaten, coerce, intimidate, harass, or humiliate an 18768  
individual. 18769

(K) "Sexual conduct," "sexual contact," and "spouse" have 18770

the same meanings as in section 2907.01 of the Revised Code. 18771

**Sec. 5123.51.** (A) In addition to any other action required 18772  
by sections 5123.61 and 5126.31 of the Revised Code, the 18773  
department of developmental disabilities shall review each 18774  
report the department receives of abuse or neglect of an 18775  
individual with ~~mental retardation or~~ a developmental disability 18776  
or misappropriation of an individual's property that includes an 18777  
allegation that ~~an MR/DD~~ a developmental disabilities employee 18778  
committed or was responsible for the abuse, neglect, or 18779  
misappropriation. The department shall review a report it 18780  
receives from a public children services agency only after the 18781  
agency completes its investigation pursuant to section 2151.421 18782  
of the Revised Code. On receipt of a notice under section 18783  
2930.061 or 5123.541 of the Revised Code, the department shall 18784  
review the notice. 18785

(B) The department shall do both of the following: 18786

(1) Investigate the allegation or adopt the findings of an 18787  
investigation or review of the allegation conducted by another 18788  
person or government entity and determine whether there is a 18789  
reasonable basis for the allegation; 18790

(2) If the department determines that there is a 18791  
reasonable basis for the allegation, conduct an adjudication 18792  
pursuant to Chapter 119. of the Revised Code. 18793

(C) (1) The department shall appoint an independent hearing 18794  
officer to conduct any hearing conducted pursuant to division 18795  
(B) (2) of this section, except that, if the hearing is regarding 18796  
an employee of the department who is represented by a union, the 18797  
department and a representative of the union shall jointly 18798  
select the hearing officer. 18799

(2) (a) Except as provided in division (C) (2) (b) of this section, no hearing shall be conducted under division (B) (2) of this section until any criminal proceeding or collective bargaining arbitration concerning the same allegation has concluded.

(b) The department may conduct a hearing pursuant to division (B) (2) of this section before a criminal proceeding concerning the same allegation is concluded if both of the following are the case:

(i) The department notifies the prosecutor responsible for the criminal proceeding that the department proposes to conduct a hearing.

(ii) The prosecutor consents to the hearing.

(3) In conducting a hearing pursuant to division (B) (2) of this section, the hearing officer shall do all of the following:

(a) Determine whether there is clear and convincing evidence that the ~~MR/DD~~ developmental disabilities employee has done any of the following:

(i) Misappropriated property of one or more individuals with ~~mental retardation or a developmental disability~~ disabilities that has a value, either separately or taken together, of one hundred dollars or more;

(ii) Misappropriated property of an individual with ~~mental retardation or a developmental disability~~ that is designed to be used as a check, draft, negotiable instrument, credit card, charge card, or device for initiating an electronic fund transfer at a point of sale terminal, automated teller machine, or cash dispensing machine;

- (iii) Misappropriated prescribed medication of an individual with ~~mental retardation or~~ a developmental disability; 18828  
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- (iv) Knowingly abused such an individual; 18831
- (v) Recklessly abused or neglected such an individual, with resulting physical harm; 18832  
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- (vi) Negligently abused or neglected such an individual, with resulting serious physical harm; 18834  
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- (vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm; 18836  
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- (viii) Engaged in sexual conduct or had sexual contact with an individual with ~~mental retardation or another a~~ developmental disability who was not the ~~MR/DD~~ developmental disabilities employee's spouse and for whom the ~~MR/DD~~ developmental disabilities employee was employed or under a contract to provide care; 18838  
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- (ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with ~~mental retardation or~~ a developmental disability; 18844  
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- (x) Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with ~~mental retardation or~~ a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code. 18849  
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(b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation; 18856  
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(c) Give weight to any relevant facts presented at the hearing. 18858  
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(D) (1) Unless the director of developmental disabilities determines that there are extenuating circumstances and except as provided in division (E) of this section, if the director, after considering all of the factors listed in division (C) (3) of this section, finds that there is clear and convincing evidence that ~~an MR/DD-a developmental disabilities~~ employee has done one or more of the things described in division (C) (3) (a) of this section the director shall include the name of the employee in the registry established under section 5123.52 of the Revised Code. 18860  
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(2) Extenuating circumstances the director must consider include the use of physical force by ~~an MR/DD-a developmental disabilities~~ employee that was necessary as self-defense. 18870  
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(3) If the director includes ~~an MR/DD-a developmental disabilities~~ employee in the registry established under section 5123.52 of the Revised Code, the director shall notify the employee, the person or government entity that employs or contracts with the employee, the individual with ~~mental-retardation or~~ a developmental disability who was the subject of the report and that individual's legal guardian, if any, the attorney general, and the prosecuting attorney or other law enforcement agency. If the ~~MR/DD-developmental disabilities~~ employee holds a license, certificate, registration, or other authorization to engage in a profession issued pursuant to Title XLVII of the Revised Code, the director shall notify the appropriate agency, board, department, or other entity 18873  
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responsible for regulating the employee's professional practice. 18886

(4) If an individual whose name appears on the registry is 18887  
involved in a court proceeding or arbitration arising from the 18888  
same facts as the allegation resulting in the individual's 18889  
placement on the registry, the disposition of the proceeding or 18890  
arbitration shall be noted in the registry next to the 18891  
individual's name. 18892

(E) In the case of an allegation concerning an employee of 18893  
the department, after the hearing conducted pursuant to division 18894  
(B) (2) of this section, the director of health or that 18895  
director's designee shall review the decision of the hearing 18896  
officer to determine whether the standard described in division 18897  
(C) (3) of this section has been met. If the director or designee 18898  
determines that the standard has been met and that no 18899  
extenuating circumstances exist, the director or designee shall 18900  
notify the director of developmental disabilities that the ~~MR/DD-~~ 18901  
developmental disabilities employee is to be included in the 18902  
registry established under section 5123.52 of the Revised Code. 18903  
If the director of developmental disabilities receives such 18904  
notification, the director shall include the ~~MR/DD-~~developmental 18905  
disabilities employee in the registry and shall provide the 18906  
notification described in division (D) (3) of this section. 18907

(F) If the department is required by Chapter 119. of the 18908  
Revised Code to give notice of an opportunity for a hearing and 18909  
the ~~MR/DD-~~developmental disabilities employee subject to the 18910  
notice does not timely request a hearing in accordance with 18911  
section 119.07 or 5123.0414 of the Revised Code, the department 18912  
is not required to hold a hearing. 18913

(G) Files and records of investigations conducted pursuant 18914  
to this section are not public records as defined in section 18915

149.43 of the Revised Code, but, on request, the department 18916  
shall provide copies of those files and records to the attorney 18917  
general, a prosecuting attorney, or a law enforcement agency. 18918

**Sec. 5123.52.** (A) The department of developmental 18919  
disabilities shall establish a registry of ~~MR/DD-developmental~~ 18920  
~~disabilities~~ employees consisting of the names of ~~MR/DD-~~ 18921  
~~employees~~ ~~individuals~~ included in the registry pursuant to 18922  
section 5123.51 of the Revised Code. 18923

(B) Before a person or government entity hires, contracts 18924  
with, or employs an individual as ~~an MR/DD-a developmental~~ 18925  
~~disabilities~~ employee, the person or government entity shall 18926  
inquire whether the individual is included in the registry. 18927

(C) When it receives an inquiry regarding whether an 18928  
individual is included in the registry, the department shall 18929  
inform the person making the inquiry whether the individual is 18930  
included in the registry. 18931

(D) (1) Except as otherwise provided in a collective 18932  
bargaining agreement entered into under Chapter 4117. of the 18933  
Revised Code that is in effect on November 22, 2000, no person 18934  
or government entity shall hire, contract with, or employ as ~~an~~ 18935  
~~MR/DD-a developmental disabilities~~ employee an individual who is 18936  
included in the registry. Notwithstanding sections 4117.08 and 18937  
4117.10 of the Revised Code, no agreement entered into under 18938  
Chapter 4117. of the Revised Code after November 22, 2000, may 18939  
contain any provision that in any way limits the effect or 18940  
operation of this section. 18941

(2) Neither the department nor any county board of 18942  
developmental disabilities may enter into a new contract or 18943  
renew a contract with a person or government entity that fails 18944

to comply with division (D) (1) of this section until the 18945  
department or board is satisfied that the person or government 18946  
entity will comply. 18947

(3) A person or government entity that fails to hire or 18948  
retain as ~~an MR/DD~~ a developmental disabilities employee ~~a~~ 18949  
~~person~~ an individual because the ~~person~~ individual is included 18950  
in the registry shall not be liable in damages in a civil action 18951  
brought by the employee or applicant for employment. Termination 18952  
of employment pursuant to division (D) (1) of this section 18953  
constitutes a discharge for just cause for the purposes of 18954  
section 4141.29 of the Revised Code. 18955

(E) Information contained in the registry is a public 18956  
record for the purposes of section 149.43 of the Revised Code 18957  
and is subject to inspection and copying under section 1347.08 18958  
of the Revised Code. 18959

**Sec. 5123.541.** (A) No ~~MR/DD~~ developmental disabilities 18960  
employee shall engage in any sexual conduct or have any sexual 18961  
contact with an individual with ~~mental retardation or another~~ a 18962  
developmental disability for whom the ~~MR/DD~~ developmental 18963  
disabilities employee is employed or under a contract to provide 18964  
care unless the individual is the ~~MR/DD~~ developmental 18965  
disabilities employee's spouse. 18966

(B) Any ~~MR/DD~~ developmental disabilities employee who 18967  
violates division (A) of this section shall be eligible to be 18968  
included in the registry regarding misappropriation, abuse, 18969  
neglect, or other specified misconduct by ~~MR/DD~~ developmental 18970  
disabilities employees established under section 5123.52 of the 18971  
Revised Code, in addition to any other sanction or penalty 18972  
authorized or required by law. 18973

(C) (1) Any person listed in division (C) (2) of section 5123.61 of the Revised Code who has reason to believe that ~~an~~ MR/DD a developmental disabilities employee has violated division (A) of this section shall immediately report that belief to the department of developmental disabilities.

(2) Any person who has reason to believe that ~~an~~ MR/DD a developmental disabilities employee has violated division (A) of this section may report that belief to the department of developmental disabilities.

**Sec. 5123.542.** (A) Each of the following shall annually provide a written notice to each of its ~~MR/DD~~ developmental disabilities employees explaining the conduct for which ~~an~~ MR/DD a developmental disabilities employee may be included in the registry established under section 5123.52 of the Revised Code:

- (1) The department of developmental disabilities;
- (2) Each county board of developmental disabilities;
- (3) Each provider and subcontractor, as defined in section 5123.081 of the Revised Code;
- (4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code;
- (5) Each owner, operator, or administrator of a program certified by the department to provide supported living.

(B) The department of developmental disabilities or a county board of developmental disabilities shall provide the notice required by division (A) of this section to ~~an~~ MR/DD a developmental disabilities employee who is an independent provider, as defined in section 5123.16 of the Revised Code.

(C) The notice described in division (A) of this section shall be in a form and provided in a manner prescribed by the department of developmental disabilities. The form shall be the same for all persons and entities required to provide notice under division (A) of this section.

~~(C)~~(D) The fact that an MR/DD-a developmental disabilities employee does not receive the notice required by this section does not exempt the employee from inclusion in the registry established under section 5123.52 of the Revised Code.

**Sec. 5123.55.** As used in sections 5123.55 to 5123.59 of the Revised Code:

(A) "Guardian" means a guardian of the person, limited guardian, interim guardian, or emergency guardian pursuant to appointment by the probate court under Chapter 2111. of the Revised Code.

(B) "Trustee" means a trustee appointed by and accountable to the probate court, in lieu of a guardian and without a judicial determination of incompetency, with respect to an estate of ten thousand dollars or less.

(C) "Protector" means an agency under contract with the department of developmental disabilities acting with or without court appointment to provide guidance, service, and encouragement in the development of maximum self-reliance to a person with ~~mental retardation or~~ a developmental disability, independent of any determination of incompetency.

(D) "Protective service" means performance of the duties of a guardian, trustee, or conservator, or acting as a protector, with respect to a person with ~~mental retardation or~~ a developmental disability.

(E) "Conservator" means a conservator of the person 19031  
pursuant to an appointment by a probate court under Chapter 19032  
2111. of the Revised Code. 19033

**Sec. 5123.57.** No guardianship or trusteeship appointment 19034  
shall be made under sections 5123.55 to 5123.59 of the Revised 19035  
Code and no person shall be accepted for service by a protector 19036  
under those sections unless a comprehensive evaluation has been 19037  
made in a clinic or other facility approved by the department of 19038  
developmental disabilities. The evaluation shall include a 19039  
medical, psychological, social, and educational evaluation, and 19040  
a copy of the evaluation shall be filed with the department. 19041

Any agency that is appointed as a guardian, trustee, or 19042  
conservator under sections 5123.55 to 5123.59 of the Revised 19043  
Code or accepted as a protector under those sections shall 19044  
provide for a review at least once each year in writing of the 19045  
physical, mental, and social condition of each ~~mentally retarded~~ 19046  
~~or developmentally disabled~~ person with a developmental 19047  
disability for whom it is acting as guardian, trustee, or 19048  
protector. An agency providing protective services under 19049  
contract with the department shall file these reports with the 19050  
department of developmental disabilities. Any record of the 19051  
department or agency pertaining to a ~~mentally retarded or~~ 19052  
~~developmentally disabled~~ person with a developmental disability 19053  
shall not be a public record under section 149.43 of the Revised 19054  
Code. Information contained in those records shall not be 19055  
disclosed publicly in such a manner as to identify individuals, 19056  
but may be made available to persons approved by the director of 19057  
developmental disabilities or the court. 19058

**Sec. 5123.58.** An agency providing protective services 19059  
under contract with the department of developmental disabilities 19060

may be nominated under any of the following conditions as 19061  
guardian, trustee, protector, conservator, or as trustee and 19062  
protector of a ~~mentally retarded or developmentally disabled~~ 19063  
person with a developmental disability: 19064

(A) The person who needs or believes the person needs 19065  
protective service may make application in writing. 19066

(B) Any interested person may make application in writing 19067  
on behalf of a ~~mentally retarded or developmentally disabled~~ 19068  
person with a developmental disability. 19069

(C) A parent may name the department or agency as guardian 19070  
or successor guardian in a will. 19071

(D) A parent may name the department or agency as 19072  
guardian, trustee, or protector, to assume such duties during 19073  
the parent's lifetime. 19074

If the results of the comprehensive evaluation required 19075  
under section 5123.57 of the Revised Code indicate that the 19076  
person named in the nomination is in need of protective 19077  
services, the agency or service either shall reject or accept 19078  
the nomination as guardian, trustee, or conservator, subject to 19079  
appointment by the probate court, or reject or accept the 19080  
nomination as protector, or trustee and protector. 19081

At the time the nomination is accepted or when an 19082  
appointment is made by the court, the ~~mentally retarded or~~ 19083  
~~developmentally disabled~~ person with a developmental disability 19084  
and any person who made application for service on ~~the mentally~~ 19085  
~~retarded or developmentally disabled person's behalf of the~~ 19086  
person with a developmental disability under this section shall 19087  
be informed by the agency, service, or court of the procedure 19088  
for terminating the appointment or service. The agency or 19089

service shall cease to provide protective service as a protector 19090  
pursuant to nomination under division (A), (B), or (D) of this 19091  
section when a written request for termination is received by 19092  
the agency from or on behalf of the ~~mentally retarded or~~ 19093  
~~developmentally disabled~~ person with a developmental disability. 19094  
If the agency or service believes the person to be in need of 19095  
protective service, the agency or service may file an 19096  
application for guardianship, trusteeship, or protectorship with 19097  
the probate court. Termination of any court appointment as 19098  
guardian, trustee, or protector shall be by order of the probate 19099  
court. 19100

**Sec. 5123.601.** (A) The Ohio protection and advocacy system 19101  
staff, and attorneys designated by the system to represent 19102  
persons detained, hospitalized, or institutionalized under this 19103  
chapter or Chapter 5122. of the Revised Code shall have ready 19104  
access to all of the following: 19105

(1) During normal business hours and at other reasonable 19106  
times, all records, except records of community residential 19107  
facilities and records of contract agencies of county boards of 19108  
developmental disabilities and boards of alcohol, drug 19109  
addiction, and mental health services, relating to expenditures 19110  
of state and federal funds or to the commitment, care, 19111  
treatment, and habilitation of all persons represented by the 19112  
Ohio protection and advocacy system, including those who may be 19113  
represented pursuant to division (D) of this section, or persons 19114  
detained, hospitalized, institutionalized, or receiving services 19115  
under this chapter or Chapter 340., 5119., 5122., or 5126. of 19116  
the Revised Code that are records maintained by the following 19117  
entities providing services for those persons: departments; 19118  
institutions; hospitals; boards of alcohol, drug addiction, and 19119  
mental health services; county boards of developmental 19120

disabilities; and any other entity providing services to persons 19121  
who may be represented by the Ohio protection and advocacy 19122  
system pursuant to division (D) of this section; 19123

(2) Any records maintained in computerized data banks of 19124  
the departments or boards or, in the case of persons who may be 19125  
represented by the Ohio protection and advocacy system pursuant 19126  
to division (D) of this section, any other entity that provides 19127  
services to those persons; 19128

(3) During their normal working hours, personnel of the 19129  
departments, facilities, boards, agencies, institutions, 19130  
hospitals, and other service-providing entities; 19131

(4) At any time, all persons detained, hospitalized, or 19132  
institutionalized; persons receiving services under this chapter 19133  
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 19134  
persons who may be represented by the Ohio protection and 19135  
advocacy system pursuant to division (D) of this section. 19136

(5) Records of a community residential facility, a 19137  
contract agency of a board of alcohol, drug addiction, and 19138  
mental health services, or a contract agency of a county board 19139  
of developmental disabilities with one of the following 19140  
consents: 19141

(a) The consent of the person, including when the person 19142  
is a minor or has been adjudicated incompetent; 19143

(b) The consent of the person's guardian of the person, if 19144  
any, or the parent if the person is a minor; 19145

(c) No consent, if the person is unable to consent for any 19146  
reason, and the guardian of the person, if any, or the parent of 19147  
the minor, has refused to consent or has not responded to a 19148  
request for consent and either of the following has occurred: 19149

(i) A complaint regarding the person has been received by 19150  
the Ohio protection and advocacy system; 19151

(ii) The Ohio protection and advocacy system has 19152  
determined that there is probable cause to believe that such 19153  
person has been subjected to abuse or neglect. 19154

(B) All records received or maintained by the Ohio 19155  
protection and advocacy system in connection with any 19156  
investigation, representation, or other activity under this 19157  
section shall be confidential and shall not be disclosed except 19158  
as authorized by the person represented by the Ohio protection 19159  
and advocacy system or, subject to any privilege, a guardian of 19160  
the person or parent of the minor. Relationships between 19161  
personnel and the agents of the Ohio protection and advocacy 19162  
system and its clients shall be fiduciary relationships, and all 19163  
communications shall be privileged as if between attorney and 19164  
client. 19165

(C) The Ohio protection and advocacy system may compel by 19166  
subpoena the appearance and sworn testimony of any person the 19167  
Ohio protection and advocacy system reasonably believes may be 19168  
able to provide information or to produce any documents, books, 19169  
records, papers, or other information necessary to carry out its 19170  
duties. On the refusal of any person to produce or authenticate 19171  
any requested documents, the Ohio protection and advocacy system 19172  
may apply to the Franklin county court of common pleas to compel 19173  
the production or authentication of requested documents. If the 19174  
court finds that failure to produce or authenticate any 19175  
requested documents was improper, the court may hold the person 19176  
in contempt as in the case of disobedience of the requirements 19177  
of a subpoena issued from the court, or a refusal to testify in 19178  
the court. 19179

(D) In addition to providing services to ~~mentally ill,~~ 19180  
~~mentally retarded,~~ persons with mental illness or 19181  
~~developmentally disabled~~ persons with developmental 19182  
disabilities, when a grant authorizing the provision of services 19183  
to other individuals is accepted by the Ohio protection and 19184  
advocacy system, the Ohio protection and advocacy system may 19185  
provide advocacy to those other individuals and exercise any 19186  
other authority granted by this section on behalf of those 19187  
individuals. Determinations of whether an individual is eligible 19188  
for services under this division shall be made by the Ohio 19189  
protection and advocacy system. 19190

**Sec. 5123.61.** (A) As used in this section: 19191

(1) "Law enforcement agency" means the state highway 19192  
patrol, the police department of a municipal corporation, or a 19193  
county sheriff. 19194

(2) "Abuse" has the same meaning as in section 5123.50 of 19195  
the Revised Code, except that it includes a misappropriation, as 19196  
defined in that section. 19197

(3) "Neglect" has the same meaning as in section 5123.50 19198  
of the Revised Code. 19199

(B) The department of developmental disabilities shall 19200  
establish a registry office for the purpose of maintaining 19201  
reports of abuse, neglect, and other major unusual incidents 19202  
made to the department under this section and reports received 19203  
from county boards of developmental disabilities under section 19204  
5126.31 of the Revised Code. The department shall establish 19205  
committees to review reports of abuse, neglect, and other major 19206  
unusual incidents. 19207

(C) (1) Any person listed in division (C) (2) of this 19208

section, having reason to believe that ~~a person~~ an individual 19209  
with ~~mental retardation or~~ a developmental disability has 19210  
suffered or faces a substantial risk of suffering any wound, 19211  
injury, disability, or condition of such a nature as to 19212  
reasonably indicate abuse or neglect of that ~~person~~ individual, 19213  
shall immediately report or cause reports to be made of such 19214  
information to the entity specified in this division. Except as 19215  
provided in section 5120.173 of the Revised Code or as otherwise 19216  
provided in this division, the person making the report shall 19217  
make it to a law enforcement agency or to the county board of 19218  
developmental disabilities. If the report concerns a resident of 19219  
a facility operated by the department of developmental 19220  
disabilities the report shall be made either to a law 19221  
enforcement agency or to the department. If the report concerns 19222  
any act or omission of an employee of a county board of 19223  
developmental disabilities, the report immediately shall be made 19224  
to the department and to the county board. 19225

(2) All of the following persons are required to make a 19226  
report under division (C) (1) of this section: 19227

(a) Any physician, including a hospital intern or 19228  
resident, any dentist, podiatrist, chiropractor, practitioner of 19229  
a limited branch of medicine as specified in section 4731.15 of 19230  
the Revised Code, hospital administrator or employee of a 19231  
hospital, nurse licensed under Chapter 4723. of the Revised 19232  
Code, employee of an ambulatory health facility as defined in 19233  
section 5101.61 of the Revised Code, employee of a home health 19234  
agency, employee of a residential facility licensed under 19235  
section 5119.34 of the Revised Code that provides 19236  
accommodations, supervision, and ~~person~~ personal care services 19237  
for three to sixteen unrelated adults, or employee of a 19238  
community mental health facility; 19239

(b) Any school teacher or school authority, licensed 19240  
professional clinical counselor, licensed professional 19241  
counselor, independent social worker, social worker, independent 19242  
marriage and family therapist, marriage and family therapist, 19243  
psychologist, attorney, peace officer, coroner, or residents' 19244  
rights advocate as defined in section 3721.10 of the Revised 19245  
Code; 19246

(c) A superintendent, board member, or employee of a 19247  
county board of developmental disabilities; an administrator, 19248  
board member, or employee of a residential facility licensed 19249  
under section 5123.19 of the Revised Code; an administrator, 19250  
board member, or employee of any other public or private 19251  
provider of services to ~~a person~~ an individual with ~~mental~~ 19252  
~~retardation~~ or a developmental disability, or any ~~MR/DD~~ 19253  
developmental disabilities employee, as defined in section 19254  
5123.50 of the Revised Code; 19255

(d) A member of a citizen's advisory council established 19256  
at an institution or branch institution of the department of 19257  
developmental disabilities under section 5123.092 of the Revised 19258  
Code; 19259

(e) A member of the clergy who is employed in a position 19260  
that includes providing specialized services to an individual 19261  
with ~~mental retardation~~ or another a developmental disability, 19262  
while acting in an official or professional capacity in that 19263  
position, or a person who is employed in a position that 19264  
includes providing specialized services to an individual with 19265  
~~mental retardation~~ or another a developmental disability and 19266  
who, while acting in an official or professional capacity, 19267  
renders spiritual treatment through prayer in accordance with 19268  
the tenets of an organized religion. 19269

(3) (a) The reporting requirements of this division do not 19270  
apply to employees of the Ohio protection and advocacy system. 19271

(b) An attorney or physician is not required to make a 19272  
report pursuant to division (C) (1) of this section concerning 19273  
any communication the attorney or physician receives from a 19274  
client or patient in an attorney-client or physician-patient 19275  
relationship, if, in accordance with division (A) or (B) of 19276  
section 2317.02 of the Revised Code, the attorney or physician 19277  
could not testify with respect to that communication in a civil 19278  
or criminal proceeding, except that the client or patient is 19279  
deemed to have waived any testimonial privilege under division 19280  
(A) or (B) of section 2317.02 of the Revised Code with respect 19281  
to that communication and the attorney or physician shall make a 19282  
report pursuant to division (C) (1) of this section, if both of 19283  
the following apply: 19284

(i) The client or patient, at the time of the 19285  
communication, is ~~a person an individual with mental retardation~~ 19286  
~~or~~ a developmental disability. 19287

(ii) The attorney or physician knows or suspects, as a 19288  
result of the communication or any observations made during that 19289  
communication, that the client or patient has suffered or faces 19290  
a substantial risk of suffering any wound, injury, disability, 19291  
or condition of a nature that reasonably indicates abuse or 19292  
neglect of the client or patient. 19293

(4) Any person who fails to make a report required under 19294  
division (C) of this section and who is ~~an MR/DD a developmental~~ 19295  
~~disabilities~~ employee, as defined in section 5123.50 of the 19296  
Revised Code, shall be eligible to be included in the registry 19297  
regarding misappropriation, abuse, neglect, or other specified 19298  
misconduct by ~~MR/DD developmental disabilities~~ employees 19299

established under section 5123.52 of the Revised Code. 19300

(D) The reports required under division (C) of this 19301  
section shall be made forthwith by telephone or in person and 19302  
shall be followed by a written report. The reports shall contain 19303  
the following: 19304

(1) The names and addresses of the ~~person~~ individual with 19305  
~~mental retardation or~~ a developmental disability and the 19306  
~~person's~~ individual's custodian, if known; 19307

(2) The age of the ~~person~~ individual with ~~mental~~ 19308  
~~retardation or~~ a developmental disability; 19309

(3) Any other information that would assist in the 19310  
investigation of the report. 19311

(E) When a physician performing services as a member of 19312  
the staff of a hospital or similar institution has reason to 19313  
believe that ~~a person~~ an individual with ~~mental retardation or~~ a 19314  
developmental disability has suffered injury, abuse, or physical 19315  
neglect, the physician shall notify the person in charge of the 19316  
institution or that person's designated delegate, who shall make 19317  
the necessary reports. 19318

(F) Any person having reasonable cause to believe that ~~a~~ 19319  
~~person~~ an individual with ~~mental retardation or~~ a developmental 19320  
disability has suffered or faces a substantial risk of suffering 19321  
abuse or neglect may report or cause a report to be made of that 19322  
belief to the entity specified in this division. Except as 19323  
provided in section 5120.173 of the Revised Code or as otherwise 19324  
provided in this division, the person making the report shall 19325  
make it to a law enforcement agency or the county board of 19326  
developmental disabilities. If the ~~person~~ individual is a 19327  
resident of a facility operated by the department of 19328

developmental disabilities, the report shall be made to a law 19329  
enforcement agency or to the department. If the report concerns 19330  
any act or omission of an employee of a county board of 19331  
developmental disabilities, the report immediately shall be made 19332  
to the department and to the county board. 19333

(G) (1) Upon the receipt of a report concerning the 19334  
possible abuse or neglect of ~~a person~~ an individual with ~~mental~~ 19335  
~~retardation or~~ a developmental disability, the law enforcement 19336  
agency shall inform the county board of developmental 19337  
disabilities or, if the ~~person~~ individual is a resident of a 19338  
facility operated by the department of developmental 19339  
disabilities, the department. 19340

(2) On receipt of a report under this section that 19341  
includes an allegation of action or inaction that may constitute 19342  
a crime under federal law or the law of this state, the 19343  
department of developmental disabilities shall notify the law 19344  
enforcement agency. 19345

(3) When a county board of developmental disabilities 19346  
receives a report under this section that includes an allegation 19347  
of action or inaction that may constitute a crime under federal 19348  
law or the law of this state, the superintendent of the board or 19349  
an individual the superintendent designates under division (H) 19350  
of this section shall notify the law enforcement agency. The 19351  
superintendent or individual shall notify the department of 19352  
developmental disabilities when it receives any report under 19353  
this section. 19354

(4) When a county board of developmental disabilities 19355  
receives a report under this section and believes that the 19356  
degree of risk to the person is such that the report is an 19357  
emergency, the superintendent of the board or an employee of the 19358

board the superintendent designates shall attempt a face-to-face 19359  
contact with the ~~person~~ individual with ~~mental retardation or a~~ 19360  
developmental disability who allegedly is the victim within one 19361  
hour of the board's receipt of the report. 19362

(H) The superintendent of the board may designate an 19363  
individual to be responsible for notifying the law enforcement 19364  
agency and the department when the county board receives a 19365  
report under this section. 19366

(I) An adult with ~~mental retardation or a~~ developmental 19367  
disability about whom a report is made may be removed from the 19368  
adult's place of residence only by law enforcement officers who 19369  
consider that the adult's immediate removal is essential to 19370  
protect the adult from further injury or abuse or in accordance 19371  
with the order of a court made pursuant to section 5126.33 of 19372  
the Revised Code. 19373

(J) A law enforcement agency shall investigate each report 19374  
of abuse or neglect it receives under this section. In addition, 19375  
the department, in cooperation with law enforcement officials, 19376  
shall investigate each report regarding a resident of a facility 19377  
operated by the department to determine the circumstances 19378  
surrounding the injury, the cause of the injury, and the person 19379  
responsible. The investigation shall be in accordance with the 19380  
memorandum of understanding prepared under section 5126.058 of 19381  
the Revised Code. The department shall determine, with the 19382  
registry office which shall be maintained by the department, 19383  
whether prior reports have been made concerning an adult with 19384  
~~mental retardation or a~~ developmental disability or other 19385  
principals in the case. If the department finds that the report 19386  
involves action or inaction that may constitute a crime under 19387  
federal law or the law of this state, it shall submit a report 19388

of its investigation, in writing, to the law enforcement agency. 19389  
If the ~~person-individual~~ with ~~mental retardation or a~~ 19390  
developmental disability is an adult, with the consent of the 19391  
adult, the department shall provide such protective services as 19392  
are necessary to protect the adult. The law enforcement agency 19393  
shall make a written report of its findings to the department. 19394

If the ~~person-individual with a developmental disability~~ 19395  
is an adult and is not a resident of a facility operated by the 19396  
department, the county board of developmental disabilities shall 19397  
review the report of abuse or neglect in accordance with 19398  
sections 5126.30 to 5126.33 of the Revised Code and the law 19399  
enforcement agency shall make the written report of its findings 19400  
to the county board. 19401

(K) Any person or any hospital, institution, school, 19402  
health department, or agency participating in the making of 19403  
reports pursuant to this section, any person participating as a 19404  
witness in an administrative or judicial proceeding resulting 19405  
from the reports, or any person or governmental entity that 19406  
discharges responsibilities under sections 5126.31 to 5126.33 of 19407  
the Revised Code shall be immune from any civil or criminal 19408  
liability that might otherwise be incurred or imposed as a 19409  
result of such actions except liability for perjury, unless the 19410  
person or governmental entity has acted in bad faith or with 19411  
malicious purpose. 19412

(L) No employer or any person with the authority to do so 19413  
shall discharge, demote, transfer, prepare a negative work 19414  
performance evaluation, reduce pay or benefits, terminate work 19415  
privileges, or take any other action detrimental to an employee 19416  
or retaliate against an employee as a result of the employee's 19417  
having made a report under this section. This division does not 19418

preclude an employer or person with authority from taking action 19419  
with regard to an employee who has made a report under this 19420  
section if there is another reasonable basis for the action. 19421

(M) Reports made under this section are not public records 19422  
as defined in section 149.43 of the Revised Code. Information 19423  
contained in the reports on request shall be made available to 19424  
the ~~person~~ individual who is the subject of the report, to the 19425  
~~person's~~ individual's legal counsel, and to agencies authorized 19426  
to receive information in the report by the department or by a 19427  
county board of developmental disabilities. 19428

(N) Notwithstanding section 4731.22 of the Revised Code, 19429  
the physician-patient privilege shall not be a ground for 19430  
excluding evidence regarding the injuries or physical neglect of 19431  
~~a person~~ an individual with ~~mental retardation or a~~ 19432  
developmental disability or the cause thereof in any judicial 19433  
proceeding resulting from a report submitted pursuant to this 19434  
section. 19435

**Sec. 5123.611.** (A) As used in this section, "~~MR/DD-~~ 19436  
developmental disabilities employee" means all of the following: 19437

(1) An employee of the department of developmental 19438  
disabilities; 19439

(2) An employee of a county board of developmental 19440  
disabilities; 19441

(3) An employee in a position that includes providing 19442  
specialized services, as defined in section 5123.50 of the 19443  
Revised Code, to an individual with ~~mental retardation or a~~ 19444  
developmental disability. 19445

(B) At the conclusion of a review of a report of abuse, 19446  
neglect, or a major unusual incident that is conducted by a 19447

review committee established pursuant to section 5123.61 of the Revised Code, the committee shall issue recommendations to the department. The department shall review the committee's recommendations and issue a report of its findings. The department shall make the report available to all of the following:

(1) The individual with ~~mental retardation or a~~ developmental disability who is the subject of the report;

(2) That individual's guardian or legal counsel;

(3) The licensee, as defined in section 5123.19 of the Revised Code, of a residential facility in which the individual resides;

(4) The employer of any ~~MR/DD~~ developmental disabilities employee who allegedly committed or was responsible for the abuse, neglect, or major unusual incident.

(C) Except as provided in this section, the department shall not disclose its report to any person or government entity that is not authorized to investigate reports of abuse, neglect, or other major unusual incidents, unless the individual with ~~mental retardation or a~~ developmental disability who is the subject of the report or the individual's guardian gives the department written consent.

**Sec. 5123.612.** The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the reporting of major unusual incidents and unusual incidents concerning persons with ~~mental retardation or a developmental disability~~ disabilities. The rules shall specify what constitutes a major unusual incident or an unusual incident.

**Sec. 5123.614.** (A) Subject to division (B) of this 19477  
section, on receipt of a report of a major unusual incident made 19478  
pursuant to section 5123.61 or 5126.31 of the Revised Code or 19479  
rules adopted under section 5123.612 of the Revised Code, the 19480  
department of developmental disabilities may do either of the 19481  
following: 19482

(1) Conduct an independent review or investigation of the 19483  
incident; 19484

(2) Request that an independent review or investigation of 19485  
the incident be conducted by a county board of developmental 19486  
disabilities that is not implicated in the report, a regional 19487  
council of government, or any other entity authorized to conduct 19488  
such investigations. 19489

(B) If a report described in division (A) of this section 19490  
concerning the health or safety of a person with ~~mental-~~ 19491  
~~retardation or a developmental disability~~ involves an allegation 19492  
that an employee of a county board of developmental disabilities 19493  
has created a substantial risk of serious physical harm to a 19494  
person with ~~mental-retardation or a developmental disability,~~ 19495  
the department shall do one of the following: 19496

(1) Conduct an independent investigation regarding the 19497  
incident; 19498

(2) Request that an independent review or investigation of 19499  
the incident be conducted by a county board of developmental 19500  
disabilities that is not implicated in the report, a regional 19501  
council of government, or any other entity authorized to conduct 19502  
such investigations. 19503

**Sec. 5123.62.** The rights of persons with ~~mental-~~ 19504  
~~retardation or a developmental disability~~ disabilities include, 19505

- but are not limited to, the following: 19506
- (A) The right to be treated at all times with courtesy and 19507  
respect and with full recognition of their dignity and 19508  
individuality; 19509
- (B) The right to an appropriate, safe, and sanitary living 19510  
environment that complies with local, state, and federal 19511  
standards and recognizes the persons' need for privacy and 19512  
independence; 19513
- (C) The right to food adequate to meet accepted standards 19514  
of nutrition; 19515
- (D) The right to practice the religion of their choice or 19516  
to abstain from the practice of religion; 19517
- (E) The right of timely access to appropriate medical or 19518  
dental treatment; 19519
- (F) The right of access to necessary ancillary services, 19520  
including, but not limited to, occupational therapy, physical 19521  
therapy, speech therapy, and behavior modification and other 19522  
psychological services; 19523
- (G) The right to receive appropriate care and treatment in 19524  
the least intrusive manner; 19525
- (H) The right to privacy, including both periods of 19526  
privacy and places of privacy; 19527
- (I) The right to communicate freely with persons of their 19528  
choice in any reasonable manner they choose; 19529
- (J) The right to ownership and use of personal possessions 19530  
so as to maintain individuality and personal dignity; 19531
- (K) The right to social interaction with members of either 19532

sex;	19533
(L) The right of access to opportunities that enable individuals to develop their full human potential;	19534 19535
(M) The right to pursue vocational opportunities that will promote and enhance economic independence;	19536 19537
(N) The right to be treated equally as citizens under the law;	19538 19539
(O) The right to be free from emotional, psychological, and physical abuse;	19540 19541
(P) The right to participate in appropriate programs of education, training, social development, and habilitation and in programs of reasonable recreation;	19542 19543 19544
(Q) The right to participate in decisions that affect their lives;	19545 19546
(R) The right to select a parent or advocate to act on their behalf;	19547 19548
(S) The right to manage their personal financial affairs, based on individual ability to do so;	19549 19550
(T) The right to confidential treatment of all information in their personal and medical records, except to the extent that disclosure or release of records is permitted under sections 5123.89 and 5126.044 of the Revised Code;	19551 19552 19553 19554
(U) The right to voice grievances and recommend changes in policies and services without restraint, interference, coercion, discrimination, or reprisal;	19555 19556 19557
(V) The right to be free from unnecessary chemical or physical restraints;	19558 19559

(W) The right to participate in the political process; 19560

(X) The right to refuse to participate in medical, 19561  
psychological, or other research or experiments. 19562

**Sec. 5123.63.** Every state agency, county board of 19563  
developmental disabilities, or political subdivision that 19564  
provides services, either directly or through a contract, to 19565  
persons with ~~mental retardation or a developmental disability-~~ 19566  
disabilities shall give each provider a copy of the list of 19567  
rights contained in section 5123.62 of the Revised Code. Each 19568  
public and private provider of services shall carry out the 19569  
requirements of this section in addition to any other posting or 19570  
notification requirements imposed by local, state, or federal 19571  
law or rules. 19572

The provider shall make copies of the list of rights and 19573  
shall be responsible for an initial distribution of the list to 19574  
each individual receiving services from the provider. If the 19575  
individual is unable to read the list, the provider shall 19576  
communicate the contents of the list to the individual to the 19577  
extent practicable in a manner that the individual understands. 19578  
The individual receiving services or the parent, guardian, or 19579  
advocate of the individual shall sign an acknowledgement of 19580  
receipt of a copy of the list of rights, and a copy of the 19581  
signed acknowledgement shall be placed in the individual's file. 19582  
The provider shall also be responsible for answering any 19583  
questions and giving any explanations necessary to assist the 19584  
individual to understand the rights enumerated. Instruction in 19585  
these rights shall be documented. 19586

Each provider shall make available to all persons 19587  
receiving services and all employees and visitors a copy of the 19588  
list of rights and the addresses and telephone numbers of the 19589

Ohio protection and advocacy system, the department of 19590  
developmental disabilities, and the county board of 19591  
developmental disabilities of the county in which the provider 19592  
provides services. 19593

**Sec. 5123.64.** (A) Every provider of services to persons 19594  
with ~~mental retardation or a developmental disability~~ 19595  
disabilities shall establish policies and programs to ensure 19596  
that all staff members are familiar with the rights enumerated 19597  
in section 5123.62 of the Revised Code and observe those rights 19598  
in their contacts with persons receiving services. Any policy, 19599  
procedure, or rule of the provider that conflicts with any of 19600  
the rights enumerated shall be null and void. Every provider 19601  
shall establish written procedures for resolving complaints of 19602  
violations of those rights. A copy of the procedures shall be 19603  
provided to any person receiving services or to any parent, 19604  
guardian, or advocate of a person receiving services. 19605

(B) Any person with ~~mental retardation or a developmental~~ 19606  
disability who believes that the person's rights as enumerated 19607  
in section 5123.62 of the Revised Code have been violated may: 19608

(1) Bring the violation to the attention of the provider 19609  
for resolution; 19610

(2) Report the violation to the department of 19611  
developmental disabilities, the Ohio protection and advocacy 19612  
system, or the appropriate county board of developmental 19613  
disabilities; 19614

(3) Take any other appropriate action to ensure compliance 19615  
with sections 5123.61 to 5123.64 of the Revised Code, including 19616  
the filing of a legal action to enforce rights or to recover 19617  
damages for violation of rights. 19618

**Sec. 5123.65.** In addition to the rights specified in 19619  
section 5123.62 of the Revised Code, individuals with ~~mental-~~ 19620  
~~retardation and~~ developmental disabilities who can safely self- 19621  
administer medication or receive assistance with self- 19622  
administration of medication have the right to self-administer 19623  
medication or receive assistance with the self-administration of 19624  
medication. The department of developmental disabilities shall 19625  
adopt rules as it considers necessary to implement and enforce 19626  
this section. The rules shall be adopted in accordance with 19627  
Chapter 119. of the Revised Code. 19628

**Sec. 5123.651.** (A) As used in this section, "~~MR/DD-~~ 19629  
developmental disabilities personnel" and "prescribed 19630  
medication" have the same meanings as in section 5123.41 of the 19631  
Revised Code. 19632

(B) ~~MR/DD-~~Developmental disabilities personnel who are not 19633  
specifically authorized by other provisions of the Revised Code 19634  
to provide assistance in the self-administration of prescribed 19635  
medication may, under this section, provide that assistance as 19636  
part of the services they provide to individuals with ~~mental-~~ 19637  
~~retardation and~~ developmental disabilities. To provide 19638  
assistance with self-administration of prescribed medication, 19639  
~~MR/DD-~~developmental disabilities personnel are not required to 19640  
be trained or certified in accordance with section 5123.42 of 19641  
the Revised Code. 19642

(C) When assisting in the self-administration of 19643  
prescribed medication, ~~MR/DD-~~developmental disabilities 19644  
personnel shall take only the following actions: 19645

(1) Remind an individual when to take the medication and 19646  
observe the individual to ensure that the individual follows the 19647  
directions on the container; 19648

(2) Assist an individual by taking the medication in its container from the area where it is stored, handing the container with the medication in it to the individual, and opening the container, if the individual is physically unable to open the container;

(3) Assist, on request by or with the consent of, a physically impaired but mentally alert individual, with removal of oral or topical medication from the container and with the individual's taking or applying of the medication. If an individual is physically unable to place a dose of oral medication to the individual's mouth without spilling or dropping it, ~~MR/DD~~ developmental disabilities personnel may place the dose in another container and place that container to the individual's mouth.

**Sec. 5123.67.** This chapter shall be liberally interpreted to accomplish the following purposes:

(A) To promote the human dignity and to protect the constitutional rights of persons with ~~mental retardation or a~~ developmental ~~disability~~ disabilities in the state;

(B) To encourage the development of the ability and potential of each person with ~~mental retardation or a~~ developmental disability in the state to the fullest possible extent, no matter how severe the degree of disability;

(C) To promote the economic security, standard of living, and meaningful employment of persons with ~~mental retardation or a~~ developmental ~~disability~~ disabilities;

(D) To maximize the assimilation of persons with ~~mental retardation or a~~ developmental ~~disability~~ disabilities into the ordinary life of the communities in which they live;

(E) To promote opportunities for persons with ~~mental-~~ 19678  
~~retardation or a~~ developmental ~~disability~~ disabilities to live 19679  
in surroundings or circumstances that are typical for other 19680  
community members; 19681

(F) To promote the right of persons with ~~mental-~~ 19682  
~~retardation or a~~ developmental ~~disability~~ disabilities to speak 19683  
and be heard about the desired direction of their lives and to 19684  
use available resources in ways that further that direction. 19685

**Sec. 5123.69.** (A) Except as provided in division (D) of 19686  
this section, any person who is eighteen years of age or older 19687  
and who is or believes ~~self to be mentally retarded~~ that the 19688  
person is a person with an intellectual disability may make 19689  
written application to the managing officer of any institution 19690  
for voluntary admission. Except as provided in division (D) of 19691  
this section, the application may be made on behalf of a minor 19692  
by a parent or guardian, and on behalf of an adult adjudicated 19693  
mentally incompetent by a guardian. 19694

(B) The managing officer of an institution, with the 19695  
concurrence of the chief program director, may admit a person 19696  
applying pursuant to this section only after a comprehensive 19697  
evaluation has been made of the person and only if the 19698  
comprehensive evaluation concludes that the person ~~is mentally~~ 19699  
~~retarded~~ has an intellectual disability and would benefit 19700  
significantly from admission. 19701

(C) The managing officer shall discharge any voluntary 19702  
resident if, in the judgment of the chief program director, the 19703  
results of a comprehensive examination indicate that 19704  
institutionalization no longer is advisable. In light of the 19705  
results of the comprehensive evaluation, the managing officer 19706  
also may discharge any voluntary resident if, in the judgment of 19707

the chief program director, the discharge would contribute to 19708  
the most effective use of the institution in the habilitation 19709  
and care of ~~the mentally retarded~~ persons with developmental 19710  
disabilities. 19711

(D) A person who is found incompetent to stand trial or 19712  
not guilty by reason of insanity and who is committed pursuant 19713  
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 19714  
Revised Code shall not voluntarily commit self pursuant to this 19715  
section until after the final termination of the commitment, as 19716  
described in division (J) of section 2945.401 of the Revised 19717  
Code. 19718

**Sec. 5123.701.** (A) Except as provided in division (D) of 19719  
this section, any person in the community who is eighteen years 19720  
of age or older and who is or believes self to be ~~mentally~~ 19721  
~~retarded~~ a person with an intellectual disability may make 19722  
written application to the managing officer of any institution 19723  
for temporary admission for short-term care. The application may 19724  
be made on behalf of a minor by a parent or guardian, and on 19725  
behalf of an adult adjudicated mentally incompetent by a 19726  
guardian. 19727

(B) For purposes of this section, short-term care shall be 19728  
defined to mean appropriate services provided to a person with 19729  
~~mental retardation~~ an intellectual disability for no more than 19730  
fourteen consecutive days and for no more than forty-two days in 19731  
a fiscal year. When circumstances warrant, the fourteen-day 19732  
period may be extended at the discretion of the managing 19733  
officer. Short-term care is provided in a developmental center 19734  
to meet the family's or caretaker's needs for separation from 19735  
the person with ~~mental retardation~~ an intellectual disability. 19736

(C) The managing officer of an institution, with the 19737

concurrence of the chief program director, may admit a person 19738  
for short-term care only after a medical examination has been 19739  
made of the person and only if the managing officer concludes 19740  
that the person ~~is mentally retarded~~ has an intellectual 19741  
disability. 19742

(D) A person who is found not guilty by reason of insanity 19743  
shall not admit self to an institution for short-term care 19744  
unless a hearing was held regarding the person pursuant to 19745  
division (A) of section 2945.40 of the Revised Code and either 19746  
of the following applies: 19747

(1) The person was found at the hearing not to be a 19748  
~~mentally retarded person~~ with an intellectual disability subject 19749  
to institutionalization by court order; 19750

(2) The person was found at the hearing to be a ~~mentally~~ 19751  
~~retarded person~~ with an intellectual disability subject to 19752  
institutionalization by court order, was involuntarily 19753  
committed, and was finally discharged. 19754

(E) The ~~mentally retarded person~~ with an intellectual 19755  
disability, liable relatives, and guardians of ~~mentally retarded~~ 19756  
~~persons~~ with intellectual disabilities admitted for respite care 19757  
shall pay support charges in accordance with sections 5121.01 to 19758  
5121.21 of the Revised Code. 19759

(F) At the conclusion of each period of short-term care, 19760  
the person shall return to the person's family or caretaker. 19761  
Under no circumstances shall a person admitted for short-term 19762  
care according to this section remain in the institution after 19763  
the period of short-term care unless the person is admitted 19764  
according to section 5123.70, sections 5123.71 to 5123.76, or 19765  
section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 19766

Revised Code. 19767

**Sec. 5123.71.** (A) (1) Proceedings for the involuntary 19768  
institutionalization of a person pursuant to sections 5123.71 to 19769  
5123.76 of the Revised Code shall be commenced by the filing of 19770  
an affidavit with the probate division of the court of common 19771  
pleas of the county where the person resides or where the person 19772  
is institutionalized, in the manner and form prescribed by the 19773  
department of developmental disabilities either on information 19774  
or actual knowledge, whichever is determined to be proper by the 19775  
court. The affidavit may be filed only by a person who has 19776  
custody of the individual as a parent, guardian, or service 19777  
provider or by a person acting on behalf of the department or a 19778  
county board of developmental disabilities. This section does 19779  
not apply regarding the institutionalization of a person 19780  
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of 19781  
the Revised Code. 19782

The affidavit shall contain an allegation setting forth 19783  
the specific category or categories under division (O) of 19784  
section 5123.01 of the Revised Code upon which the commencement 19785  
of proceedings is based and a statement of the factual ground 19786  
for the belief that the person is a ~~mentally-retarded~~ person 19787  
with an intellectual disability subject to institutionalization 19788  
by court order. Except as provided in division (A) (2) of this 19789  
section, the affidavit shall be accompanied by both of the 19790  
following: 19791

(a) A comprehensive evaluation report prepared by the 19792  
person's evaluation team that includes a statement by the 19793  
members of the team certifying that they have performed a 19794  
comprehensive evaluation of the person and that they are of the 19795  
opinion that the person is a ~~mentally-retarded~~ person with an 19796

intellectual disability subject to institutionalization by court order; 19797  
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(b) An assessment report prepared by the county board of developmental disabilities under section 5123.711 of the Revised Code specifying that the individual is in need of services on an emergency or priority basis. 19799  
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(2) In lieu of the comprehensive evaluation report, the affidavit may be accompanied by a written and sworn statement that the person or the guardian of a person adjudicated incompetent has refused to allow a comprehensive evaluation and county board assessment and assessment reports. Immediately after accepting an affidavit that is not accompanied by the reports of a comprehensive evaluation and county board assessment, the court shall cause a comprehensive evaluation and county board assessment of the person named in the affidavit to be performed. The evaluation shall be conducted in the least restrictive environment possible and the assessment shall be conducted in the same manner as assessments conducted under section 5123.711 of the Revised Code. The evaluation and assessment must be completed before a probable cause hearing or full hearing may be held under section 5123.75 or 5123.76 of the Revised Code. 19803  
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A written report of the evaluation team's findings and the county board's assessment shall be filed with the court. The reports shall, consistent with the rules of evidence, be accepted as probative evidence in any proceeding under section 5123.75 or 5123.76 of the Revised Code. If the counsel for the person who is evaluated or assessed is known, the court shall send to the counsel a copy of the reports as soon as possible after they are filed and prior to any proceedings under section 19819  
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5123.75 or 5123.76 of the Revised Code. 19827

(B) Any person who is involuntarily detained in an 19828  
institution or otherwise is in custody under this chapter shall 19829  
be informed of the right to do the following: 19830

(1) Immediately make a reasonable number of telephone 19831  
calls or use other reasonable means to contact an attorney, a 19832  
physician, or both, to contact any other person or persons to 19833  
secure representation by counsel, or to obtain medical 19834  
assistance, and be provided assistance in making calls if the 19835  
assistance is needed and requested; 19836

(2) Retain counsel and have independent expert evaluation 19837  
and, if the person is an indigent person, be represented by 19838  
court-appointed counsel and have independent expert evaluation 19839  
at court expense; 19840

(3) Upon request, have a hearing to determine whether 19841  
there is probable cause to believe that the person is a ~~mentally-~~ 19842  
~~retarded~~ person with an intellectual disability subject to 19843  
institutionalization by court order. 19844

(C) No person who is being treated by spiritual means 19845  
through prayer alone in accordance with a recognized religious 19846  
method of healing may be ordered detained or involuntarily 19847  
committed unless the court has determined that the person 19848  
represents a very substantial risk of self-impairment, self- 19849  
injury, or impairment or injury to others. 19850

**Sec. 5123.74.** (A) On receipt of an affidavit under section 19851  
5123.71 of the Revised Code, the probate division of the court 19852  
of common pleas may, if it has probable cause to believe that 19853  
the person named in the affidavit is a ~~mentally-retarded~~ person 19854  
with an intellectual disability subject to institutionalization 19855

by court order and that emergency institutionalization is required, do any of the following:

(1) Issue a temporary order of detention ordering any health or police officer or sheriff to take into custody and transport such person to an institution or other place as designated in section 5123.77 of the Revised Code;

(2) Order the county board of developmental disabilities to provide services to the individual in the community if the board's assessment of the individual conducted under section 5123.711 of the Revised Code identifies that resources are available to meet the individual's needs in an appropriate manner within the community as an alternative to institutionalization;

(3) Set the matter for further hearing.

(B) A managing officer of a nonpublic institution may, and the managing officer of a public institution shall, receive for observation, diagnosis, habilitation, and care any person whose admission is ordered pursuant to division (A) (1) of this section.

The alternatives to institutionalization that may be ordered under division (A) (2) of this section are limited to those that are necessary to remediate the emergency condition; necessary for the person's health, safety or welfare; and necessary for the protection of society, if applicable.

(C) A person detained under this section may be observed and habilitated until the probable cause hearing provided for in section 5123.75 of the Revised Code. If no probable cause hearing is requested or held, the person may be evaluated and shall be provided with habilitative services until the full

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hearing is held pursuant to section 5123.76 of the Revised Code. 19885

**Sec. 5123.75.** A respondent who is involuntarily placed in 19886  
an institution or other place as designated in section 5123.77 19887  
of the Revised Code or with respect to whom proceedings have 19888  
been instituted under section 5123.71 of the Revised Code shall, 19889  
on request of the respondent, the respondent's guardian, or the 19890  
respondent's counsel, or upon the court's own motion, be 19891  
afforded a hearing to determine whether there is probable cause 19892  
to believe that the respondent is a ~~mentally retarded~~ person 19893  
with an intellectual disability subject to institutionalization 19894  
by court order. 19895

(A) The probable cause hearing shall be conducted within 19896  
two court days from the day on which the request is made. 19897  
Failure to conduct the probable cause hearing within this time 19898  
shall effect an immediate discharge of the respondent. If the 19899  
proceedings are not reinstated within thirty days, records of 19900  
the proceedings shall be expunged. 19901

(B) The respondent shall be informed that the respondent 19902  
may retain counsel and have independent expert evaluation and, 19903  
if the respondent is an indigent person, be represented by court 19904  
appointed counsel and have independent expert evaluation at 19905  
court expense. 19906

(C) The probable cause hearing shall be conducted in a 19907  
manner consistent with the procedures set forth in division (A) 19908  
of section 5123.76 of the Revised Code, except divisions (A) (10) 19909  
and (14) of that section, and the designee of the director of 19910  
developmental disabilities under section 5123.72 of the Revised 19911  
Code shall present evidence for the state. 19912

(D) If the court does not find probable cause to believe 19913

that the respondent is a ~~mentally retarded~~ person with an 19914  
intellectual disability subject to institutionalization by court 19915  
order, it shall order immediate release of the respondent and 19916  
dismiss and expunge all record of the proceedings under this 19917  
chapter. 19918

(E) On motion of the respondent or the respondent's 19919  
counsel and for good cause shown, the court may order a 19920  
continuance of the hearing. 19921

(F) If the court finds probable cause to believe that the 19922  
respondent is a ~~mentally retarded~~ person with an intellectual 19923  
disability subject to institutionalization by court order, the 19924  
court may issue an interim order of placement and, where 19925  
proceedings under section 5123.71 of the Revised Code have been 19926  
instituted, shall order a full hearing as provided in section 19927  
5123.76 of the Revised Code to be held on the question of 19928  
whether the respondent is a ~~mentally retarded~~ person with an 19929  
intellectual disability subject to institutionalization by court 19930  
order. Unless specifically waived by the respondent or the 19931  
respondent's counsel, the court shall schedule said hearing to 19932  
be held as soon as possible within ten days from the probable 19933  
cause hearing. A waiver of such full hearing at this point shall 19934  
not preclude the respondent from asserting the respondent's 19935  
right to such hearing under section 5123.76 of the Revised Code 19936  
at any time prior to the mandatory hearing provided in division 19937  
(H) of section 5123.76 of the Revised Code. In any case, if the 19938  
respondent has waived the right to the full hearing, a mandatory 19939  
hearing shall be held under division (H) of section 5123.76 of 19940  
the Revised Code between the ninetieth and the one hundredth day 19941  
after the original involuntary detention of the person unless 19942  
the respondent has been discharged. 19943

(G) Whenever possible, the probable cause hearing shall be held before the respondent is taken into custody.

**Sec. 5123.76.** (A) The full hearing shall be conducted in a manner consistent with the procedures outlined in this chapter and with due process of law. The hearing shall be held by a judge of the probate division or, upon transfer by the judge of the probate division, by another judge of the court of common pleas, or a referee designated by the judge of the probate division. Any referee designated by the judge of the probate division must be an attorney.

(1) The following shall be made available to counsel for the respondent:

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

(b) All relevant documents, information, and evidence in the custody or control of the institution, facility, or program in which the respondent currently is held or in which the respondent has been held pursuant to these proceedings;

(c) With the consent of the respondent, all relevant documents, information, and evidence in the custody or control of any institution or person other than the state.

(2) The respondent has the right to be represented by counsel of the respondent's choice and has the right to attend the hearing except if unusual circumstances of compelling medical necessity exist that render the respondent unable to attend and the respondent has not expressed a desire to attend.

(3) If the respondent is not represented by counsel and the court determines that the conditions specified in division (A)(2) of this section justify the respondent's absence and the

right to counsel has not been validly waived, the court shall 19973  
appoint counsel forthwith to represent the respondent at the 19974  
hearing, reserving the right to tax costs of appointed counsel 19975  
to the respondent unless it is shown that the respondent is 19976  
indigent. If the court appoints counsel, or if the court 19977  
determines that the evidence relevant to the respondent's 19978  
absence does not justify the absence, the court shall continue 19979  
the case. 19980

(4) The respondent shall be informed of the right to 19981  
retain counsel, to have independent expert evaluation, and, if 19982  
an indigent person, to be represented by court appointed counsel 19983  
and have expert independent evaluation at court expense. 19984

(5) The hearing may be closed to the public unless counsel 19985  
for the respondent requests that the hearing be open to the 19986  
public. 19987

(6) Unless objected to by the respondent, the respondent's 19988  
counsel, or the designee of the director of developmental 19989  
disabilities under section 5123.72 of the Revised Code, the 19990  
court, for good cause shown, may admit persons having a 19991  
legitimate interest in the proceedings. 19992

(7) The affiant under section 5123.71 of the Revised Code 19993  
shall be subject to subpoena by either party. 19994

(8) The court shall examine the sufficiency of all 19995  
documents filed and shall inform the respondent, if present, and 19996  
the respondent's counsel of the nature of the content of the 19997  
documents and the reason for which the respondent is being held 19998  
or for which the respondent's placement is being sought. 19999

(9) The court shall receive only relevant, competent, and 20000  
material evidence. 20001

(10) In accordance with section 5123.72 of the Revised Code, the designee of the director shall present the evidence for the state. In proceedings under this chapter, the attorney general shall present the comprehensive evaluation, assessment, diagnosis, prognosis, record of habilitation and care, if any, and less restrictive habilitation plans, if any. The attorney general does not have a similar presentation responsibility in connection with a person who has been found not guilty by reason of insanity and who is the subject of a hearing under section 2945.40 of the Revised Code to determine whether the person is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order.

(11) The respondent has the right to testify and the respondent or the respondent's counsel has the right to subpoena witnesses and documents and to present and cross-examine witnesses.

(12) The respondent shall not be compelled to testify and shall be so advised by the court.

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

(14) To an extent not inconsistent with this chapter, the Rules of Civil Procedure shall be applicable.

(B) Unless, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent named in the affidavit is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order, it shall order the respondent's discharge forthwith.

(C) If, upon completion of the hearing, the court finds by

clear and convincing evidence that the respondent is a ~~mentally-~~ 20031  
~~retarded~~ person with an intellectual disability subject to 20032  
institutionalization by court order, the court may order the 20033  
respondent's discharge or order the respondent, for a period not 20034  
to exceed ninety days, to any of the following: 20035

(1) A public institution, provided that commitment of the 20036  
respondent to the institution will not cause the institution to 20037  
exceed its licensed capacity determined in accordance with 20038  
section 5123.19 of the Revised Code and provided that such a 20039  
placement is indicated by the comprehensive evaluation report 20040  
filed pursuant to section 5123.71 of the Revised Code; 20041

(2) A private institution; 20042

(3) A ~~county mental retardation~~ community program for 20043  
persons with developmental disabilities; 20044

(4) Receive private habilitation and care; 20045

(5) Any other suitable facility, program, or the care of 20046  
any person consistent with the comprehensive evaluation, 20047  
assessment, diagnosis, prognosis, and habilitation needs of the 20048  
respondent. 20049

(D) Any order made pursuant to division (C) (2), (4), or 20050  
(5) of this section shall be conditional upon the receipt by the 20051  
court of consent by the facility, program, or person to accept 20052  
the respondent. 20053

(E) In determining the place to which, or the person with 20054  
whom, the respondent is to be committed, the court shall 20055  
consider the comprehensive evaluation, assessment, diagnosis, 20056  
and projected habilitation plan for the respondent, and shall 20057  
order the implementation of the least restrictive alternative 20058  
available and consistent with habilitation goals. 20059

(F) If, at any time it is determined by the director of the facility or program to which, or the person to whom, the respondent is committed that the respondent could be equally well habilitated in a less restrictive environment that is available, the following shall occur:

(1) The respondent shall be released by the director of the facility or program or by the person forthwith and referred to the court together with a report of the findings and recommendations of the facility, program, or person.

(2) The director of the facility or program or the person shall notify the respondent's counsel and the designee of the director of developmental disabilities.

(3) The court shall dismiss the case or order placement in the less restrictive environment.

(G) (1) Except as provided in divisions (G) (2) and (3) of this section, any person who has been committed under this section may apply at any time during the ninety-day period for voluntary admission to an institution under section 5123.69 of the Revised Code. Upon admission of a voluntary resident, the managing officer immediately shall notify the court, the respondent's counsel, and the designee of the director in writing of that fact by mail or otherwise, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not be voluntarily admitted to an institution pursuant to division (G) (1) of this section until after the termination of the commitment, as described in division (J) of

section 2945.401 of the Revised Code. 20089

(H) If, at the end of any commitment period, the 20090  
respondent has not already been discharged or has not requested 20091  
voluntary admission status, the director of the facility or 20092  
program, or the person to whose care the respondent has been 20093  
committed, shall discharge the respondent forthwith, unless at 20094  
least ten days before the expiration of that period the designee 20095  
of the director of developmental disabilities or the prosecutor 20096  
files an application with the court requesting continued 20097  
commitment. 20098

(1) An application for continued commitment shall include 20099  
a written report containing a current comprehensive evaluation 20100  
and assessment, a diagnosis, a prognosis, an account of progress 20101  
and past habilitation, and a description of alternative 20102  
habilitation settings and plans, including a habilitation 20103  
setting that is the least restrictive setting consistent with 20104  
the need for habilitation. A copy of the application shall be 20105  
provided to respondent's counsel. The requirements for notice 20106  
under section 5123.73 of the Revised Code and the provisions of 20107  
divisions (A) to (E) of this section apply to all hearings on 20108  
such applications. 20109

(2) A hearing on the first application for continued 20110  
commitment shall be held at the expiration of the first ninety- 20111  
day period. The hearing shall be mandatory and may not be 20112  
waived. 20113

(3) Subsequent periods of commitment not to exceed one 20114  
hundred eighty days each may be ordered by the court if the 20115  
designee of the director of developmental disabilities files an 20116  
application for continued commitment, after a hearing is held on 20117  
the application or without a hearing if no hearing is requested 20118

and no hearing required under division (H) (4) of this section is 20119  
waived. Upon the application of a person involuntarily committed 20120  
under this section, supported by an affidavit of a licensed 20121  
physician alleging that the person is no longer a ~~mentally-~~ 20122  
~~retarded~~ person with an intellectual disability subject to 20123  
institutionalization by court order, the court for good cause 20124  
shown may hold a full hearing on the person's continued 20125  
commitment prior to the expiration of any subsequent period of 20126  
commitment set by the court. 20127

(4) A mandatory hearing shall be held at least every two 20128  
years after the initial commitment. 20129

(5) If the court, after a hearing upon a request to 20130  
continue commitment, finds that the respondent is a ~~mentally-~~ 20131  
~~retarded~~ person with an intellectual disability subject to 20132  
institutionalization by court order, the court may make an order 20133  
pursuant to divisions (C), (D), and (E) of this section. 20134

(I) Notwithstanding the provisions of division (H) of this 20135  
section, no person who is found to be a ~~mentally-retarded~~ person 20136  
with an intellectual disability subject to institutionalization 20137  
by court order pursuant to division (O) (2) of section 5123.01 of 20138  
the Revised Code shall be held under involuntary commitment for 20139  
more than five years. 20140

(J) The managing officer admitting a person pursuant to a 20141  
judicial proceeding, within ten working days of the admission, 20142  
shall make a report of the admission to the department. 20143

**Sec. 5123.79.** (A) Notwithstanding a finding pursuant to 20144  
section 5123.76 of the Revised Code that a person is a ~~mentally-~~ 20145  
~~retarded~~ person with an intellectual disability subject to 20146  
institutionalization by court order, the managing officer of an 20147

institution, with the concurrence of the chief program director, 20148  
shall, except as provided in division (C) of this section, grant 20149  
a discharge without the consent or the authorization of any 20150  
court upon a determination that institutionalization no longer 20151  
is appropriate. Upon the discharge, the managing officer of the 20152  
institution shall notify the probate division of the court of 20153  
common pleas that made the involuntary commitment. 20154

(B) Upon the request of the director of a private 20155  
institution, program, facility, or person having custody of a 20156  
resident institutionalized pursuant to section 5123.76 of the 20157  
Revised Code, or on the order of the probate division of the 20158  
court of common pleas, the resident may be called for a 20159  
rehearing to determine the advisability of continued 20160  
institutionalization at a place within the county of resident's 20161  
residence or the county where the resident is institutionalized 20162  
as the probate division designates. The hearing shall be held 20163  
pursuant to section 5123.76 of the Revised Code. 20164

**Sec. 5123.80.** (A) When the chief program director of an 20165  
institution for ~~the mentally retarded~~ persons with developmental 20166  
disabilities considers that it is in the best interest of a 20167  
resident, the managing officer may permit the resident to leave 20168  
the institution on a trial visit. The trial visit shall be for 20169  
the period of time the managing officer determines. 20170

(B) The managing officer, upon releasing a resident on 20171  
trial visit, may impose such requirements and conditions upon 20172  
the resident while the resident is absent from the institution 20173  
as are consistent with the habilitation plan. 20174

(C) The managing officer of the institution from which an 20175  
involuntary resident is given trial visit status may at any time 20176  
revoke the trial visit if there is reason to believe that it is 20177

in the best interests of the resident to be returned to the 20178  
institution. 20179

(D) If the revocation is not voluntarily complied with the 20180  
managing officer, within five days, shall authorize any health 20181  
or police officer, or sheriff to take the resident into custody 20182  
and transport the resident to the institution. 20183

(E) An involuntarily committed resident who has 20184  
successfully completed one year of continuous trial visit shall 20185  
be automatically discharged. 20186

**Sec. 5123.81.** When an involuntarily committed resident of 20187  
an institution for ~~the mentally retarded~~ persons with 20188  
developmental disabilities is absent without leave, an order 20189  
shall be issued within five days after the resident's absence 20190  
requiring the resident to be taken into custody by any health or 20191  
police officer, or sheriff and transported to the institution 20192  
from which the resident is absent. The order may be issued by 20193  
the director of developmental disabilities, the managing officer 20194  
of the institution from which the resident is absent, or the 20195  
probate judge of the county from which the resident was ordered 20196  
institutionalized or in which he is found. The officer who takes 20197  
the resident into custody shall immediately notify the issuer of 20198  
the order. 20199

**Sec. 5123.82.** (A) Any person who has been 20200  
institutionalized under this chapter may, at any time after 20201  
discharge from such institution, make application to the 20202  
managing officer of any public institution for habilitation and 20203  
care if such person feels the person is in need of such 20204  
services. If the chief program director determines the applicant 20205  
to be in need of such services, the managing officer may provide 20206  
such services as are required by the applicant. 20207

(B) Any person may apply to the managing officer of any public institution for habilitation and care if such person feels the person is in need of such services. If the person's condition warrants, ~~the person's~~ person may be enrolled as an outpatient and, during such enrollment, the person may receive services subject to Chapter 5121. of the Revised Code.

(C) The application prescribed in division (A) or (B) of this section may also be made on behalf of a minor by a parent, guardian, or custodian of a minor, and on behalf of an adult adjudicated incompetent by the guardian or custodian of the adult.

(D) The managing officer of the public institution may refer any discharged resident who makes an application under this section to the director of any community ~~mental retardation~~ program for persons with developmental disabilities serving the county in which such resident resides, or to such other facility as the director of developmental disabilities may designate. Upon notice of such referral, the director of such program may provide the services required by the applicant.

**Sec. 5123.83.** No person shall be deprived of any civil right, or public or private employment, solely by reason of ~~his~~ the person's having received services, voluntarily or involuntarily, for ~~mental retardation or~~ a developmental disability. Any person in custody, voluntarily or involuntarily, under the provisions of this chapter, retains all rights not specifically denied ~~him~~ the person under this or any other chapter of the Revised Code.

**Sec. 5123.84.** All residents of institutions for ~~the~~ mentally retarded persons with developmental disabilities shall be allowed to communicate freely with others, including but not

restricted to the following: 20238

(A) Receiving visitors at reasonable times; 20239

(B) Being visited by counsel or personal physician, or 20240  
both, at any reasonable time; 20241

(C) Having reasonable access to telephones to make and 20242  
receive confidential calls, including a reasonable number of 20243  
free calls if unable to pay for them and assistance in calling 20244  
if requested and needed; 20245

(D) Having ready access to letter writing materials and 20246  
stamps, including a reasonable number without cost if the 20247  
resident is unable to pay for them, to mailing and receiving 20248  
unopened correspondence, and to receiving assistance in writing 20249  
if requested and needed. 20250

**Sec. 5123.85.** (A) All residents institutionalized pursuant 20251  
to this chapter shall receive, within thirty days of their 20252  
admission, a comprehensive evaluation, a diagnosis, a prognosis, 20253  
and a description of habilitation goals consistent therewith. 20254

(B) All such residents shall have a written habilitation 20255  
plan consistent with the comprehensive evaluation, diagnosis, 20256  
prognosis, and goals which shall be provided, upon request of 20257  
resident or resident's counsel, to resident's counsel and to any 20258  
private physician designated by the resident or the resident's 20259  
counsel. 20260

(C) All such residents shall receive habilitation and care 20261  
consistent with the habilitation plan. The department of 20262  
developmental disabilities shall set standards for habilitation 20263  
and care provided to such residents, consistent wherever 20264  
possible with standards set by ~~the joint commission on national~~ 20265  
~~accreditation of facilities for the mentally~~ 20266

~~retarded organizations recognized by the department.~~ 20267

(D) All such residents shall receive periodic 20268  
comprehensive re-evaluations of the habilitation plan by the 20269  
professional staff of the institution at intervals not to exceed 20270  
ninety days. 20271

(E) All such residents shall be provided with prompt and 20272  
adequate medical treatment for any physical or mental disease or 20273  
injury. 20274

**Sec. 5123.86.** (A) Except as provided in divisions (C), 20275  
(D), and (E) of this section, the chief medical officer shall 20276  
provide all information, including expected physical and medical 20277  
consequences, necessary to enable any resident of an institution 20278  
for ~~the mentally retarded persons with developmental~~ 20279  
disabilities to give a fully informed, intelligent, and knowing 20280  
consent if any of the following procedures are proposed: 20281

(1) Surgery; 20282

(2) Sterilization; 20283

(3) Experimental procedures. 20284

(B) No resident shall be subjected to sterilization 20285  
without the resident's informed consent. 20286

(C) If a resident is physically or mentally unable to 20287  
receive the information required for surgery or an experimental 20288  
procedure under division (A) of this section, or has been 20289  
adjudicated incompetent, the information may be provided to the 20290  
resident's natural or court-appointed guardian, including an 20291  
agency providing guardianship services under contract with the 20292  
department of developmental disabilities under sections 5123.55 20293  
to 5123.59 of the Revised Code. The guardian may give the 20294

informed, intelligent, and knowing written consent for surgery 20295  
or the experimental procedure. 20296

If a resident is physically or mentally unable to receive 20297  
the information required for surgery or an experimental 20298  
procedure under division (A) of this section and has no 20299  
guardian, then the information, the recommendation of the chief 20300  
medical officer, and the concurring judgment of a licensed 20301  
physician who is not a full-time employee of the state may be 20302  
provided to the court in the county in which the institution is 20303  
located. The court may approve the surgery or experimental 20304  
procedure. Before approving the surgery or experimental 20305  
procedure, the court shall notify the Ohio protection and 20306  
advocacy system created by section 5123.60 of the Revised Code, 20307  
and shall notify the resident of the resident's rights to 20308  
consult with counsel, to have counsel appointed by the court if 20309  
the resident is indigent, and to contest the recommendation of 20310  
the chief medical officer. 20311

(D) If, in the judgment of two licensed physicians, delay 20312  
in obtaining consent for surgery would create a grave danger to 20313  
the health of a resident, emergency surgery may be performed 20314  
without the consent of the resident if the necessary information 20315  
is provided to the resident's guardian, including an agency 20316  
providing guardianship services under contract with the 20317  
department of developmental disabilities under sections 5123.55 20318  
to 5123.59 of the Revised Code, or to the resident's spouse or 20319  
next of kin to enable that person or agency to give an informed, 20320  
intelligent, and knowing written consent. 20321

If the guardian, spouse, or next of kin cannot be 20322  
contacted through exercise of reasonable diligence, or if the 20323  
guardian, spouse, or next of kin is contacted, but refuses to 20324

consent, then the emergency surgery may be performed upon the  
written authorization of the chief medical officer and after  
court approval has been obtained. However, if delay in obtaining  
court approval would create a grave danger to the life of the  
resident, the chief medical officer may authorize surgery, in  
writing, without court approval. If the surgery is authorized  
without court approval, the chief medical officer who made the  
authorization and the physician who performed the surgery shall  
each execute an affidavit describing the circumstances  
constituting the emergency and warranting the surgery and the  
circumstances warranting their not obtaining prior court  
approval. The affidavit shall be filed with the court with which  
the request for prior approval would have been filed within five  
court days after the surgery, and a copy of the affidavit shall  
be placed in the resident's file and shall be given to the  
guardian, spouse, or next of kin of the resident, to the  
hospital at which the surgery was performed, and to the Ohio  
protection and advocacy system created by section 5123.60 of the  
Revised Code.

(E) This chapter does not authorize any form of compulsory  
medical or psychiatric treatment of any resident who is being  
treated by spiritual means through prayer alone in accordance  
with a recognized religious method of healing.

**Sec. 5123.87.** (A) No resident of an institution for ~~the~~  
~~mentally retarded~~ persons with developmental disabilities shall  
be compelled to perform labor ~~which~~ that involves the operation,  
support, or maintenance of the institution or for which the  
institution is under contract with an outside organization.  
Privileges or release from the institution shall not be  
conditional upon the performance of such labor. Residents who  
volunteer to perform such labor shall be compensated at a rate

derived from the value of the work performed, having reference 20356  
to the prevailing wage rate for comparable work or wage rates 20357  
established under section 4111.06 of the Revised Code. 20358

(B) A resident may be required to perform habilitative 20359  
tasks ~~which~~ that do not involve the operation, support, or 20360  
maintenance of the institution if those tasks are an integrated 20361  
part of the resident's habilitation plan and supervised by a 20362  
~~mental retardation member of the institution's professional~~ 20363  
staff who is designated by the chief program director. 20364

(C) A resident may be required to perform tasks of a 20365  
personal housekeeping nature. 20366

**Sec. 5123.88.** Any person detained pursuant to this chapter 20367  
shall be entitled to the writ of habeas corpus upon proper 20368  
petition by ~~himself~~ self or a friend to any court generally 20369  
empowered to issue the writ of habeas corpus in the county in 20370  
which the person is detained. 20371

No person may bring a petition for a writ of habeas corpus 20372  
that alleges that a person involuntarily detained pursuant to 20373  
this chapter is no longer ~~mentally retarded~~ a person with an 20374  
intellectual disability subject to institutionalization by court 20375  
order unless the person shows that the release procedures of 20376  
division (H) of section 5123.76 of the Revised Code are 20377  
inadequate or unavailable. 20378

**Sec. 5123.89.** (A) As used in this section: 20379

(1) "Family" means a parent, brother, sister, spouse, son, 20380  
daughter, grandparent, aunt, uncle, or cousin. 20381

(2) "Payment" means activities undertaken by a service 20382  
provider or government entity to obtain or provide reimbursement 20383  
for services provided to a person. 20384

(3) "Treatment" means the provision of services to a person, including the coordination or management of services provided to the person.

(B) All certificates, applications, records, and reports made for the purpose of this chapter, other than court journal entries or court docket entries, ~~which~~that directly or indirectly identify a resident or former resident of an institution for ~~the mentally retarded~~persons with developmental disabilities or person whose institutionalization has been sought under this chapter shall be kept confidential and shall not be disclosed by any person except in the following situations:

(1) It is the judgment of the court for judicial records, and the managing officer for institution records, that disclosure is in the best interest of the person identified, and that person or that person's guardian or, if that person is a minor, that person's parent or guardian consents.

(2) Disclosure is provided for in other sections of this chapter.

(3) It is the judgment of the managing officer for institution records that disclosure to a mental health facility is in the best interest of the person identified.

(4) Disclosure is of a record deposited with the Ohio history connection pursuant to division (C) of section 5123.31 of the Revised Code and the disclosure is made to the closest living relative of the person identified, on the relative's request.

(5) Disclosure is needed for the treatment of a person who is a resident or former resident of an institution for ~~the~~

~~mentally retarded persons with developmental disabilities~~ or a 20414  
person whose institutionalization has been sought under this 20415  
chapter or is needed for the payment of services provided to the 20416  
person. 20417

(C) The department of developmental disabilities shall 20418  
adopt rules with respect to the systematic and periodic 20419  
destruction of residents' records. 20420

(D) Upon the death of a resident or former resident of an 20421  
institution for ~~the mentally retarded persons with developmental~~ 20422  
~~disabilities~~ or a person whose institutionalization was sought 20423  
under this chapter, the managing officer of an institution shall 20424  
provide access to the certificates, applications, records, and 20425  
reports made for the purposes of this chapter to the resident's, 20426  
former resident's, or person's guardian if the guardian makes a 20427  
written request. If a deceased resident, former resident, or 20428  
person whose institutionalization was sought under this chapter 20429  
did not have a guardian at the time of death, the managing 20430  
officer shall provide access to the certificates, applications, 20431  
records, and reports made for purposes of this chapter to a 20432  
member of the person's family, upon that family member's written 20433  
request. 20434

(E) No person shall reveal the contents of a record of a 20435  
resident except as authorized by this chapter. 20436

**Sec. 5123.91.** All persons who are not subject to any 20437  
criminal provisions and who act reasonable and in good faith, 20438  
either upon actual knowledge or upon information reasonably 20439  
thought by them to be reliable, shall be free from any liability 20440  
to a person institutionalized in institutions for ~~the mentally~~ 20441  
~~retarded persons with developmental disabilities~~ or to any other 20442  
person in their procedural or physical assistance administered 20443

in the course of the institutionalization or discharge of a 20444  
person pursuant to the provisions of this chapter. 20445

**Sec. 5123.92.** If an affidavit alleging that a person ~~is~~ 20446  
~~mentally retarded~~ has an intellectual disability and is subject 20447  
to institutionalization by court order is filed, according to 20448  
the provisions of section 5123.71 of the Revised Code, in the 20449  
probate division of a county within the institutional district 20450  
but not in the county within which the institution is located, 20451  
and if such person is detained in the institution, the probate 20452  
division of the county in which the institution is located 20453  
shall, upon the request of the probate division receiving the 20454  
affidavit, hold a hearing and make a disposition of the person 20455  
in accordance with the procedures prescribed by this chapter. 20456

**Sec. 5123.93.** Minors with ~~mental retardation~~ intellectual 20457  
disabilities shall remain under the guardianship of their 20458  
parents or of a guardian appointed pursuant to Chapter 2111. of 20459  
the Revised Code, notwithstanding institutionalization pursuant 20460  
to any section of this chapter, unless parental rights have been 20461  
terminated pursuant to a court finding that the child is 20462  
neglected, abused, or dependent pursuant to Chapter 2151. of the 20463  
Revised Code. If a minor with ~~mental retardation~~ an intellectual 20464  
disability has been found to be dependent, abused, or neglected, 20465  
the public children services agency to whom permanent custody 20466  
has been assigned pursuant to Chapter 2151. of the Revised Code 20467  
shall have the same authority and responsibility it would have 20468  
if the child were not ~~mentally retarded~~ a person with an 20469  
intellectual disability and were not institutionalized. In no 20470  
case shall the guardianship of a person with ~~mental retardation~~ 20471  
an intellectual disability be assigned to the managing officer 20472  
or any other employee of an institution in which the person is 20473  
institutionalized, or be assigned, unless there is a 20474

relationship by blood or marriage or unless the service is a 20475  
protective service as defined in section 5123.55 of the Revised 20476  
Code, to a person or agency who provides services to the person 20477  
with ~~mental retardation~~ an intellectual disability. 20478

**Sec. 5123.95.** The probate judge, upon making an order 20479  
institutionalizing a person under this chapter, shall forthwith 20480  
transmit copies, under ~~his~~ the judge's official seal, of court 20481  
papers in the case, including the certificate of the expert 20482  
witnesses, and of ~~his~~ the judge's findings in the case to the 20483  
managing officer of the institution for ~~the mentally retarded~~  
persons with developmental disabilities. 20484  
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If not otherwise furnished, the probate judge shall see 20486  
that each person institutionalized under section 5123.76 of the 20487  
Revised Code is properly attired for transportation and, in 20488  
addition, the institution shall be furnished a complete change 20489  
of clothing for such person, which shall be paid for on the 20490  
certificate of the probate judge and the order of the county 20491  
auditor from the county treasury. The clothing shall be new or 20492  
as good as new. The managing officer of the institution need not 20493  
receive the person without such clothing. 20494

Upon institutionalization, the managing officer of the 20495  
institution to which the individual is admitted shall take 20496  
possession of all money and other valuables that may be upon the 20497  
person of the individual and shall, within ten days, file a list 20498  
thereof with the probate judge of the county of which the 20499  
individual is a resident. If the amount of money is fifty 20500  
dollars or less it shall be retained and expended by the 20501  
managing officer of the institution for the benefit of the 20502  
individual. Unless a guardian of the estate of the individual 20503  
has already been appointed, the probate judge may, upon ~~his~~ the 20504

judge's own motion and without notice, appoint a special 20505  
guardian of the estate of the individual. Any special guardian, 20506  
before being appointed, shall file a bond approved by the 20507  
probate judge in the same amount as is required by section 20508  
2109.04 of the Revised Code. A special guardian as provided for 20509  
in this section, and while acting as such, shall be governed by 20510  
all laws applicable to guardians of the estates of incompetents. 20511  
The special guardian shall be allowed such compensation for ~~his~~ 20512  
the special guardian's services as the court thinks reasonable, 20513  
providing ~~he~~ the special guardian forthwith performs all the 20514  
duties incumbent upon ~~him~~ the special guardian. 20515

**Sec. 5123.96.** Costs, fees, and expenses of all proceedings 20516  
held under this chapter shall be paid as follows: 20517

(A) To police and health officers, other than sheriffs or 20518  
their deputies, the same fees allowed to constables, to be paid 20519  
upon the approval of the probate judge; 20520

(B) To sheriffs or their deputies, the same fees allowed 20521  
for similar services in the court of common pleas; 20522

(C) To physicians or licensed clinical psychologists 20523  
acting as expert witnesses and to other expert witnesses 20524  
designated by the court, an amount determined by the court; 20525

(D) To witnesses in an administrative proceeding, the same 20526  
fees and mileage as are provided to witnesses by section 119.094 20527  
of the Revised Code, and to witnesses in a judicial proceeding, 20528  
the same fees and mileage as are provided to witnesses by 20529  
section 2335.06 of the Revised Code, to be paid upon the 20530  
approval of the probate judge; 20531

(E) To a person, other than the sheriff or the sheriff's 20532  
deputies, for taking a ~~mentally retarded~~ person with an 20533

intellectual disability to an institution or removing a ~~mentally-~~ 20534  
~~retarded person with an intellectual disability~~ from an 20535  
institution, the actual necessary expenses incurred, 20536  
specifically itemized, and approved by the probate judge; 20537

(F) To assistants who convey ~~mentally-retarded~~ persons 20538  
with intellectual disabilities to institutions when authorized 20539  
by the probate judge, a fee set by the probate court, provided 20540  
the assistants are not drawing a salary from the state or any 20541  
political subdivision of the state, and their actual necessary 20542  
expenses incurred, provided that the expenses are specifically 20543  
itemized and approved by the probate judge; 20544

(G) To an attorney appointed by the probate division for 20545  
an indigent who allegedly is a ~~mentally-retarded person~~ with an 20546  
intellectual disability pursuant to any section of this chapter, 20547  
the fees that are determined by the probate division. When those 20548  
indigent persons are before the court, all filing and recording 20549  
fees shall be waived. 20550

(H) To a referee who is appointed to conduct proceedings 20551  
under this chapter that involve a respondent whose domicile is 20552  
or, before the respondent's institutionalization, was not the 20553  
county in which the proceedings are held, compensation as fixed 20554  
by the probate division, but not more than the compensation paid 20555  
for similar proceedings for respondents whose domicile is in the 20556  
county in which the proceedings are held; 20557

(I) To a court reporter appointed to make a transcript of 20558  
proceedings under this chapter, the compensation and fees 20559  
allowed in other cases under section 2101.08 of the Revised 20560  
Code. 20561

All costs, fees, and expenses described in this section, 20562

after payment by the county from appropriations pursuant to 20563  
section 2101.11 of the Revised Code, shall be certified by the 20564  
county auditor to the department of developmental disabilities 20565  
within two months of the date the costs, fees, and expenses are 20566  
incurred by the county. Payment shall be provided for by the 20567  
director of budget and management upon presentation of properly 20568  
verified vouchers. The director of developmental disabilities 20569  
may adopt rules in accordance with Chapter 119. of the Revised 20570  
Code to implement the payment of costs, fees, and expenses under 20571  
this section. 20572

**Sec. 5123.99.** (A) Whoever violates section 5123.16 or 20573  
5123.20 of the Revised Code is guilty of a misdemeanor of the 20574  
first degree. 20575

(B) Whoever violates division (C), (E), or (G) (3) of 20576  
section 5123.61 of the Revised Code is guilty of a misdemeanor 20577  
of the fourth degree or, if the abuse or neglect constitutes a 20578  
felony, a misdemeanor of the second degree. In addition to any 20579  
other sanction or penalty authorized or required by law, if a 20580  
person who is convicted of or pleads guilty to a violation of 20581  
division (C), (E), or (G) (3) of section 5123.61 of the Revised 20582  
Code is ~~an MR/DD~~ a developmental disabilities employee, as 20583  
defined in section 5123.50 of the Revised Code, the offender 20584  
shall be eligible to be included in the registry regarding 20585  
misappropriation, abuse, neglect, or other specified misconduct 20586  
by ~~MR/DD~~ developmental disabilities employees established under 20587  
section 5123.52 of the Revised Code. 20588

**Sec. 5126.01.** As used in this chapter: 20589

(A) As used in this division, "adult" means an individual 20590  
who is eighteen years of age or over and not enrolled in a 20591  
program or service under Chapter 3323. of the Revised Code and 20592

an individual sixteen or seventeen years of age who is eligible 20593  
for adult services under rules adopted by the director of 20594  
developmental disabilities pursuant to Chapter 119. of the 20595  
Revised Code. 20596

(1) "Adult services" means services provided to an adult 20597  
outside the home, except when they are provided within the home 20598  
according to an individual's assessed needs and identified in an 20599  
individual service plan, that support learning and assistance in 20600  
the area of self-care, sensory and motor development, 20601  
socialization, daily living skills, communication, community 20602  
living, social skills, or vocational skills. 20603

(2) "Adult services" includes all of the following: 20604

(a) Adult day habilitation services; 20605

(b) Employment services; 20606

(c) Educational experiences and training obtained through 20607  
entities and activities that are not expressly intended for 20608  
individuals with ~~mental retardation~~ and developmental 20609  
disabilities, including trade schools, vocational or technical 20610  
schools, adult education, job exploration and sampling, unpaid 20611  
work experience in the community, volunteer activities, and 20612  
spectator sports. 20613

(B) (1) "Adult day habilitation services" means adult 20614  
services that do the following: 20615

(a) Provide access to and participation in typical 20616  
activities and functions of community life that are desired and 20617  
chosen by the general population, including such activities and 20618  
functions as opportunities to experience and participate in 20619  
community exploration, companionship with friends and peers, 20620  
leisure activities, hobbies, maintaining family contacts, 20621

community events, and activities where individuals without disabilities are involved; 20622  
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(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community. 20624  
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(2) "Adult day habilitation services" includes all of the following: 20628  
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(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services; 20630  
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(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services; 20634  
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(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community; 20638  
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(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports; 20645  
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(e) Transportation necessary to access adult day habilitation services; 20648  
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(f) Habilitation management, as described in section 20650  
5126.14 of the Revised Code. 20651

(3) "Adult day habilitation services" does not include 20652  
activities that are components of the provision of residential 20653  
services, family support services, or supported living services. 20654

(C) "Appointing authority" means the following: 20655

(1) In the case of a member of a county board of 20656  
developmental disabilities appointed by, or to be appointed by, 20657  
a board of county commissioners, the board of county 20658  
commissioners; 20659

(2) In the case of a member of a county board appointed 20660  
by, or to be appointed by, a senior probate judge, the senior 20661  
probate judge. 20662

(D) "Community employment," "competitive employment," and 20663  
"integrated setting" have the same meanings as in section 20664  
5123.022 of the Revised Code. 20665

(E) "Supported employment services" means vocational 20666  
assessment, job training and coaching, job development and 20667  
placement, worksite accessibility, and other services related to 20668  
employment outside a sheltered workshop. "Supported employment 20669  
services" includes both of the following: 20670

(1) Job training resulting in the attainment of community 20671  
employment, supported work in a typical work environment, or 20672  
self-employment; 20673

(2) Support for ongoing community employment, supported 20674  
work at community-based sites, or self-employment. 20675

(F) ~~As used in this division, "developmental delay" has~~ 20676  
~~the meaning established pursuant to section 5123.011 of the~~ 20677

~~Revised Code.~~ 20678

"Developmental disability" means a severe, chronic 20679  
disability that is characterized by all of the following: 20680

(1) It is attributable to a mental or physical impairment 20681  
or a combination of mental and physical impairments, other than 20682  
a mental or physical impairment solely caused by mental illness 20683  
as defined in division (A) of section 5122.01 of the Revised 20684  
Code; 20685

(2) It is manifested before age twenty-two; 20686

(3) It is likely to continue indefinitely; 20687

(4) It results in one of the following: 20688

(a) In the case of a person under age three, at least one 20689  
developmental delay, as defined in rules adopted under section 20690  
5123.011 of the Revised Code, or a diagnosed physical or mental 20691  
condition that has a high probability of resulting in a 20692  
developmental delay, as defined in those rules; 20693

(b) In the case of a person at least age three but under 20694  
age six, at least two developmental delays, as defined in rules 20695  
adopted under section 5123.011 of the Revised Code; 20696

(c) In the case of a person age six or older, a 20697  
substantial functional limitation in at least three of the 20698  
following areas of major life activity, as appropriate for the 20699  
person's age: self-care, receptive and expressive language, 20700  
learning, mobility, self-direction, capacity for independent 20701  
living, and, if the person is at least age sixteen, capacity for 20702  
economic self-sufficiency. 20703

(5) It causes the person to need a combination and 20704  
sequence of special, interdisciplinary, or other type of care, 20705

treatment, or provision of services for an extended period of 20706  
time that is individually planned and coordinated for the 20707  
person. 20708

"Developmental disability" includes intellectual 20709  
disability. 20710

(G) "Early childhood services" means a planned program of 20711  
habilitation designed to meet the needs of individuals with 20712  
~~mental retardation or other~~ developmental disabilities who have 20713  
not attained compulsory school age. 20714

(H) "Employment services" means prevocational services or 20715  
supported employment services. 20716

(I) (1) "Environmental modifications" means the physical 20717  
adaptations to an individual's home, specified in the 20718  
individual's service plan, that are necessary to ensure the 20719  
individual's health, safety, and welfare or that enable the 20720  
individual to function with greater independence in the home, 20721  
and without which the individual would require 20722  
institutionalization. 20723

(2) "Environmental modifications" includes such 20724  
adaptations as installation of ramps and grab-bars, widening of 20725  
doorways, modification of bathroom facilities, and installation 20726  
of specialized electric and plumbing systems necessary to 20727  
accommodate the individual's medical equipment and supplies. 20728

(3) "Environmental modifications" does not include 20729  
physical adaptations or improvements to the home that are of 20730  
general utility or not of direct medical or remedial benefit to 20731  
the individual, including such adaptations or improvements as 20732  
carpeting, roof repair, and central air conditioning. 20733

(J) "Family support services" means the services provided 20734

under a family support services program operated under section 20735  
5126.11 of the Revised Code. 20736

(K) "Habilitation" means the process by which the staff of 20737  
the facility or agency assists an individual with ~~mental-~~ 20738  
~~retardation or other-~~ a developmental disability in acquiring and 20739  
maintaining those life skills that enable the individual to cope 20740  
more effectively with the demands of the individual's own person 20741  
and environment, and in raising the level of the individual's 20742  
personal, physical, mental, social, and vocational efficiency. 20743  
Habilitation includes, but is not limited to, programs of 20744  
formal, structured education and training. 20745

(L) "Home and community-based services" has the same 20746  
meaning as in section 5123.01 of the Revised Code. 20747

(M) "ICF/IID" has the same meaning as in section 5124.01 20748  
of the Revised Code. 20749

(N) "Immediate family" means parents, grandparents, 20750  
brothers, sisters, spouses, sons, daughters, aunts, uncles, 20751  
mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, 20752  
sons-in-law, and daughters-in-law. 20753

(O) "Intellectual disability" means a mental impairment 20754  
manifested during the developmental period characterized by 20755  
significantly subaverage general intellectual functioning 20756  
existing concurrently with deficiencies in the effectiveness or 20757  
degree with which an individual meets the standards of personal 20758  
independence and social responsibility expected of the 20759  
individual's age and cultural group. 20760

(P) "Medicaid case management services" means case 20761  
management services provided to an individual with ~~mental-~~ 20762  
~~retardation or other-~~ a developmental disability that the state 20763

medicaid plan requires. 20764

~~(P) "Mental retardation" means a mental impairment  
manifested during the developmental period characterized by  
significantly subaverage general intellectual functioning  
existing concurrently with deficiencies in the effectiveness or  
degree with which an individual meets the standards of personal  
independence and social responsibility expected of the  
individual's age and cultural group.~~ 20765  
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(Q) "Prevocational services" means services that provide 20772  
learning and work experiences, including volunteer work 20773  
experiences, from which an individual can develop general 20774  
strengths and skills that are not specific to a particular task 20775  
or job but contribute to employability in community employment, 20776  
supported work at community-based sites, or self-employment. 20777

(R) "Residential services" means services to individuals 20778  
with ~~mental retardation or other~~ developmental disabilities to 20779  
provide housing, food, clothing, habilitation, staff support, 20780  
and related support services necessary for the health, safety, 20781  
and welfare of the individuals and the advancement of their 20782  
quality of life. "Residential services" includes program 20783  
management, as described in section 5126.14 of the Revised Code. 20784

(S) "Resources" means available capital and other assets, 20785  
including moneys received from the federal, state, and local 20786  
governments, private grants, and donations; appropriately 20787  
qualified personnel; and appropriate capital facilities and 20788  
equipment. 20789

(T) "Senior probate judge" means the current probate judge 20790  
of a county who has served as probate judge of that county 20791  
longer than any of the other current probate judges of that 20792

county. If a county has only one probate judge, "senior probate judge" means that probate judge. 20793  
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(U) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code. 20795  
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(V) (1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment. 20798  
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(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following: 20803  
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(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received. 20805  
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(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living. 20817  
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(W) "Supportive home services" means a range of services to families of individuals with ~~mental retardation or other~~ 20820  
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developmental disabilities to develop and maintain increased 20822  
acceptance and understanding of such persons, increased ability 20823  
of family members to teach the person, better coordination 20824  
between school and home, skills in performing specific 20825  
therapeutic and management techniques, and ability to cope with 20826  
specific situations. 20827

(X) (1) "Supported living" means services provided for as 20828  
long as twenty-four hours a day to an individual with ~~mental-~~ 20829  
~~retardation or other-~~ a developmental disability through any 20830  
public or private resources, including moneys from the 20831  
individual, that enhance the individual's reputation in 20832  
community life and advance the individual's quality of life by 20833  
doing the following: 20834

(a) Providing the support necessary to enable an 20835  
individual to live in a residence of the individual's choice, 20836  
with any number of individuals who are not disabled, or with not 20837  
more than three individuals with ~~mental retardation and-~~ 20838  
developmental disabilities unless the individuals are related by 20839  
blood or marriage; 20840

(b) Encouraging the individual's participation in the 20841  
community; 20842

(c) Promoting the individual's rights and autonomy; 20843

(d) Assisting the individual in acquiring, retaining, and 20844  
improving the skills and competence necessary to live 20845  
successfully in the individual's residence. 20846

(2) "Supported living" includes the provision of all of 20847  
the following: 20848

(a) Housing, food, clothing, habilitation, staff support, 20849  
professional services, and any related support services 20850

necessary to ensure the health, safety, and welfare of the individual receiving the services; 20851  
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(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies; 20853  
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(c) Personal care services and homemaker services; 20858

(d) Household maintenance that does not include modifications to the physical structure of the residence; 20859  
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(e) Respite care services; 20861

(f) Program management, as described in section 5126.14 of the Revised Code. 20862  
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**Sec. 5126.022.** When making appointments to a county board of developmental disabilities, an appointing authority shall do all of the following: 20864  
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(A) Appoint only individuals who are residents of the county the appointing authority serves, citizens of the United States, and interested and knowledgeable in the field of ~~mental-retardation~~ intellectual disabilities and other allied fields; 20867  
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(B) If the appointing authority is a board of county commissioners, appoint at least two individuals who are eligible for services provided by the county board or are immediate family members of such individuals. The board of county commissioners shall, whenever possible, ensure that one of those two members is an individual eligible for adult services or an immediate family member of an individual eligible for adult services and the other is an immediate family member of an 20871  
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individual eligible for early intervention services or services 20879  
for preschool or school-age children; 20880

(C) If the appointing authority is a senior probate judge, 20881  
appoint at least one individual who is an immediate family 20882  
member of an individual eligible for residential services or 20883  
supported living; 20884

(D) Appoint, to the maximum extent possible, individuals 20885  
who have professional training and experience in business 20886  
management, finance, law, health care practice, personnel 20887  
administration, or government service; 20888

(E) Provide for the county board's membership to reflect, 20889  
as nearly as possible, the composition of the county that the 20890  
county board serves. 20891

**Sec. 5126.023.** None of the following individuals may serve 20892  
as a member of a county board of developmental disabilities: 20893

(A) An elected public official, except for a township 20894  
trustee, township fiscal officer, or individual excluded from 20895  
the definition of public official or employee in division (B) of 20896  
section 102.01 of the Revised Code; 20897

(B) An immediate family member of a member of the same 20898  
county board; 20899

(C) An employee of any county board; 20900

(D) An immediate family member of an employee of the same 20901  
county board; 20902

(E) A former employee of a county board whose employment 20903  
ceased less than four calendar years before the former employee 20904  
would begin to serve as a member of the same county board; 20905

(F) A former employee of a county board whose employment 20906  
ceased less than two years before the former employee would 20907  
begin to serve as a member of a different county board; 20908

(G) Unless there is no conflict of interest, an individual 20909  
who or whose immediate family member is a board member of an 20910  
agency licensed or certified by the department of developmental 20911  
disabilities to provide services to individuals with ~~mental-~~ 20912  
~~retardation or~~ developmental disabilities or an individual who 20913  
or whose immediate family member is an employee of such an 20914  
agency; 20915

(H) An individual with an immediate family member who 20916  
serves as a county commissioner of a county served by the county 20917  
board unless the individual was a member of the county board 20918  
before October 31, 1980. 20919

**Sec. 5126.04.** (A) Each county board of developmental 20920  
disabilities shall plan and set priorities based on available 20921  
resources for the provision of facilities, programs, and other 20922  
services to meet the needs of county residents who are 20923  
individuals with ~~mental retardation and other~~ developmental 20924  
disabilities, former residents of the county residing in state 20925  
institutions or, ~~before the effective date of this amendment-~~ 20926  
September 29, 2011, placed under purchase of service agreements 20927  
under section 5123.18 of the Revised Code, and children subject 20928  
to a determination made pursuant to section 121.38 of the 20929  
Revised Code. 20930

Each county board shall assess the facility and service 20931  
needs of the individuals with ~~mental retardation and other~~ 20932  
developmental disabilities who are residents of the county or 20933  
former residents of the county residing in state institutions 20934  
or, ~~before the effective date of this amendment~~ September 29, 20935

2011, placed under purchase of service agreements under section 20936  
5123.18 of the Revised Code. 20937

Each county board shall require individual habilitation or 20938  
service plans for individuals with ~~mental retardation and other~~ 20939  
developmental disabilities who are being served or who have been 20940  
determined eligible for services and are awaiting the provision 20941  
of services. Each board shall ensure that methods of having 20942  
their service needs evaluated are available. 20943

(B) (1) If a foster child is in need of assessment for 20944  
eligible services or is receiving services from a county board 20945  
of developmental disabilities and that child is placed in a 20946  
different county, the agency that placed the child, immediately 20947  
upon placement, shall inform the county board in the new county 20948  
all of the following: 20949

(a) That a foster child has been placed in that county; 20950

(b) The name and other identifying information of the 20951  
foster child; 20952

(c) The name of the foster child's previous county of 20953  
residence; 20954

(d) That the foster child was in need of assessment for 20955  
eligible services or was receiving services from the county 20956  
board of developmental disabilities in the previous county. 20957

(2) Upon receiving the notice described in division (B) (1) 20958  
of this section or otherwise learning that the child was in need 20959  
of assessment for eligible services or was receiving services 20960  
from a county board of developmental disabilities in the 20961  
previous county, the county board in the new county shall 20962  
communicate with the county board of the previous county to 20963  
determine how services for the foster child shall be provided in 20964

accordance with each board's plan and priorities as described in 20965  
division (A) of this section. 20966

If the two county boards are unable to reach an agreement 20967  
within ten days of the child's placement, the county board in 20968  
the new county shall send notice to the Ohio department of 20969  
developmental disabilities of the failure to agree. The 20970  
department shall decide how services shall be provided for the 20971  
foster child within ten days of receiving notice that the county 20972  
boards could not reach an agreement. The department may decide 20973  
that one, or both, of the county boards shall provide services. 20974  
The services shall be provided in accordance with the board's 20975  
plan and priorities as described in division (A) of this 20976  
section. 20977

(C) The department of developmental disabilities may adopt 20978  
rules in accordance with Chapter 119. of the Revised Code as 20979  
necessary to implement this section. To the extent that rules 20980  
adopted under this section apply to the identification and 20981  
placement of children with disabilities under Chapter 3323. of 20982  
the Revised Code, the rules shall be consistent with the 20983  
standards and procedures established under sections 3323.03 to 20984  
3323.05 of the Revised Code. 20985

(D) The responsibility or authority of a county board to 20986  
provide services under this chapter does not affect the 20987  
responsibility of any other entity of state or local government 20988  
to provide services to individuals with ~~mental retardation and~~ 20989  
developmental disabilities. 20990

(E) On or before the first day of February prior to a 20991  
school year, a county board of developmental disabilities may 20992  
elect not to participate during that school year in the 20993  
provision of or contracting for educational services for 20994

children ages six through twenty-one years of age, provided that 20995  
on or before that date the board gives notice of this election 20996  
to the superintendent of public instruction, each school 20997  
district in the county, and the educational service center 20998  
serving the county. If a board makes this election, it shall not 20999  
have any responsibility for or authority to provide educational 21000  
services that school year for children ages six through twenty- 21001  
one years of age. If a board does not make an election for a 21002  
school year in accordance with this division, the board shall be 21003  
deemed to have elected to participate during that school year in 21004  
the provision of or contracting for educational services for 21005  
children ages six through twenty-one years of age. 21006

(F) If a county board of developmental disabilities elects 21007  
to provide educational services during a school year to 21008  
individuals six through twenty-one years of age who have 21009  
multiple disabilities, the board may provide these services to 21010  
individuals who are appropriately identified and determined 21011  
eligible pursuant to Chapter 3323. of the Revised Code, and in 21012  
accordance with applicable rules of the state board of 21013  
education. The county board may also provide related services to 21014  
individuals six through twenty-one years of age who have one or 21015  
more disabling conditions, in accordance with section 3317.20 21016  
and Chapter 3323. of the Revised Code and applicable rules of 21017  
the state board of education. 21018

**Sec. 5126.041.** (A) As used in this section: 21019

(1) "Preschool child with a disability" has the same 21020  
meaning as in section 3323.01 of the Revised Code. 21021

(2) "State institution" means all or part of an 21022  
institution under the control of the department of developmental 21023  
disabilities pursuant to section 5123.03 of the Revised Code and 21024

maintained for the care, treatment, and training of ~~the mentally-~~ 21025  
~~retarded~~individuals with developmental disabilities. 21026

(B) Except as provided in division (C) of this section, 21027  
each county board of developmental disabilities shall make 21028  
eligibility determinations in accordance with the definition of 21029  
"developmental disability" contained in section 5126.01 of the 21030  
Revised Code. Pursuant to rules adopted under section 5123.012 21031  
of the Revised Code, a county board may establish eligibility 21032  
for programs and services for any preschool child with a 21033  
disability eligible for services under section 3323.02 of the 21034  
Revised Code whose disability is not attributable solely to 21035  
mental illness, as defined in section 5122.01 of the Revised 21036  
Code. 21037

(C) (1) A county board shall make determinations of 21038  
eligibility for service and support administration in accordance 21039  
with rules adopted under section 5126.08 of the Revised Code. 21040

(2) All persons who were eligible for services and 21041  
enrolled in programs offered by a county board of developmental 21042  
disabilities pursuant to this chapter on July 1, 1991, shall 21043  
continue to be eligible for those services and to be enrolled in 21044  
those programs as long as they are in need of services. 21045

(3) A person who resided in a state institution on or 21046  
before October 29, 1993, is eligible for programs and services 21047  
offered by a county board of developmental disabilities, unless 21048  
the person is determined by the county board not to be in need 21049  
of those programs and services. 21050

(D) A county board shall refer a person who requests but 21051  
is not eligible for programs and services offered by the board 21052  
to other entities of state and local government or appropriate 21053

private entities that provide services. 21054

(E) Membership of a person on, or employment of a person 21055  
by, a county board of developmental disabilities does not affect 21056  
the eligibility of any member of that person's family for 21057  
services provided by the board or by any entity under contract 21058  
with the board. 21059

**Sec. 5126.042.** (A) As used in this section, "emergency 21060  
status" means a status that an individual with ~~mental-~~ 21061  
~~retardation or~~ developmental disabilities has when the 21062  
individual is at risk of substantial self-harm or substantial 21063  
harm to others if action is not taken within thirty days. An 21064  
"emergency status" may include a status resulting from one or 21065  
more of the following situations: 21066

(1) Loss of present residence for any reason, including 21067  
legal action; 21068

(2) Loss of present caretaker for any reason, including 21069  
serious illness of the caretaker, change in the caretaker's 21070  
status, or inability of the caretaker to perform effectively for 21071  
the individual; 21072

(3) Abuse, neglect, or exploitation of the individual; 21073

(4) Health and safety conditions that pose a serious risk 21074  
to the individual or others of immediate harm or death; 21075

(5) Change in the emotional or physical condition of the 21076  
individual that necessitates substantial accommodation that 21077  
cannot be reasonably provided by the individual's existing 21078  
caretaker. 21079

(B) If a county board of developmental disabilities 21080  
determines that available resources are not sufficient to meet 21081

the needs of all individuals who request non-medicaid programs 21082  
or services, it shall establish one or more waiting lists for 21083  
the non-medicaid programs or services in accordance with its 21084  
plan developed under section 5126.04 of the Revised Code. The 21085  
board may establish priorities for making placements on its 21086  
waiting lists established under this division. Any such 21087  
priorities shall be consistent with the board's plan and 21088  
applicable law. 21089

(C) If a county board determines that available resources 21090  
are insufficient to meet the needs of all individuals who 21091  
request home and community-based services, it shall establish a 21092  
waiting list for the services. An individual's date of placement 21093  
on the waiting list shall be the date a request is made to the 21094  
board for the individual to receive the home and community-based 21095  
services. The board shall provide for an individual who has an 21096  
emergency status to receive priority status on the waiting list. 21097  
The board shall also provide for an individual to whom any of 21098  
the following apply to receive priority status on the waiting 21099  
list in accordance with rules adopted under division (E) of this 21100  
section: 21101

(1) The individual is receiving supported living, family 21102  
support services, or adult services for which no federal 21103  
financial participation is received under the medicaid program; 21104

(2) The individual's primary caregiver is at least sixty 21105  
years of age; 21106

(3) The individual has intensive needs as determined in 21107  
accordance with rules adopted under division (E) of this 21108  
section; 21109

(4) The individual resides in an ICF/IID, as defined in 21110

section 5124.01 of the Revised Code; 21111

(5) The individual resides in a nursing facility, as 21112  
defined in section 5165.01 of the Revised Code. 21113

(D) If two or more individuals on a waiting list 21114  
established under division (C) of this section have priority for 21115  
the services pursuant to that division, a county board shall use 21116  
criteria specified in rules adopted under division (E) of this 21117  
section in determining the order in which the individuals with 21118  
priority will be offered the services. An individual who has 21119  
priority for home and community-based services because the 21120  
individual has an emergency status has priority for the services 21121  
over all other individuals on the waiting list who do not have 21122  
emergency status. 21123

(E) The department of developmental disabilities shall 21124  
adopt rules in accordance with Chapter 119. of the Revised Code 21125  
governing waiting lists established under division (C) of this 21126  
section. The rules shall include procedures to be followed to 21127  
ensure that the due process rights of individuals placed on 21128  
waiting lists are not violated. As part of the rules adopted 21129  
under this division, the department shall adopt rules 21130  
establishing criteria a county board shall use under division 21131  
(D) of this section in determining the order in which 21132  
individuals with priority for home and community-based services 21133  
pursuant to division (C) of this section will be offered the 21134  
services. 21135

(F) The following shall take precedence over the 21136  
applicable provisions of this section: 21137

(1) Medicaid rules and regulations; 21138

(2) Any specific requirements that may be contained within 21139

a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

**Sec. 5126.043.** (A) Unless a guardian has been appointed for the individual, when a decision regarding receipt of a service or participation in a program provided for or funded under this chapter or Chapter 5123. or 5124. of the Revised Code by an individual with ~~mental retardation or other a~~ developmental disability must be made, the individual shall be permitted to make the decision. The individual may obtain support and guidance from an adult family member or other person, but doing so does not affect the right of the individual to make the decision.

(B) An individual with ~~mental retardation or other a~~ developmental disability may authorize an adult to make a decision described in division (A) of this section on the individual's behalf, as long as the adult does not have a financial interest in the decision. The authorization shall be made in writing.

(C) If a guardian has been appointed for an individual with ~~mental retardation or other a~~ developmental disability, the guardian shall make any decision described in division (A) of this section on behalf of the individual. This section does not require appointment of a guardian.

(D) Individuals with ~~mental retardation and other~~ developmental disabilities, including those who have been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code, have the right to participate in decisions that affect their lives and to have their needs, desires, and preferences considered. An adult or guardian who makes a decision pursuant

to division (B) or (C) of this section shall make a decision 21170  
that is in the best interests of the individual on whose behalf 21171  
the decision is made and that is consistent with the needs, 21172  
desires, and preferences of that individual. 21173

**Sec. 5126.046.** (A) Except as otherwise provided by 42 21174  
C.F.R. 431.51, an individual with ~~mental retardation or other a~~ 21175  
developmental disability who is eligible for home and community- 21176  
based services has the right to obtain the services from any 21177  
provider of the services that is qualified to furnish the 21178  
services and is willing to furnish the services to the 21179  
individual. A county board of developmental disabilities that 21180  
has medicaid local administrative authority under division (A) 21181  
of section 5126.055 of the Revised Code for home and community- 21182  
based services and refuses to permit an individual to obtain 21183  
home and community-based services from a qualified and willing 21184  
provider shall provide the individual timely notice that the 21185  
individual may appeal under section 5160.31 of the Revised Code. 21186

(B) An individual with ~~mental retardation or other a~~ 21187  
developmental disability who is eligible for nonmedicaid 21188  
residential services or nonmedicaid supported living has the 21189  
right to obtain the services from any provider of the 21190  
residential services or supported living that is qualified to 21191  
furnish the residential services or supported living and is 21192  
willing to furnish the residential services or supported living 21193  
to the individual. 21194

(C) The department of developmental disabilities shall 21195  
make available to the public on its internet web site an up-to- 21196  
date list of all providers of home and community-based services, 21197  
nonmedicaid residential services, and nonmedicaid supported 21198  
living. County boards shall assist individuals with ~~mental-~~ 21199

~~retardation or other~~ developmental disabilities and the families 21200  
of such individuals access the list on the department's internet 21201  
web site. 21202

(D) The director of developmental disabilities shall adopt 21203  
rules in accordance with Chapter 119. of the Revised Code 21204  
governing the implementation of this section. The rules shall 21205  
include procedures for individuals to choose their providers. 21206

**Sec. 5126.05.** (A) Subject to the rules established by the 21207  
director of developmental disabilities pursuant to Chapter 119. 21208  
of the Revised Code for programs and services offered pursuant 21209  
to this chapter, and subject to the rules established by the 21210  
state board of education pursuant to Chapter 119. of the Revised 21211  
Code for programs and services offered pursuant to Chapter 3323. 21212  
of the Revised Code, the county board of developmental 21213  
disabilities shall: 21214

(1) Administer and operate facilities, programs, and 21215  
services as provided by this chapter and Chapter 3323. of the 21216  
Revised Code and establish policies for their administration and 21217  
operation; 21218

(2) Coordinate, monitor, and evaluate existing services 21219  
and facilities available to individuals with ~~mental retardation~~ 21220  
~~and~~ developmental disabilities; 21221

(3) Provide early childhood services, supportive home 21222  
services, and adult services, according to the plan and 21223  
priorities developed under section 5126.04 of the Revised Code; 21224

(4) Provide or contract for special education services 21225  
pursuant to Chapters 3317. and 3323. of the Revised Code and 21226  
ensure that related services, as defined in section 3323.01 of 21227  
the Revised Code, are available according to the plan and 21228

priorities developed under section 5126.04 of the Revised Code;	21229
(5) Adopt a budget, authorize expenditures for the	21230
purposes specified in this chapter and do so in accordance with	21231
section 319.16 of the Revised Code, approve attendance of board	21232
members and employees at professional meetings and approve	21233
expenditures for attendance, and exercise such powers and duties	21234
as are prescribed by the director;	21235
(6) Submit annual reports of its work and expenditures,	21236
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to	21237
the director, the superintendent of public instruction, and the	21238
board of county commissioners at the close of the fiscal year	21239
and at such other times as may reasonably be requested;	21240
(7) Authorize all positions of employment, establish	21241
compensation, including but not limited to salary schedules and	21242
fringe benefits for all board employees, approve contracts of	21243
employment for management employees that are for a term of more	21244
than one year, employ legal counsel under section 309.10 of the	21245
Revised Code, and contract for employee benefits;	21246
(8) Provide service and support administration in	21247
accordance with section 5126.15 of the Revised Code;	21248
(9) Certify respite care homes pursuant to rules adopted	21249
under section 5123.171 of the Revised Code by the director of	21250
developmental disabilities;	21251
(10) Implement an employment first policy that clearly	21252
identifies community employment as the desired outcome for every	21253
individual of working age who receives services from the board;	21254
(11) Set benchmarks for improving community employment	21255
outcomes.	21256

(B) To the extent that rules adopted under this section 21257  
apply to the identification and placement of children with 21258  
disabilities under Chapter 3323. of the Revised Code, they shall 21259  
be consistent with the standards and procedures established 21260  
under sections 3323.03 to 3323.05 of the Revised Code. 21261

(C) Any county board may enter into contracts with other 21262  
such boards and with public or private, nonprofit, or profit- 21263  
making agencies or organizations of the same or another county, 21264  
to provide the facilities, programs, and services authorized or 21265  
required, upon such terms as may be agreeable, and in accordance 21266  
with this chapter and Chapter 3323. of the Revised Code and 21267  
rules adopted thereunder and in accordance with sections 307.86 21268  
and 5126.071 of the Revised Code. 21269

(D) A county board may combine transportation for children 21270  
and adults enrolled in programs and services offered under 21271  
Chapter 5126. of the Revised Code with transportation for 21272  
children enrolled in classes funded under sections 3317.0213 and 21273  
3317.20 of the Revised Code. 21274

(E) A county board may purchase all necessary insurance 21275  
policies, may purchase equipment and supplies through the 21276  
department of administrative services or from other sources, and 21277  
may enter into agreements with public agencies or nonprofit 21278  
organizations for cooperative purchasing arrangements. 21279

(F) A county board may receive by gift, grant, devise, or 21280  
bequest any moneys, lands, or property for the benefit of the 21281  
purposes for which the board is established and hold, apply, and 21282  
dispose of the moneys, lands, and property according to the 21283  
terms of the gift, grant, devise, or bequest. All money received 21284  
by gift, grant, bequest, or disposition of lands or property 21285  
received by gift, grant, devise, or bequest shall be deposited 21286

in the county treasury to the credit of such board and shall be 21287  
available for use by the board for purposes determined or stated 21288  
by the donor or grantor, but may not be used for personal 21289  
expenses of the board members. Any interest or earnings accruing 21290  
from such gift, grant, devise, or bequest shall be treated in 21291  
the same manner and subject to the same provisions as such gift, 21292  
grant, devise, or bequest. 21293

(G) The board of county commissioners shall levy taxes and 21294  
make appropriations sufficient to enable the county board of 21295  
developmental disabilities to perform its functions and duties, 21296  
and may utilize any available local, state, and federal funds 21297  
for such purpose. 21298

**Sec. 5126.051.** (A) To the extent that resources are 21299  
available, a county board of developmental disabilities shall 21300  
provide for or arrange residential services and supported living 21301  
for individuals with ~~mental retardation and~~ developmental 21302  
disabilities. 21303

A county board may acquire, convey, lease, or sell 21304  
property for residential services and supported living and enter 21305  
into loan agreements, including mortgages, for the acquisition 21306  
of such property. A county board is not required to comply with 21307  
provisions of Chapter 307. of the Revised Code providing for 21308  
competitive bidding or sheriff sales in the acquisition, lease, 21309  
conveyance, or sale of property under this division, but the 21310  
acquisition, lease, conveyance, or sale must be at fair market 21311  
value determined by appraisal of one or more disinterested 21312  
persons appointed by the board. 21313

Any action taken by a county board under this division 21314  
that will incur debt on the part of the county shall be taken in 21315  
accordance with Chapter 133. of the Revised Code. A county board 21316

shall not incur any debt on the part of the county without the 21317  
prior approval of the board of county commissioners. 21318

(B) (1) To the extent that resources are available, a 21319  
county board shall provide or arrange for the provision of adult 21320  
services to individuals who are age eighteen and older and not 21321  
enrolled in a program or service under Chapter 3323. of the 21322  
Revised Code or age sixteen or seventeen and eligible for adult 21323  
services under rules adopted by the director of developmental 21324  
disabilities under Chapter 119. of the Revised Code. These 21325  
services shall be provided to the individuals in accordance with 21326  
~~the individual's~~ their individual service ~~plan~~ plans and shall 21327  
include support services specified in the ~~plan~~ plans. 21328

(2) Any prevocational services shall be provided in 21329  
accordance with the individual's ~~individual~~ service plan and 21330  
occur over a specified period of time with specific outcomes 21331  
sought to be achieved. 21332

(3) A county board may, in cooperation with the 21333  
opportunities for Ohioans with disabilities agency, seek federal 21334  
funds for job training or other services directed at helping 21335  
individuals obtain community employment. 21336

(4) A county board may contract with any agency, board, or 21337  
other entity that is accredited by the commission on 21338  
accreditation of rehabilitation facilities to provide services. 21339  
A county board that is accredited by the commission on 21340  
accreditation of rehabilitation facilities may provide services 21341  
for which it is certified by the commission. 21342

(C) To the extent that resources are available, a county 21343  
board may provide services to an individual with ~~mental~~ 21344  
~~retardation or other~~ a developmental disability in addition to 21345

those provided pursuant to this section, section 5126.05 of the Revised Code, or any other section of this chapter. The services shall be provided in accordance with the individual's ~~individual~~ service plan and may be provided in collaboration with other entities of state or local government.

**Sec. 5126.054.** (A) Each county board of developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with ~~mental retardation or other developmental disability~~ disabilities residing in the county who need the level of care provided by an ICF/IID, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the waiting list priority given to them under

section 5126.042 of the Revised Code and the types of home and 21375  
community-based services the individuals are to receive; 21376

(3) A component that provides for the implementation of 21377  
medicaid case management services and home and community-based 21378  
services for individuals who begin to receive the services on or 21379  
after the date the plan is approved under section 5123.046 of 21380  
the Revised Code. A county board shall include all of the 21381  
following in the component: 21382

(a) If the department of developmental disabilities or 21383  
department of medicaid requires, an agreement to pay the 21384  
nonfederal share of medicaid expenditures that the county board 21385  
is required by sections 5126.059 and 5126.0510 of the Revised 21386  
Code to pay; 21387

(b) How the services are to be phased in over the period 21388  
the plan covers, including how the county board will serve 21389  
individuals who have priority on a waiting list established 21390  
under section 5126.042 of the Revised Code; 21391

(c) Any agreement or commitment regarding the county 21392  
board's funding of home and community-based services that the 21393  
county board has with the department at the time the county 21394  
board develops the component; 21395

(d) Assurances adequate to the department that the county 21396  
board will comply with all of the following requirements: 21397

(i) To provide the types of home and community-based 21398  
services specified in the preliminary implementation component 21399  
required by division (A)(2) of this section to at least the 21400  
number of individuals specified in that component; 21401

(ii) To use any additional funds the county board receives 21402  
for the services to improve the county board's resource 21403

capabilities for supporting such services available in the 21404  
county at the time the component is developed and to expand the 21405  
services to accommodate the unmet need for those services in the 21406  
county; 21407

(iii) To employ or contract with a business manager or 21408  
enter into an agreement with another county board of 21409  
developmental disabilities that employs or contracts with a 21410  
business manager to have the business manager serve both county 21411  
boards. No superintendent of a county board may serve as the 21412  
county board's business manager. 21413

(iv) To employ or contract with a medicaid services 21414  
manager or enter into an agreement with another county board of 21415  
developmental disabilities that employs or contracts with a 21416  
medicaid services manager to have the medicaid services manager 21417  
serve both county boards. No superintendent of a county board 21418  
may serve as the county board's medicaid services manager. 21419

(e) Programmatic and financial accountability measures and 21420  
projected outcomes expected from the implementation of the plan; 21421

(f) Any other applicable information or conditions that 21422  
the department requires as a condition of approving the 21423  
component under section 5123.046 of the Revised Code. 21424

(B) A county board whose plan developed under division (A) 21425  
of this section is approved by the department under section 21426  
5123.046 of the Revised Code shall update and renew the plan in 21427  
accordance with a schedule the department shall develop. 21428

**Sec. 5126.055.** (A) Except as provided in section 5126.056 21429  
of the Revised Code, a county board of developmental 21430  
disabilities has medicaid local administrative authority to, and 21431  
shall, do all of the following for an individual with ~~mental~~ 21432

~~retardation or other~~ a developmental disability who resides in 21433  
the county that the county board serves and seeks or receives 21434  
home and community-based services: 21435

(1) Perform assessments and evaluations of the individual. 21436  
As part of the assessment and evaluation process, ~~the county~~ 21437  
~~board shall do~~ all of the following apply: 21438

(a) ~~Make~~ The county board shall make a recommendation to 21439  
the department of developmental disabilities on whether the 21440  
department should approve or deny the individual's application 21441  
for the services, including on the basis of whether the 21442  
individual needs the level of care an ICF/IID provides~~†~~. 21443

(b) If the individual's application is denied because of 21444  
the county board's recommendation and the individual appeals 21445  
pursuant to section 5160.31 of the Revised Code, the county 21446  
board shall present, with the department of developmental 21447  
disabilities or department of medicaid, whichever denies the 21448  
application, the reasons for the recommendation and denial at 21449  
the hearing~~†~~. 21450

(c) If the individual's application is approved, the 21451  
county board shall recommend to the departments of developmental 21452  
disabilities and medicaid the services that should be included 21453  
in the ~~individual's individualized individual~~ service plan ~~and,~~ 21454  
~~if~~. If either department under section 5166.21 of the Revised 21455  
Code approves, reduces, denies, or terminates a service included 21456  
in the ~~individual's individualized service plan under section~~ 21457  
~~5166.20 of the Revised Code~~ because of the county board's 21458  
recommendation, the board shall present, with the department 21459  
that made the approval, reduction, denial, or termination, the 21460  
reasons for the recommendation and approval, reduction, denial, 21461  
or termination at a hearing held pursuant to an appeal made 21462

under section 5160.31 of the Revised Code. 21463

(2) Perform any duties assigned to the county board in 21464  
rules adopted under section 5126.046 of the Revised Code 21465  
regarding the individual's right to choose a qualified and 21466  
willing provider of the services and, at a hearing held pursuant 21467  
to an appeal made under section 5160.31 of the Revised Code, 21468  
present evidence of the process for appropriate assistance in 21469  
choosing providers; 21470

(3) If the county board is certified under section 21471  
5123.161 of the Revised Code to provide the services and agrees 21472  
to provide the services to the individual and the individual 21473  
chooses the county board to provide the services, furnish, in 21474  
accordance with the county board's medicaid provider agreement 21475  
and for the authorized reimbursement rate, the services the 21476  
individual requires; 21477

(4) Monitor the services provided to the individual and 21478  
ensure the individual's health, safety, and welfare. The 21479  
monitoring shall include quality assurance activities. If the 21480  
county board provides the services, the department of 21481  
developmental disabilities shall also monitor the services. 21482

(5) Develop, with the individual and the provider of the 21483  
individual's services, an effective ~~individualized~~ individual 21484  
service plan that includes coordination of services, recommend 21485  
that the departments of developmental disabilities and medicaid 21486  
approve the plan, and implement the plan unless either 21487  
department disapproves it. The ~~individualized service~~ plan shall 21488  
include a summary page, agreed to by the county board, provider, 21489  
and individual receiving services, that clearly outlines the 21490  
amount, duration, and scope of services to be provided under the 21491  
plan. 21492

(6) Have an investigative agent conduct investigations	21493
under section 5126.313 of the Revised Code that concern the	21494
individual;	21495
(7) Have a service and support administrator perform the	21496
duties under division (B) (9) of section 5126.15 of the Revised	21497
Code that concern the individual.	21498
(B) A county board shall perform its medicaid local	21499
administrative authority under this section in accordance with	21500
all of the following:	21501
(1) The county board's plan that the department of	21502
developmental disabilities approves under section 5123.046 of	21503
the Revised Code;	21504
(2) All applicable federal and state laws;	21505
(3) All applicable policies of the departments of	21506
developmental disabilities and medicaid and the United States	21507
department of health and human services;	21508
(4) The department of medicaid's supervision under its	21509
authority as the single state medicaid agency;	21510
(5) The department of developmental disabilities'	21511
oversight.	21512
(C) The departments of developmental disabilities and	21513
medicaid shall communicate with and provide training to county	21514
boards regarding medicaid local administrative authority granted	21515
by this section. The communication and training shall include	21516
issues regarding audit protocols and other standards established	21517
by the United States department of health and human services	21518
that the departments determine appropriate for communication and	21519
training. County boards shall participate in the training. The	21520

departments shall assess the county board's compliance against 21521  
uniform standards that the departments shall establish. 21522

(D) A county board may not delegate its medicaid local 21523  
administrative authority granted under this section but may 21524  
contract with a person or government entity, including a council 21525  
of governments, for assistance with its medicaid local 21526  
administrative authority. A county board that enters into such a 21527  
contract shall notify the director of developmental 21528  
disabilities. The notice shall include the tasks and 21529  
responsibilities that the contract gives to the person or 21530  
government entity. The person or government entity shall comply 21531  
in full with all requirements to which the county board is 21532  
subject regarding the person or government entity's tasks and 21533  
responsibilities under the contract. The county board remains 21534  
ultimately responsible for the tasks and responsibilities. 21535

(E) A county board that has medicaid local administrative 21536  
authority under this section shall, through the departments of 21537  
developmental disabilities and medicaid, reply to, and cooperate 21538  
in arranging compliance with, a program or fiscal audit or 21539  
program violation exception that a state or federal audit or 21540  
review discovers. The department of medicaid shall timely notify 21541  
the department of developmental disabilities and the county 21542  
board of any adverse findings. After receiving the notice, the 21543  
county board, in conjunction with the department of 21544  
developmental disabilities, shall cooperate fully with the 21545  
department of medicaid and timely prepare and send to the 21546  
department a written plan of correction or response to the 21547  
adverse findings. The county board is liable for any adverse 21548  
findings that result from an action it takes or fails to take in 21549  
its implementation of medicaid local administrative authority. 21550

(F) If the department of developmental disabilities or 21551  
department of medicaid determines that a county board's 21552  
implementation of its medicaid local administrative authority 21553  
under this section is deficient, the department that makes the 21554  
determination shall require that county board do the following: 21555

(1) If the deficiency affects the health, safety, or 21556  
welfare of an individual with ~~mental retardation or other a~~ 21557  
developmental disability, correct the deficiency within twenty- 21558  
four hours; 21559

(2) If the deficiency does not affect the health, safety, 21560  
or welfare of an individual with ~~mental retardation or other a~~ 21561  
developmental disability, receive technical assistance from the 21562  
department or submit a plan of correction to the department that 21563  
is acceptable to the department within sixty days and correct 21564  
the deficiency within the time required by the plan of 21565  
correction. 21566

**Sec. 5126.058.** (A) Each county board of developmental 21567  
disabilities shall prepare a memorandum of understanding that is 21568  
developed by all of the following and that is signed by the 21569  
persons identified in divisions (A) (2) to (7) of this section: 21570

(1) The senior probate judge of the county or the senior 21571  
probate judge's representative; 21572

(2) The county peace officer; 21573

(3) All chief municipal peace officers within the county; 21574

(4) Other law enforcement officers handling abuse, 21575  
neglect, and exploitation of ~~mentally retarded and~~ 21576  
~~developmentally disabled persons~~ individuals with developmental 21577  
disabilities in the county; 21578

(5) The prosecuting attorney of the county;	21579
(6) The public children services agency;	21580
(7) The coroner of the county.	21581
(B) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and sections 313.12, 2151.421, 2903.16, 5126.31, and 5126.33 of the Revised Code and shall have as its primary goal the elimination of all unnecessary interviews of persons who are the subject of reports made pursuant to this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charge or complaint arising from any reported case of abuse, neglect, or exploitation or the suppression of any evidence obtained as a result of any reported abuse, neglect, or exploitation and does not give any rights or grounds for appeal or post-conviction relief to any person.	21582 21583 21584 21585 21586 21587 21588 21589 21590 21591 21592 21593 21594 21595 21596
(C) A memorandum of understanding shall include, but is not limited to, all of the following:	21597 21598
(1) The roles and responsibilities for handling emergency and nonemergency cases of abuse, neglect, or exploitation;	21599 21600
(2) The roles and responsibilities for handling and coordinating investigations of reported cases of abuse, neglect, or exploitation and methods to be used in interviewing the person who is the subject of the report and who allegedly was abused, neglected, or exploited;	21601 21602 21603 21604 21605
(3) The roles and responsibilities for addressing the categories of persons who may interview the person who is the	21606 21607

subject of the report and who allegedly was abused, neglected, 21608  
or exploited; 21609

(4) The roles and responsibilities for providing victim 21610  
services to ~~mentally retarded and developmentally disabled~~ 21611  
~~persons~~individuals with developmental disabilities pursuant to 21612  
Chapter 2930. of the Revised Code; 21613

(5) The roles and responsibilities for the filing of 21614  
criminal charges against persons alleged to have abused, 21615  
neglected, or exploited ~~mentally retarded or developmentally~~ 21616  
~~disabled persons~~individuals with developmental disabilities. 21617

(D) A memorandum of understanding may be signed by victim 21618  
advocates, municipal court judges, municipal prosecutors, and 21619  
any other person whose participation furthers the goals of a 21620  
memorandum of understanding, as set forth in this section. 21621

**Sec. 5126.059.** A county board of developmental 21622  
disabilities shall pay the nonfederal share of medicaid 21623  
expenditures for medicaid case management services the county 21624  
board provides to an individual with ~~mental retardation or other~~ 21625  
a developmental disability who the county board determines under 21626  
section 5126.041 of the Revised Code is eligible for county 21627  
board services. 21628

**Sec. 5126.0510.** (A) Except as otherwise provided in an 21629  
agreement entered into under section 5123.048 of the Revised 21630  
Code and subject to divisions (B), (C), (D), and (E) of this 21631  
section, a county board of developmental disabilities shall pay 21632  
the nonfederal share of medicaid expenditures for the following 21633  
home and community-based services provided to an individual with 21634  
~~mental retardation or other~~ a developmental disability who the 21635  
county board determines under section 5126.041 of the Revised 21636

Code is eligible for county board services:	21637
(1) Home and community-based services provided by the county board to such an individual;	21638 21639
(2) Home and community-based services provided by a provider other than the county board to such an individual who is enrolled as of June 30, 2007, in the medicaid waiver component under which the services are provided;	21640 21641 21642 21643
(3) Home and community-based services provided by a provider other than the county board to such an individual who, pursuant to a request the county board makes, enrolls in the medicaid waiver component under which the services are provided after June 30, 2007;	21644 21645 21646 21647 21648
(4) Home and community-based services provided by a provider other than the county board to such an individual for whom there is in effect an agreement entered into under division (F) of this section between the county board and director of developmental disabilities.	21649 21650 21651 21652 21653
(B) In the case of medicaid expenditures for home and community-based services for which division (A) (2) of this section requires a county board to pay the nonfederal share, the following shall apply to such services provided during fiscal year 2008 under the individual options medicaid waiver component:	21654 21655 21656 21657 21658 21659
(1) The county board shall pay no less than the total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;	21660 21661 21662 21663
(2) The county board shall pay no more than the sum of the following:	21664 21665

(a) The total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(b) An amount equal to one per cent of the total amount the department of developmental disabilities and county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component to individuals the county board determined under section 5126.041 of the Revised Code are eligible for county board services.

(C) A county board is not required to pay the nonfederal share of home and community-based services provided after June 30, 2008, that the county board is otherwise required by division (A) (2) of this section to pay if the department of developmental disabilities fails to comply with division (A) of section 5123.0416 of the Revised Code.

(D) A county board is not required to pay the nonfederal share of home and community-based services that the county board is otherwise required by division (A) (3) of this section to pay if both of the following apply:

(1) The services are provided to an individual who enrolls in the medicaid waiver component under which the services are provided as the result of an order issued following an appeal made under section 5160.31 of the Revised Code or an appeal of the order to a court of common pleas;

(2) There are more individuals who are eligible for services from the county board enrolled in home and community-based services than is required by section 5126.0512 of the

Revised Code. 21695

(E) A county board is not required to pay the nonfederal 21696  
share of home and community-based services that the county board 21697  
is otherwise required by division (A) of this section to pay if 21698  
the services are provided to an individual who enrolls, pursuant 21699  
to division (D) of section 5124.69 of the Revised Code, in the 21700  
medicaid waiver component under which the services are provided. 21701

(F) A county board may enter into an agreement with the 21702  
director of developmental disabilities under which the county 21703  
board agrees to pay the nonfederal share of medicaid 21704  
expenditures for one or more home and community-based services 21705  
that the county board is not otherwise required by division (A) 21706  
(1), (2), or (3) of this section to pay and that are provided to 21707  
an individual the county board determines under section 5126.041 21708  
of the Revised Code is eligible for county board services. The 21709  
agreement shall specify which home and community-based services 21710  
the agreement covers. The county board shall pay the nonfederal 21711  
share of medicaid expenditures for the home and community-based 21712  
services that the agreement covers as long as the agreement is 21713  
in effect. 21714

**Sec. 5126.08.** (A) The director of developmental 21715  
disabilities shall adopt rules in accordance with Chapter 119. 21716  
of the Revised Code for all programs and services offered by a 21717  
county board of developmental disabilities. Such rules shall 21718  
include, but are not limited to, the following: 21719

(1) Determination of what constitutes a program or 21720  
service; 21721

(2) Standards to be followed by a board in administering, 21722  
providing, arranging, or operating programs and services; 21723

(3) Standards for determining the nature and degree of 21724  
~~mental retardation, including mild mental retardation, or~~ 21725  
developmental disability; 21726

(4) Standards and procedures for making eligibility 21727  
determinations for the programs and services; 21728

(5) Procedures for obtaining consent for the arrangement 21729  
of services under section 5126.31 of the Revised Code and for 21730  
obtaining signatures on ~~individual~~ individualized service plans 21731  
under that section; 21732

(6) Specification of the service and support 21733  
administration to be provided by a county board and standards 21734  
for resolving grievances in connection with service and support 21735  
administration. 21736

(B) The director shall be the final authority in 21737  
determining the nature and degree of ~~mental retardation or~~ 21738  
developmental disability. 21739

**Sec. 5126.082.** (A) In addition to the rules adopted under 21740  
division (A) (2) of section 5126.08 of the Revised Code 21741  
establishing standards to be followed by county boards of 21742  
developmental disabilities in administering, providing, 21743  
arranging, and operating programs and services and in addition 21744  
to the board accreditation system established under section 21745  
5126.081 of the Revised Code, the director of developmental 21746  
disabilities shall adopt rules in accordance with Chapter 119. 21747  
of the Revised Code establishing standards for promoting and 21748  
advancing the quality of life of individuals with ~~mental~~ 21749  
~~retardation and~~ developmental disabilities receiving any of the 21750  
following: 21751

(1) Early childhood services pursuant to section 5126.05 21752

of the Revised Code for children under age three; 21753

(2) Adult services pursuant to section 5126.05 and 21754  
division (B) of section 5126.051 of the Revised Code for 21755  
individuals age sixteen or older; 21756

(3) Family support services pursuant to section 5126.11 of 21757  
the Revised Code. 21758

(B) The rules adopted under this section shall specify the 21759  
actions county boards of developmental disabilities and the 21760  
agencies with which they contract should take to do the 21761  
following: 21762

(1) Offer individuals with ~~mental retardation and~~ 21763  
developmental disabilities, and their families when appropriate, 21764  
choices in programs and services that are centered on the needs 21765  
and desires of those individuals; 21766

(2) Maintain infants with their families whenever possible 21767  
by collaborating with other agencies that provide services to 21768  
infants and their families and taking other appropriate actions; 21769

(3) Provide families that have children with ~~mental~~ 21770  
~~retardation and~~ developmental disabilities under age eighteen 21771  
residing in their homes the resources necessary to allow the 21772  
children to remain in their homes; 21773

(4) Create and implement community employment services 21774  
based on the needs and desires of adults with ~~mental retardation~~ 21775  
~~and~~ developmental disabilities; 21776

(5) Create, in collaboration with other agencies, 21777  
transportation systems that provide safe and accessible 21778  
transportation within the county to individuals with 21779  
disabilities; 21780

(6) Provide services that allow individuals with 21781  
disabilities to be integrated into the community by engaging in 21782  
educational, vocational, and recreational activities with 21783  
individuals who do not have disabilities; 21784

(7) Provide age-appropriate retirement services for 21785  
individuals age sixty-five and older with ~~mental retardation and~~ 21786  
developmental disabilities; 21787

(8) Establish residential services and supported living 21788  
for individuals with ~~mental retardation and~~ developmental 21789  
disabilities in accordance with their needs. 21790

(C) To assist in funding programs and services that meet 21791  
the standards established under this section, each county board 21792  
of developmental disabilities shall make a good faith effort to 21793  
acquire available federal funds, including reimbursements under 21794  
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 21795  
U.S.C.A. 1396, as amended. 21796

(D) Each county board of developmental disabilities shall 21797  
work toward full compliance with the standards established under 21798  
this section, based on its available resources. Funds received 21799  
under this chapter shall be used to comply with the standards. 21800  
Annually, each board shall conduct a self audit to evaluate the 21801  
board's progress in complying fully with the standards. 21802

(E) The department shall complete a program quality review 21803  
of each county board of developmental disabilities to determine 21804  
the extent to which the board has complied with the standards. 21805  
The review shall be conducted in conjunction with the 21806  
comprehensive accreditation review of the board that is 21807  
conducted under section 5126.081 of the Revised Code. 21808

Notwithstanding any provision of this chapter or Chapter 21809

5123. of the Revised Code requiring the department to distribute 21810  
funds to county boards of developmental disabilities, the 21811  
department may withhold funds from a board if it finds that the 21812  
board is not in substantial compliance with the standards 21813  
established under this section. 21814

(F) When the standards for accreditation from the 21815  
commission on accreditation of rehabilitation facilities, or 21816  
another accrediting agency, meet or exceed the standards 21817  
established under this section, the director may accept 21818  
accreditation from the commission or other agency as evidence 21819  
that the board is in compliance with all or part of the 21820  
standards established under this section. Programs and services 21821  
accredited by the commission or agency are exempt from the 21822  
program quality reviews required by division (E) of this 21823  
section. 21824

**Sec. 5126.11.** (A) As used in this section, "respite care" 21825  
means appropriate, short-term, temporary care that is provided 21826  
to ~~a mentally retarded or developmentally disabled person~~ an 21827  
individual with a developmental disability to sustain the family 21828  
structure or to meet planned or emergency needs of the family. 21829

(B) Subject to rules adopted by the director of 21830  
developmental disabilities, and subject to the availability of 21831  
money from state and federal sources, the county board of 21832  
developmental disabilities shall establish a family support 21833  
services program. Under such a program, the board shall make 21834  
payments to an individual with ~~mental retardation or other~~ a 21835  
developmental disability or the family of an individual with 21836  
~~mental retardation or other~~ a developmental disability who 21837  
desires to remain in and be supported in the family home. 21838  
Payments shall be made for all or part of costs incurred or 21839

estimated to be incurred for services that would promote self- 21840  
sufficiency and normalization, prevent or reduce inappropriate 21841  
institutional care, and further the unity of the family by 21842  
enabling the family to meet the special needs of the individual 21843  
and to live as much like other families as possible. Payments 21844  
may be made in the form of reimbursement for expenditures or in 21845  
the form of vouchers to be used to purchase services. 21846

(C) Payment shall not be made under this section to an 21847  
individual or the individual's family if the individual is 21848  
living in a residential facility that is providing residential 21849  
services under contract with the department of developmental 21850  
disabilities or a county board. 21851

(D) Payments may be made for the following services: 21852

(1) Respite care, in or out of the home; 21853

(2) Counseling, supervision, training, and education of 21854  
the individual, the individual's caregivers, and members of the 21855  
individual's family that aid the family in providing proper care 21856  
for the individual, provide for the special needs of the family, 21857  
and assist in all aspects of the individual's daily living; 21858

(3) Special diets, purchase or lease of special equipment, 21859  
or modifications of the home, if such diets, equipment, or 21860  
modifications are necessary to improve or facilitate the care 21861  
and living environment of the individual; 21862

(4) Providing support necessary for the individual's 21863  
continued skill development, including such services as 21864  
development of interventions to cope with unique problems that 21865  
may occur within the complexity of the family, enrollment of the 21866  
individual in special summer programs, provision of appropriate 21867  
leisure activities, and other social skills development 21868

activities; 21869

(5) Any other services that are consistent with the 21870  
purposes specified in division (B) of this section and specified 21871  
in the individual's service plan. 21872

(E) In order to be eligible for payments under a family 21873  
support services program, the individual or the individual's 21874  
family must reside in the county served by the county board, and 21875  
the individual must be in need of habilitation. Payments shall 21876  
be adjusted for income in accordance with the payment schedule 21877  
established in rules adopted under this section. Payments shall 21878  
be made only after the county board has taken into account all 21879  
other available assistance for which the individual or family is 21880  
eligible. 21881

(F) Before incurring expenses for a service for which 21882  
payment will be sought under a family support services program, 21883  
the individual or family shall apply to the county board for a 21884  
determination of eligibility and approval of the service. The 21885  
service need not be provided in the county served by the county 21886  
board. After being determined eligible and receiving approval 21887  
for the service, the individual or family may incur expenses for 21888  
the service or use the vouchers received from the county board 21889  
for the purchase of the service. 21890

If the county board refuses to approve a service, an 21891  
appeal may be made in accordance with rules adopted by the 21892  
department under this section. 21893

(G) To be reimbursed for expenses incurred for approved 21894  
services, the individual or family shall submit to the county 21895  
board a statement of the expenses incurred accompanied by any 21896  
evidence required by the board. To redeem vouchers used to 21897

purchase approved services, the entity that provided the service 21898  
shall submit to the county board evidence that the service was 21899  
provided and a statement of the charges. The county board shall 21900  
make reimbursements and redeem vouchers ~~no~~not later than forty- 21901  
five days after it receives the statements and evidence required 21902  
by this division. 21903

(H) A county board shall consider the following objectives 21904  
in carrying out a family support services program: 21905

(1) Enabling individuals to return to their families from 21906  
an institution under the jurisdiction of the department of 21907  
developmental disabilities; 21908

(2) Enabling individuals found to be subject to 21909  
institutionalization by court order under section 5123.76 of the 21910  
Revised Code to remain with their families with the aid of 21911  
payments provided under this section; 21912

(3) Providing services to eligible children and adults 21913  
currently residing in the community; 21914

(4) Providing services to individuals with developmental 21915  
disabilities who are not receiving other services from the 21916  
board. 21917

(I) The director shall adopt, and may amend and rescind, 21918  
rules for the implementation of family support services programs 21919  
by county boards. ~~Such~~The rules shall include all of the 21920  
following: 21921

(1) A payment schedule adjusted for income; 21922

(2) Standards for supervision, training, and quality 21923  
control in the provision of respite care services; 21924

(3) Eligibility standards and procedures for providing 21925

temporary emergency respite care; 21926

(4) Procedures for hearing and deciding appeals made under 21927  
division (F) of this section. 21928

Rules adopted under division (I) (1) of this section shall 21929  
be adopted in accordance with section 111.15 of the Revised 21930  
Code. Rules adopted under divisions (I) (2) to (4) of this 21931  
section shall be adopted in accordance with Chapter 119. of the 21932  
Revised Code. 21933

(J) All individuals certified by the superintendent of the 21934  
county board as eligible for temporary emergency respite care in 21935  
accordance with rules adopted under this section shall be 21936  
considered eligible for temporary emergency respite care for not 21937  
more than five days to permit the determination of eligibility 21938  
for family support services. The requirements of divisions (E) 21939  
and (F) of this section do not apply to temporary emergency 21940  
respite care. 21941

(K) The county board shall not be required to make 21942  
payments for family support services at a level that exceeds 21943  
available state and federal funds for such payments. 21944

**Sec. 5126.15.** (A) A county board of developmental 21945  
disabilities shall provide service and support administration to 21946  
each individual three years of age or older who is eligible for 21947  
service and support administration if the individual requests, 21948  
or a person on the individual's behalf requests, service and 21949  
support administration. A board shall provide service and 21950  
support administration to each individual receiving home and 21951  
community-based services. A board may provide, in accordance 21952  
with the service coordination requirements of 34 C.F.R. 303.23, 21953  
service and support administration to an individual under three 21954

years of age eligible for early intervention services under 34 21955  
C.F.R. part 303. A board may provide service and support 21956  
administration to an individual who is not eligible for other 21957  
services of the board. Service and support administration shall 21958  
be provided in accordance with rules adopted under section 21959  
5126.08 of the Revised Code. 21960

A board may provide service and support administration by 21961  
directly employing service and support administrators or by 21962  
contracting with entities for the performance of service and 21963  
support administration. Individuals employed or under contract 21964  
as service and support administrators shall not be in the same 21965  
collective bargaining unit as employees who perform duties that 21966  
are not administrative. 21967

A service and support administrator shall perform only the 21968  
duties specified in division (B) of this section. While employed 21969  
by or under contract with a board, a service and support 21970  
administrator shall neither be employed by or serve in a 21971  
decision-making or policy-making capacity for any other entity 21972  
that provides programs or services to individuals with ~~mental-~~ 21973  
~~retardation or~~ developmental disabilities nor provide programs 21974  
or services to individuals with mental retardation or 21975  
developmental disabilities through self-employment. 21976

(B) A service and support administrator shall do all of 21977  
the following: 21978

(1) Establish an individual's eligibility for the services 21979  
of the county board of developmental disabilities; 21980

(2) Assess individual needs for services; 21981

(3) Develop individual service plans with the active 21982  
participation of the individual to be served, other persons 21983

selected by the individual, and, when applicable, the provider 21984  
selected by the individual, and recommend the plans for approval 21985  
by the department of developmental disabilities when services 21986  
included in the plans are funded through medicaid; 21987

(4) Establish budgets for services based on the 21988  
individual's assessed needs and preferred ways of meeting those 21989  
needs; 21990

(5) Assist individuals in making selections from among the 21991  
providers they have chosen; 21992

(6) Ensure that services are effectively coordinated and 21993  
provided by appropriate providers; 21994

(7) Establish and implement an ongoing system of 21995  
monitoring the implementation of individual service plans to 21996  
achieve consistent implementation and the desired outcomes for 21997  
the individual; 21998

(8) Perform quality assurance reviews as a distinct 21999  
function of service and support administration; 22000

(9) Incorporate the results of quality assurance reviews 22001  
and identified trends and patterns of unusual incidents and 22002  
major unusual incidents into amendments of an individual's 22003  
service plan for the purpose of improving and enhancing the 22004  
quality and appropriateness of services rendered to the 22005  
individual. 22006

**Sec. 5126.22.** (A) Employees who hold the following 22007  
positions in a county board of developmental disabilities are 22008  
management employees: 22009

assistant superintendent 22010

director of business 22011

director of personnel	22012
adult services director	22013
workshop director	22014
habilitation manager	22015
director of residential services	22016
principal (director of children services)	22017
program or service supervisor	22018
plant manager	22019
production manager	22020
service and support administration supervisor	22021
investigative agent	22022
confidential employees as defined in section 4117.01 of the Revised Code	22023 22024
positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties	22025 22026 22027
positions designated by the county board in accordance with division (D) of this section.	22028 22029
(B) Employees who hold the following positions in a board are professional employees:	22030 22031
personnel licensed or certified pursuant to Chapter 3319. of the Revised Code	22032 22033
early intervention specialist	22034
physical development specialist	22035

habilitation specialist	22036
work adjustment specialist	22037
placement specialist	22038
vocational evaluator	22039
psychologist	22040
occupational therapist	22041
speech and language pathologist	22042
recreation specialist	22043
behavior management specialist	22044
physical therapist	22045
supportive home services specialist	22046
licensed practical nurse or registered nurse	22047
rehabilitation counselor	22048
doctor of medicine and surgery or of osteopathic medicine	22049
and surgery	22050
dentist	22051
service and support administrator	22052
conditional status service and support administrator	22053
social worker	22054
any position that is not a management position and for	22055
which the standards for certification established by the	22056
director of developmental disabilities under section 5126.25 of	22057
the Revised Code require a bachelor's or higher degree	22058
professional positions designated by the director	22059

professional positions designated by the county board in accordance with division (D) of this section.	22060 22061
(C) Employees who hold positions in a board that are neither management positions nor professional positions are service employees. Service employee positions include:	22062 22063 22064
workshop specialist	22065
workshop specialist assistant	22066
contract procurement specialist	22067
community employment specialist	22068
any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service and support administration	22069 22070 22071
service positions designated by the director	22072
service positions designated by a county board in accordance with division (D) of this section.	22073 22074
(D) A county board may designate a position only if the position does not include directly providing, or supervising employees who directly provide, service or instruction to individuals with <del>mental retardation or developmental</del> disabilities.	22075 22076 22077 22078 22079
(E) If a county board desires to have a position established that is not specifically listed in this section that includes directly providing, or supervising employees who directly provide, services or instruction to individuals with <del>mental retardation or developmental</del> disabilities, the board shall submit to the director a written description of the position and request that the director designate the position as	22080 22081 22082 22083 22084 22085 22086

a management, professional, or service position under this 22087  
section. The director shall consider each request submitted 22088  
under this division and respond within thirty days. If the 22089  
director approves the request, the director shall designate the 22090  
position as a management, professional, or service position. 22091

(F) A county board shall not terminate its employment of 22092  
any management, professional, or service employee solely because 22093  
a position is added to or eliminated from those positions listed 22094  
in this section or because a position is designated or no longer 22095  
designated by the director or a county board. 22096

**Sec. 5126.25.** (A) The director of developmental 22097  
disabilities shall adopt rules under division (C) of this 22098  
section establishing uniform standards and procedures for the 22099  
certification and registration of persons, other than the 22100  
persons described in division (I) of this section, who are 22101  
seeking employment with or are employed by either of the 22102  
following: 22103

(1) A county board of developmental disabilities; 22104

(2) An entity that contracts with a county board to 22105  
operate programs and services for individuals with ~~mental-~~ 22106  
~~retardation or~~ developmental disabilities. 22107

(B) No person shall be employed in a position for which 22108  
certification or registration is required pursuant to the rules 22109  
adopted under this section without the certification or 22110  
registration that is required for that position. The person 22111  
shall not be employed or shall not continue to be employed if 22112  
the required certification or registration is denied, revoked, 22113  
or not renewed. 22114

(C) The director shall adopt rules in accordance with 22115

Chapter 119. of the Revised Code as the director considers 22116  
necessary to implement and administer this section, including 22117  
rules establishing all of the following: 22118

(1) Positions of employment that are subject to this 22119  
section and, for each position, whether a person must receive 22120  
certification or receive registration to be employed in that 22121  
position; 22122

(2) Requirements that must be met to receive the 22123  
certification or registration required to be employed in a 22124  
particular position, including standards regarding education, 22125  
specialized training, and experience, taking into account the 22126  
needs of individuals with ~~mental retardation or~~ developmental 22127  
disabilities and the specialized techniques needed to serve 22128  
them, except that the rules shall not require a person 22129  
designated as a service employee under section 5126.22 of the 22130  
Revised Code to have or obtain a bachelor's or higher degree; 22131

(3) Procedures to be followed in applying for initial 22132  
certification or registration and for renewing the certification 22133  
or registration. 22134

(4) Requirements that must be met for renewal of 22135  
certification or registration, which may include continuing 22136  
education and professional training requirements; 22137

(5) Subject to section 5126.23 of the Revised Code, 22138  
grounds for which certification or registration may be denied, 22139  
suspended, or revoked and procedures for appealing the denial, 22140  
suspension, or revocation. 22141

(D) Each person seeking certification or registration for 22142  
employment shall apply in the manner established in rules 22143  
adopted under this section. 22144

(E) (1) Except as provided in division (E) (2) of this section, the superintendent of each county board is responsible for taking all actions regarding certification and registration of employees, other than the position of superintendent, early intervention supervisor, early intervention specialist, or investigative agent. For the position of superintendent, early intervention supervisor, early intervention specialist, or investigative agent, the director of developmental disabilities is responsible for taking all such actions.

Actions that may be taken by the superintendent or director include issuing, renewing, denying, suspending, and revoking certification and registration. All actions shall be taken in accordance with the rules adopted under this section.

The superintendent may charge a fee to persons applying for certification or registration. The superintendent shall establish the amount of the fee according to the costs the county board incurs in administering its program for certification and registration of employees.

A person subject to the denial, suspension, or revocation of certification or registration may appeal the decision. The appeal shall be made in accordance with the rules adopted under this section.

(2) Pursuant to division (C) of section 5126.05 of the Revised Code, the superintendent may enter into a contract with any other entity under which the entity is given authority to carry out all or part of the superintendent's responsibilities under division (E) (1) of this section.

(F) A person with valid certification or registration under this section on the effective date of any rules adopted

under this section that increase the standards applicable to the 22174  
certification or registration shall have such period as the 22175  
rules prescribe, but not less than one year after the effective 22176  
date of the rules, to meet the new certification or registration 22177  
standards. 22178

(G) A person with valid certification or registration is 22179  
qualified to be employed according to that certification or 22180  
registration by any county board or entity contracting with a 22181  
county board. 22182

(H) The director shall monitor county boards to ensure 22183  
that their employees and the employees of their contracting 22184  
entities have the applicable certification or registration 22185  
required under this section and that the employees are 22186  
performing only those functions they are authorized to perform 22187  
under the certification or registration. The superintendent of 22188  
each county board or the superintendent's designee shall 22189  
maintain in appropriate personnel files evidence acceptable to 22190  
the director that the employees have met the requirements. On 22191  
request, representatives of the department of developmental 22192  
disabilities shall be given access to the evidence. 22193

(I) The certification and registration requirements of 22194  
this section and the rules adopted under it do not apply to 22195  
either of the following: 22196

(1) A person who holds a valid license issued or 22197  
certificate issued under Chapter 3319. of the Revised Code and 22198  
performs no duties other than teaching or supervision of a 22199  
teaching program; 22200

(2) A person who holds a valid license or certificate 22201  
issued under Title XLVII of the Revised Code and performs only 22202

those duties governed by the license or certificate. 22203

**Sec. 5126.30.** As used in sections 5126.30 to 5126.34 of 22204  
the Revised Code: 22205

(A) "Adult" means a person eighteen years of age or older 22206  
with ~~mental retardation or a~~ developmental disability. 22207

(B) "Caretaker" means a person who is responsible for the 22208  
care of an adult by order of a court, including an order of 22209  
guardianship, or who assumes the responsibility for the care of 22210  
an adult as a volunteer, as a family member, by contract, or by 22211  
the acceptance of payment for care. 22212

(C) "Abuse" has the same meaning as in section 5123.50 of 22213  
the Revised Code, except that it includes a misappropriation, as 22214  
defined in that section. 22215

(D) "Neglect" has the same meaning as in section 5123.50 22216  
of the Revised Code. 22217

(E) "Exploitation" means the unlawful or improper act of a 22218  
caretaker using an adult or an adult's resources for monetary or 22219  
personal benefit, profit, or gain, including misappropriation, 22220  
as defined in section 5123.50 of the Revised Code, of an adult's 22221  
resources. 22222

(F) "Working day" means Monday, Tuesday, Wednesday, 22223  
Thursday, or Friday, except when that day is a holiday as 22224  
defined in section 1.14 of the Revised Code. 22225

(G) "Incapacitated" means lacking understanding or 22226  
capacity, with or without the assistance of a caretaker, to make 22227  
and carry out decisions regarding food, clothing, shelter, 22228  
health care, or other necessities, but does not include mere 22229  
refusal to consent to the provision of services. 22230

(H) "Emergency protective services" means protective 22231  
services furnished to ~~a person an individual~~ with ~~mental-~~ 22232  
~~retardation or~~ a developmental disability to prevent immediate 22233  
physical harm. 22234

(I) "Protective services" means services provided by the 22235  
county board of developmental disabilities to an adult with 22236  
~~mental retardation or~~ a developmental disability for the 22237  
prevention, correction, or discontinuance of an act of as well 22238  
as conditions resulting from abuse, neglect, or exploitation. 22239

(J) "Protective service plan" means an individualized plan 22240  
developed by the county board of developmental disabilities to 22241  
prevent the further abuse, neglect, or exploitation of an adult 22242  
with ~~mental retardation or~~ a developmental disability. 22243

(K) "Substantial risk" has the same meaning as in section 22244  
2901.01 of the Revised Code. 22245

(L) "Party" means all of the following: 22246

(1) An adult who is the subject of a probate proceeding 22247  
under sections 5126.30 to 5126.33 of the Revised Code; 22248

(2) A caretaker, unless otherwise ordered by the probate 22249  
court; 22250

(3) Any other person designated as a party by the probate 22251  
court including but not limited to, the adult's spouse, 22252  
custodian, guardian, or parent. 22253

~~(M) "Board" means a county board of developmental-~~ 22254  
~~disabilities.~~ 22255

**Sec. 5126.31.** (A) A county board of developmental 22256  
disabilities shall review reports of abuse and neglect made 22257  
under section 5123.61 of the Revised Code and reports referred 22258

to it under section 5101.611 of the Revised Code to determine 22259  
whether the ~~person~~ individual who is the subject of the report 22260  
is an adult with ~~mental retardation or~~ a developmental 22261  
disability in need of services to deal with the abuse or 22262  
neglect. The county board shall give notice of each report to 22263  
the registry office of the department of developmental 22264  
disabilities established pursuant to section 5123.61 of the 22265  
Revised Code on the first working day after receipt of the 22266  
report. If the report alleges that there is a substantial risk 22267  
to the adult of immediate physical harm or death, the county 22268  
board shall initiate review within twenty-four hours of its 22269  
receipt of the report. If the county board determines that the 22270  
~~person~~ individual is sixty years of age or older but does not 22271  
have ~~mental retardation or~~ a developmental disability, it shall 22272  
refer the case to the county department of job and family 22273  
services. If the county board determines that the ~~person~~ 22274  
individual is an adult with ~~mental retardation or~~ a 22275  
developmental disability, it shall continue its review of the 22276  
case. 22277

(B) For each review over which the county board retains 22278  
responsibility under division (A) of this section, it shall do 22279  
all of the following: 22280

(1) Give both written and oral notice of the purpose of 22281  
the review to the adult and, if any, to the adult's legal 22282  
counsel or caretaker, in simple and clear language; 22283

(2) Visit the adult, in the adult's residence if possible, 22284  
and explain the notice given under division (B) (1) of this 22285  
section; 22286

(3) Request from the registry office any prior reports 22287  
concerning the adult or other principals in the case; 22288

(4) Consult, if feasible, with the person who made the report under section 5101.61 or 5123.61 of the Revised Code and with any agencies or persons who have information about the alleged abuse or neglect;

(5) Cooperate fully with the law enforcement agency responsible for investigating the report and for filing any resulting criminal charges and, on request, turn over evidence to the agency;

(6) Determine whether the adult needs services, and prepare a written report stating reasons for the determination. No adult shall be determined to be abused, neglected, or in need of services for the sole reason that, in lieu of medical treatment, the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the adult is a member or adherent.

(C) The county board shall arrange for the provision of services for the prevention, correction or discontinuance of abuse or neglect or of a condition resulting from abuse or neglect for any adult who has been determined to need the services and consents to receive them. These services may include, but are not limited to, service and support administration, fiscal management, medical, mental health, home health care, homemaker, legal, and residential services and the provision of temporary accommodations and necessities such as food and clothing. The services do not include acting as a guardian, trustee, or protector as defined in section 5123.55 of the Revised Code. If the provision of residential services would require expenditures by the department of developmental disabilities, the county board shall obtain the approval of the

department prior to arranging the residential services. 22319

To arrange services, the county board shall: 22320

(1) Develop an individualized service plan identifying the 22321  
types of services required for the adult, the goals for the 22322  
services, and the persons or agencies that will provide them; 22323

(2) In accordance with rules established by the director 22324  
of developmental disabilities, obtain the consent of the adult 22325  
or the adult's guardian to the provision of any of these 22326  
services and obtain the signature of the adult or guardian on 22327  
the ~~individual~~ individualized service plan. An adult who has 22328  
been found incompetent under Chapter 2111. of the Revised Code 22329  
may consent to services. If the county board is unable to obtain 22330  
consent, it may seek, if the adult is incapacitated, a court 22331  
order pursuant to section 5126.33 of the Revised Code 22332  
authorizing the board to arrange these services. 22333

(D) The county board shall ensure that the adult receives 22334  
the services arranged by the board from the provider and shall 22335  
have the services terminated if the adult withdraws consent. 22336

(E) On completion of a review, the county board shall 22337  
submit a written report to the registry office established under 22338  
section 5123.61 of the Revised Code. If the report includes a 22339  
finding that ~~a person~~ an individual with ~~mental retardation or~~ a 22340  
developmental disability is a victim of action or inaction that 22341  
may constitute a crime under federal law or the law of this 22342  
state, the board shall submit the report to the law enforcement 22343  
agency responsible for investigating the report. Reports 22344  
prepared under this section are not public records as defined in 22345  
section 149.43 of the Revised Code. 22346

**Sec. 5126.33.** (A) A county board of developmental 22347

disabilities may file a complaint with the probate court of the 22348  
county in which an adult with ~~mental retardation or a~~ 22349  
developmental disability resides for an order authorizing the 22350  
board to arrange services described in division (C) of section 22351  
5126.31 of the Revised Code for that adult if the adult is 22352  
eligible to receive services or support under section 5126.041 22353  
of the Revised Code and the board has been unable to secure 22354  
consent. The complaint shall include all of the following: 22355

(1) The name, age, and address of the adult; 22356

(2) Facts describing the nature of the abuse, neglect, or 22357  
exploitation and supporting the board's belief that services are 22358  
needed; 22359

(3) The types of services proposed by the board, as set 22360  
forth in the protective service plan described in division (J) 22361  
of section 5126.30 of the Revised Code and filed with the 22362  
complaint; 22363

(4) Facts showing the board's attempts to obtain the 22364  
consent of the adult or the adult's guardian to the services. 22365

(B) The board shall give the adult notice of the filing of 22366  
the complaint and in simple and clear language shall inform the 22367  
adult of the adult's rights in the hearing under division (C) of 22368  
this section and explain the consequences of a court order. This 22369  
notice shall be personally served upon all parties, and also 22370  
shall be given to the adult's legal counsel, if any. The notice 22371  
shall be given at least twenty-four hours prior to the hearing, 22372  
although the court may waive this requirement upon a showing 22373  
that there is a substantial risk that the adult will suffer 22374  
immediate physical harm in the twenty-four hour period and that 22375  
the board has made reasonable attempts to give the notice 22376

required by this division. 22377

(C) Upon the filing of a complaint for an order under this 22378  
section, the court shall hold a hearing at least twenty-four 22379  
hours and no later than seventy-two hours after the notice under 22380  
division (B) of this section has been given unless the court has 22381  
waived the notice. All parties shall have the right to be 22382  
present at the hearing, present evidence, and examine and cross- 22383  
examine witnesses. The Ohio Rules of Evidence shall apply to a 22384  
hearing conducted pursuant to this division. The adult shall be 22385  
represented by counsel unless the court finds that the adult has 22386  
made a voluntary, informed, and knowing waiver of the right to 22387  
counsel. If the adult is indigent, the court shall appoint 22388  
counsel to represent the adult. The board shall be represented 22389  
by the county prosecutor or an attorney designated by the board. 22390

(D) (1) The court shall issue an order authorizing the 22391  
board to arrange the protective services if it finds, on the 22392  
basis of clear and convincing evidence, all of the following: 22393

(a) The adult has been abused, neglected, or exploited; 22394

(b) The adult is incapacitated; 22395

(c) There is a substantial risk to the adult of immediate 22396  
physical harm or death; 22397

(d) The adult is in need of the services; 22398

(e) No person authorized by law or court order to give 22399  
consent for the adult is available or willing to consent to the 22400  
services. 22401

(2) The board shall develop a detailed protective service 22402  
plan describing the services that the board will provide, or 22403  
arrange for the provision of, to the adult to prevent further 22404

abuse, neglect, or exploitation. The board shall submit the plan 22405  
to the court for approval. The protective service plan may be 22406  
changed only by court order. 22407

(3) In formulating the order, the court shall consider the 22408  
individual protective service plan and shall specifically 22409  
designate the services that are necessary to deal with the 22410  
abuse, neglect, or exploitation or condition resulting from 22411  
abuse, neglect, or exploitation and that are available locally, 22412  
and authorize the board to arrange for these services only. The 22413  
court shall limit the provision of these services to a period 22414  
not exceeding six months, renewable for an additional six-month 22415  
period on a showing by the board that continuation of the order 22416  
is necessary. 22417

(E) If the court finds that all other options for meeting 22418  
the adult's needs have been exhausted, it may order that the 22419  
adult be removed from the adult's place of residence and placed 22420  
in another residential setting. Before issuing that order, the 22421  
court shall consider the adult's choice of residence and shall 22422  
determine that the new residential setting is the least 22423  
restrictive alternative available for meeting the adult's needs 22424  
and is a place where the adult can obtain the necessary 22425  
requirements for daily living in safety. The court shall not 22426  
order an adult to a hospital or public hospital, as defined in 22427  
section 5122.01 of the Revised Code, or a state institution, as 22428  
defined in section 5123.01 of the Revised Code. 22429

(F) The court shall not authorize a change in an adult's 22430  
placement ordered under division (E) of this section unless it 22431  
finds compelling reasons to justify a change. The parties to 22432  
whom notice was given in division (B) of this section shall be 22433  
given notice of a proposed change at least five working days 22434

prior to the change. 22435

(G) The adult, the board, or any other person who received 22436  
notice of the petition may file a motion for modification of the 22437  
court order at any time. 22438

(H) The county board shall pay court costs incurred in 22439  
proceedings brought pursuant to this section. The adult shall 22440  
not be required to pay for court-ordered services. 22441

(I) (1) After the filing of a complaint for an order under 22442  
this section, the court, prior to the final disposition, may 22443  
enter any temporary order that the court finds necessary to 22444  
protect the adult with ~~mental retardation or~~ a developmental 22445  
disability from abuse, neglect, or exploitation including, but 22446  
not limited to, the following: 22447

(a) A temporary protection order; 22448

(b) An order requiring the evaluation of the adult; 22449

(c) An order requiring a party to vacate the adult's place 22450  
of residence or legal settlement, provided that, subject to 22451  
division (K) (1) (d) of this section, no operator of a residential 22452  
facility licensed by the department may be removed under this 22453  
division; 22454

(d) In the circumstances described in, and in accordance 22455  
with the procedures set forth in, section 5123.191 of the 22456  
Revised Code, an order of the type described in that section 22457  
that appoints a receiver to take possession of and operate a 22458  
residential facility licensed by the department. 22459

(2) The court may grant an ex parte order pursuant to this 22460  
division on its own motion or if a party files a written motion 22461  
or makes an oral motion requesting the issuance of the order and 22462

stating the reasons for it if it appears to the court that the 22463  
best interest and the welfare of the adult require that the 22464  
court issue the order immediately. The court, if acting on its 22465  
own motion, or the person requesting the granting of an ex parte 22466  
order, to the extent possible, shall give notice of its intent 22467  
or of the request to all parties, the adult's legal counsel, if 22468  
any. If the court issues an ex parte order, the court shall hold 22469  
a hearing to review the order within seventy-two hours after it 22470  
is issued or before the end of the next day after the day on 22471  
which it is issued, whichever occurs first. The court shall give 22472  
written notice of the hearing to all parties to the action. 22473

**Sec. 5126.333.** Any person who has reason to believe that 22474  
there is a substantial risk to an adult with ~~mental retardation~~ 22475  
~~or~~ a developmental disability of immediate physical harm or 22476  
death and that the responsible county board of developmental 22477  
disabilities has failed to seek an order pursuant to section 22478  
5126.33 or 5126.331 of the Revised Code may notify the 22479  
department of developmental disabilities. Within twenty-four 22480  
hours of receipt of such notice, the department shall cause an 22481  
investigation to be conducted regarding the notice. The 22482  
department shall provide assistance to the county board to 22483  
provide for the health and safety of the adult as permitted by 22484  
law. 22485

**Sec. 5126.40.** (A) Sections 5126.40 to 5126.47 of the 22486  
Revised Code do not apply to medicaid-funded supported living. 22487

(B) As used in sections 5126.40 to 5126.47 of the Revised 22488  
Code, "provider" means a person or government entity certified 22489  
by the director of developmental disabilities to provide 22490  
supported living for individuals with ~~mental retardation and~~ 22491  
developmental disabilities. 22492

(C) On and after July 1, 1995, each county board of 22493  
developmental disabilities shall plan and develop supported 22494  
living for individuals with ~~mental retardation and~~ developmental 22495  
disabilities who are residents of the county in accordance with 22496  
sections 5126.41 to 5126.47 of the Revised Code. 22497

**Sec. 5126.46.** (A) No county board of developmental 22498  
disabilities shall be obligated to use any money other than 22499  
money in the community developmental disabilities residential 22500  
services fund to furnish residential services. 22501

(B) Except with respect to a child required to be provided 22502  
services pursuant to section 121.38 of the Revised Code, no 22503  
court or other entity of state or local government shall order 22504  
or otherwise require a county board of developmental 22505  
disabilities to use money from local sources for residential 22506  
services for an individual with ~~mental retardation or a~~ 22507  
developmental ~~disabilities~~ disability or to arrange for 22508  
residential services for such an individual unless a vacancy 22509  
exists in an appropriate residential setting within the county. 22510

**Sec. 5126.49.** The county board of developmental 22511  
disabilities may adopt a resolution requesting the board of 22512  
county commissioners to implement a residential facility linked 22513  
deposit program under sections 5126.51 to 5126.62 of the Revised 22514  
Code if the county board of developmental disabilities finds all 22515  
of the following: 22516

(A) There is a shortage of residential facilities in the 22517  
county for individuals with ~~mental retardation or~~ developmental 22518  
disabilities. 22519

(B) Eligible organizations, otherwise willing and able to 22520  
develop residential facilities in the county, have been unable 22521

to do so because of high interest rates. 22522

(C) Placement of residential facility linked deposits will 22523  
assist in financing the development of residential facilities in 22524  
the county that otherwise would not be developed because of high 22525  
interest rates. 22526

The board shall transmit a certified copy of the 22527  
resolution to the board of county commissioners. 22528

**Sec. 5126.52.** The general assembly finds that individuals 22529  
with ~~mental retardation or~~ developmental disabilities residing 22530  
in the state face a shortage of suitable residential facilities; 22531  
that loans to finance the development of suitable residential 22532  
facilities are subject to high interest rates; that eligible 22533  
organizations, otherwise willing and able to develop suitable 22534  
residential facilities, are unable to do so because of the high 22535  
interest rates; and, consequently, that the shortage of suitable 22536  
residential facilities is likely to continue and worsen. 22537

The residential facility linked deposit program, when 22538  
implemented in a county, is intended to provide low-cost funds 22539  
for lending purposes that will effectively reduce high interest 22540  
rates and materially contribute to remedying the shortage of 22541  
suitable residential facilities for individuals with ~~mental-~~ 22542  
~~retardation or~~ developmental disabilities who reside in the 22543  
county. 22544

**Sec. 5126.55.** The county board of developmental 22545  
disabilities shall review each application filed under section 22546  
5126.54 of the Revised Code and adopt a resolution approving or 22547  
disapproving development of the proposed residential facility. 22548  
The county board shall not approve development of the proposed 22549  
residential facility unless it finds, based upon the application 22550

and its evaluation of the applicant, that development of the residential facility is consistent with its plan and priorities, under section 5126.05 of the Revised Code, for the provision of residential facilities for individuals with ~~mental retardation~~ or developmental disabilities residing in the county.

The resolution shall include specific findings of fact justifying the approval or disapproval.

The county board shall transmit a certified copy of the resolution to the applicant and to the board of county commissioners.

**Sec. 5126.58.** The county board of developmental disabilities shall adopt a resolution approving or disapproving an eligible organization's application for a residential facility linked deposit loan. The county board shall disapprove an application unless it finds, based on the application and its evaluation of the applicant, each of the following:

(A) The applicant has fully complied with sections 5126.54 and 5126.56 of the Revised Code.

(B) Development of the residential facility will materially contribute to alleviating the shortage of residential facilities in the county for individuals with ~~mental retardation~~ or developmental disabilities.

(C) The applicant is ready to proceed with development of the residential facility, but is unable to do so because of high interest rates.

(D) The board of county commissioners has certified that public moneys of the county are currently available for placement of the residential facility linked deposit necessary to provide low-cost financing to the applicant.

(E) Placement of the residential facility linked deposit, 22580  
considered in the aggregate with all other residential facility 22581  
linked deposits under the county's residential facility linked 22582  
deposit program, will not cause the total amount of the county's 22583  
residential facility linked deposits to exceed an amount equal 22584  
to ten per cent of the operating budget of the county board of 22585  
developmental disabilities for the current year. If placement of 22586  
the residential facility linked deposit would cause the total 22587  
amount of the county's residential facility linked deposits to 22588  
exceed the maximum established by this division, the county 22589  
board may accept the application but limit the amount of the 22590  
residential facility linked deposit accordingly. 22591

The resolution shall include specific findings of fact 22592  
justifying acceptance or rejection of the application. If the 22593  
board accepts the application, it shall specify the amount of 22594  
the residential facility linked deposit in the resolution. 22595

The county board shall transmit a certified copy of the 22596  
resolution to the applicant, the eligible lending institution, 22597  
and the county's investing authority. 22598

**Sec. 5139.06.** (A) When a child has been committed to the 22599  
department of youth services, the department shall do both of 22600  
the following: 22601

(1) Place the child in an appropriate institution under 22602  
the condition that it considers best designed for the training 22603  
and rehabilitation of the child and the protection of the 22604  
public, provided that the institutional placement shall be 22605  
consistent with the order committing the child to its custody; 22606

(2) Maintain the child in institutional care or 22607  
institutional care in a secure facility for the required period 22608

of institutionalization in a manner consistent with division (A) 22609  
(1) of section 2152.16 and divisions (A) to (F) of section 22610  
2152.17 of the Revised Code, whichever are applicable, and with 22611  
section 5139.38 or division (B), (C), or (D) of section 2152.22 22612  
of the Revised Code. 22613

(B) When a child has been committed to the department of 22614  
youth services and has not been institutionalized or 22615  
institutionalized in a secure facility for the prescribed 22616  
minimum period of time, including, but not limited to, a 22617  
prescribed period of time under division (A)(1)(a) of section 22618  
2152.16 of the Revised Code, the department, the child, or the 22619  
child's parent may request the court that committed the child to 22620  
order a judicial release to court supervision or a judicial 22621  
release to department of youth services supervision in 22622  
accordance with division (B), (C), or (D) of section 2152.22 of 22623  
the Revised Code, and the child may be released from 22624  
institutionalization or institutionalization in a secure 22625  
facility in accordance with the applicable division. A child in 22626  
those circumstances shall not be released from 22627  
institutionalization or institutionalization in a secure 22628  
facility except in accordance with section 2152.22 or 5139.38 of 22629  
the Revised Code. When a child is released pursuant to a 22630  
judicial release to court supervision under division (B) or (D) 22631  
of section 2152.22 of the Revised Code, the department shall 22632  
comply with division (B)(3) of that section and, if the court 22633  
requests, shall send the committing court a report on the 22634  
child's progress in the institution and recommendations for 22635  
conditions of supervision by the court after release. When a 22636  
child is released pursuant to a judicial release to department 22637  
of youth services supervision under division (C) or (D) of 22638  
section 2152.22 of the Revised Code, the department shall comply 22639

with division (C) (3) of that section relative to the child and 22640  
shall send the committing court and the juvenile court of the 22641  
county in which the child is placed a copy of the treatment and 22642  
rehabilitation plan described in that division and the 22643  
conditions that it fixed. The court of the county in which the 22644  
child is placed may adopt the conditions as an order of the 22645  
court and may add any additional consistent conditions it 22646  
considers appropriate, provided that the court may not add any 22647  
condition that decreases the level or degree of supervision 22648  
specified by the department in its plan, that substantially 22649  
increases the financial burden of supervision that will be 22650  
experienced by the department, or that alters the placement 22651  
specified by the department in its plan. Any violations of the 22652  
conditions of the child's judicial release or early release 22653  
shall be handled pursuant to division (E) of section 2152.22 of 22654  
the Revised Code. 22655

(C) When a child has been committed to the department of 22656  
youth services, the department may do any of the following: 22657

(1) Notwithstanding the provisions of this chapter, 22658  
Chapter 2151., or Chapter 2152. of the Revised Code that 22659  
prescribe required periods of institutionalization, transfer the 22660  
child to any other state institution, whenever it appears that 22661  
the child by reason of mental illness, ~~mental retardation,~~ or 22662  
~~other~~ developmental disability ought to be in another state 22663  
institution. Before transferring a child to any other state 22664  
institution, the department shall include in the minutes a 22665  
record of the order of transfer and the reason for the transfer 22666  
and, at least seven days prior to the transfer, shall send a 22667  
certified copy of the order to the person shown by its record to 22668  
have had the care or custody of the child immediately prior to 22669  
the child's commitment. Except as provided in division (C) (2) of 22670

this section, no person shall be transferred from a benevolent 22671  
institution to a correctional institution or to a facility or 22672  
institution operated by the department of youth services. 22673

(2) Notwithstanding the provisions of this chapter, 22674  
Chapter 2151., or Chapter 2152. of the Revised Code that 22675  
prescribe required periods of institutionalization, transfer the 22676  
child under section 5120.162 of the Revised Code to a 22677  
correctional medical center established by the department of 22678  
rehabilitation and correction, whenever the child has an 22679  
illness, physical condition, or other medical problem and it 22680  
appears that the child would benefit from diagnosis or treatment 22681  
at the center for that illness, condition, or problem. Before 22682  
transferring a child to a center, the department of youth 22683  
services shall include in the minutes a record of the order of 22684  
transfer and the reason for the transfer and, except in 22685  
emergency situations, at least seven days prior to the transfer, 22686  
shall send a certified copy of the order to the person shown by 22687  
its records to have had the care or custody of the child 22688  
immediately prior to the child's commitment. If the transfer of 22689  
the child occurs in an emergency situation, as soon as possible 22690  
after the decision is made to make the transfer, the department 22691  
of youth services shall send a certified copy of the order to 22692  
the person shown by its records to have had the care or custody 22693  
of the child immediately prior to the child's commitment. A 22694  
transfer under this division shall be in accordance with the 22695  
terms of the agreement the department of youth services enters 22696  
into with the department of rehabilitation and correction under 22697  
section 5120.162 of the Revised Code and shall continue only as 22698  
long as the child reasonably appears to receive benefit from 22699  
diagnosis or treatment at the center for an illness, physical 22700  
condition, or other medical problem. 22701

(3) Revoke or modify any order of the department except an order of discharge as often as conditions indicate it to be desirable;

(4) If the child was committed pursuant to division (A) (1) (b), (c), (d), or (e) of section 2152.16 of the Revised Code and has been institutionalized or institutionalized in a secure facility for the prescribed minimum periods of time under the division pursuant to which the commitment was made, assign the child to a family home, a group care facility, or other place maintained under public or private auspices, within or without this state, for necessary treatment and rehabilitation, the costs of which may be paid by the department, provided that the department shall notify the committing court, in writing, of the place and terms of the assignment at least fifteen days prior to the scheduled date of the assignment;

(5) Release the child from an institution in accordance with sections 5139.51 to 5139.54 of the Revised Code in the circumstances described in those sections.

(D) The department of youth services shall notify the committing court of any order transferring the physical location of any child committed to it in accordance with section 5139.35 of the Revised Code. Upon the discharge from its custody and control, the department may petition the court for an order terminating its custody and control.

**Sec. 5139.08.** The department of youth services may enter into an agreement with the director of rehabilitation and correction pursuant to which the department of youth services, in accordance with division (C) (2) of section 5139.06 and section 5120.162 of the Revised Code, may transfer to a correctional medical center established by the department of

rehabilitation and correction, children who are within its 22732  
custody for diagnosis or treatment of an illness, physical 22733  
condition, or other medical problem. The department of youth 22734  
services may enter into any other agreements with the director 22735  
of job and family services, the director of mental health and 22736  
addiction services, the director of developmental disabilities, 22737  
the director of rehabilitation and correction, with the courts 22738  
having probation officers or other public officials, and with 22739  
private agencies or institutions for separate care or special 22740  
treatment of children subject to the control of the department 22741  
of youth services. The department of youth services may, upon 22742  
the request of a juvenile court not having a regular probation 22743  
officer, provide probation services for such court. 22744

Upon request by the department of youth services, any 22745  
public agency or group care facility established or administered 22746  
by the state for the care and treatment of children and youth 22747  
shall, consistent with its functions, accept and care for any 22748  
child whose custody is vested in the department in the same 22749  
manner as it would be required to do if custody had been vested 22750  
by a court in such agency or group care facility. If the 22751  
department has reasonable grounds to believe that any child or 22752  
youth whose custody is vested in it is mentally ill or ~~mentally-~~ 22753  
~~retarded~~has an intellectual disability, the department may file 22754  
an affidavit under section 5122.11 or 5123.76 of the Revised 22755  
Code. The department's affidavit for admission of a child or 22756  
youth to such institution shall be filed with the probate court 22757  
of the county from which the child was committed to the 22758  
department. Such court may request the probate court of the 22759  
county in which the child is held to conduct the hearing on the 22760  
application, in which case the court making such request shall 22761  
bear the expenses of the proceeding. If the department files 22762

such an affidavit, the child or youth may be kept in such 22763  
institution until a final decision on the affidavit is made by 22764  
the appropriate court. 22765

**Sec. 5139.12.** Any person who is required, pursuant to 22766  
division (A) of section 2151.421 of the Revised Code, to report 22767  
the person's knowledge of or reasonable cause to suspect abuse 22768  
or neglect or threat of abuse or neglect of a child under 22769  
eighteen years of age or a ~~mentally retarded, developmentally~~ 22770  
~~disabled, or physically impaired child~~ person with a 22771  
developmental disability or physical impairment under twenty-one 22772  
years of age, or any person who is permitted, pursuant to 22773  
division (B) of that section, to report, or cause such a report 22774  
to be made and who makes or causes the report to be made, shall 22775  
direct that report to the state highway patrol if the child is a 22776  
delinquent child in the custody of an institution. If the state 22777  
highway patrol determines after receipt of the report that there 22778  
is probable cause that abuse or neglect or threat of abuse or 22779  
neglect of the delinquent child occurred, the highway patrol 22780  
shall report its findings to the department of youth services, 22781  
to the court that ordered the disposition of the delinquent 22782  
child for the act that would have been an offense if committed 22783  
by an adult and for which the delinquent child is in the custody 22784  
of the department, to the public children services agency in the 22785  
county in which the child resides or in which the abuse or 22786  
neglect or threat of abuse or neglect occurred, and to the 22787  
chairperson and vice-chairperson of the correctional institution 22788  
inspection committee established by section 103.71 of the 22789  
Revised Code. 22790

**Sec. 5139.27.** The department of youth services shall adopt 22791  
rules prescribing the minimum standards of construction for a 22792  
school, forestry camp, or other facility established under 22793

section 2151.65 of the Revised Code for which financial 22794  
assistance may be granted to assist in defraying the cost of the 22795  
construction of the school, forestry camp, or other facility. If 22796  
an application for that financial assistance is filed with the 22797  
department under section 2151.651 of the Revised Code, and the 22798  
department finds that the application is in proper form and the 22799  
specifications for the construction of the school, forestry 22800  
camp, or other facility meet the minimum standards set forth in 22801  
the rules adopted by the department, the department may, from 22802  
moneys available to it for granting financial assistance for the 22803  
construction of schools, forestry camps, or other facilities 22804  
established under section 2151.65 of the Revised Code, grant 22805  
financial assistance to the county making the application, 22806  
subject to the approval of the controlling board, in an amount 22807  
not to exceed one-half of the county's share of the cost of 22808  
construction of the school, forestry camp, or other facility but 22809  
not to exceed six thousand five hundred dollars for each bed 22810  
unit provided for in the school, forestry camp, or other 22811  
facility. As used in this section, "construction" means the 22812  
building and the initial equipping of new structures and, to the 22813  
extent provided for in rules adopted by the department, the 22814  
acquisition, remodeling, and initial equipping of existing 22815  
structures, excluding architect's fees and the cost of land 22816  
acquisition. 22817

A county that receives financial assistance under this 22818  
section shall not be obligated to repay the assistance to the 22819  
state unless the school, forestry camp, or other facility for 22820  
which the assistance is granted is used within the ten-year 22821  
period immediately following its establishment for other than 22822  
the purpose of rehabilitating children between the ages of 22823  
twelve to eighteen years, other than psychotic ~~or mentally~~ 22824

~~retarded children~~ or children with intellectual disabilities, 22825  
who are designated delinquent children, as defined in section 22826  
2152.02 of the Revised Code, or unruly, as defined in section 22827  
2151.022 of the Revised Code, by order of a juvenile court. If 22828  
the department of youth services finds that the school, forestry 22829  
camp, or other facility is used for other than that purpose 22830  
within that ten-year period, the county shall be obligated to 22831  
repay the assistance to the state and, through its board of 22832  
county commissioners, may enter into an agreement with the 22833  
director of budget and management for the discharge of that 22834  
obligation over a period not to exceed ten years in duration. 22835  
Whenever a county is obligated to repay that assistance to the 22836  
state and its board of county commissioners fails to enter into 22837  
or fails to comply with an agreement for the discharge of that 22838  
obligation, the tax commissioner, pursuant to section 5747.54 of 22839  
the Revised Code, shall withhold from distribution to the county 22840  
from the local government fund an amount sufficient to discharge 22841  
the county from that obligation to the state. 22842

**Sec. 5139.39.** The department of youth services, in the 22843  
manner provided in this chapter and Chapter 2151. of the Revised 22844  
Code, may transfer to a foster care facility certified by the 22845  
department of job and family services under section 5103.03 of 22846  
the Revised Code, any child committed to it and, in the event of 22847  
a transfer of that nature, unless otherwise mutually agreed, the 22848  
department of youth services shall bear the cost of care and 22849  
services provided for the child in the foster care facility. A 22850  
juvenile court may transfer to any foster facility certified by 22851  
the department of job and family services any child between 22852  
twelve and eighteen years of age, other than a psychotic ~~or~~ 22853  
mentally retarded child or a child with an intellectual 22854  
disability, who has been designated a delinquent child and 22855

placed on probation by order of the juvenile court as a result 22856  
of having violated any law of this state or the United States or 22857  
any ordinance of a political subdivision of this state. 22858

**Sec. 5139.54.** (A) Notwithstanding any other provision for 22859  
determining when a child shall be released or discharged from 22860  
the legal custody of the department of youth services, including 22861  
jurisdictional provisions in section 2152.22 of the Revised 22862  
Code, the release authority, for medical reasons, may release a 22863  
child upon supervised release or discharge the child from the 22864  
custody of the department when any of the following applies: 22865

(1) The child is terminally ill or otherwise in imminent 22866  
danger of death. 22867

(2) The child is incapacitated due to injury, disease, 22868  
illness, or other medical condition and is no longer a threat to 22869  
public safety. 22870

(3) The child appears to be a mentally ill person subject 22871  
to court order, as defined in section 5122.01 of the Revised 22872  
Code, or a ~~mentally retarded~~ person with an intellectual 22873  
disability subject to institutionalization by court order, as 22874  
defined in section 5123.01 of the Revised Code. 22875

(B) When considering whether to release or discharge a 22876  
child under this section for medical reasons, the release 22877  
authority may request additional medical information about the 22878  
child or may ask the department to conduct additional medical 22879  
examinations. 22880

(C) The release authority shall determine the appropriate 22881  
level of supervised release for a child released under this 22882  
section. The terms and conditions of the release may require 22883  
periodic medical reevaluations as appropriate. Upon granting a 22884

release or discharge under this section, the release authority 22885  
shall give notice of the release and its terms and conditions or 22886  
of the discharge to the court that committed the child to the 22887  
custody of the department. 22888

(D) The release authority shall submit annually to the 22889  
director of youth services a report that includes all of the 22890  
following information for the previous calendar year: 22891

(1) The number of children the release authority 22892  
considered for medical release or discharge; 22893

(2) The nature of the injury, disease, illness, or other 22894  
medical condition of each child considered for medical release 22895  
or discharge; 22896

(3) The decision made by the release authority for each 22897  
child, including the reasons for denying medical release or 22898  
discharge or for granting it; 22899

(4) The number of children on medical release who were 22900  
returned to a secure facility or whose supervised release was 22901  
revoked. 22902

**Sec. 5164.25.** The departments of developmental 22903  
disabilities and medicaid may approve, reduce, deny, or 22904  
terminate a medicaid service included in the ~~individualized~~ 22905  
individual service plan developed for a medicaid recipient with 22906  
~~mental retardation or other a~~ developmental disability who is 22907  
eligible for medicaid case management services. If either 22908  
department approves, reduces, denies, or terminates a service, 22909  
that department shall timely notify the medicaid recipient that 22910  
the recipient may appeal pursuant to section 5160.31 of the 22911  
Revised Code. 22912

**Sec. 5164.342.** (A) As used in this section: 22913

"Applicant" means a person who is under final consideration for employment with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.

"Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of medicaid, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5164.341 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code. If a waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor, the waiver agency may provide for applicants and employees to undergo database reviews and

criminal records checks in accordance with section 173.38 of the Revised Code rather than this section. 22943  
22944

(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply: 22945  
22946  
22947

(1) A review of the databases listed in division (E) of this section reveals any of the following: 22948  
22949

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E) (1) to (5) of this section; 22950  
22951  
22952

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident; 22953  
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(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services. 22959  
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(2) After the applicant or employee is given the information and notification required by divisions (F) (2) (a) and (b) of this section, the applicant or employee fails to do either of the following: 22965  
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22967  
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(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C) (1) of section 109.572 of the Revised 22969  
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22971

Code or the standard impression sheet prescribed pursuant to 22972  
division (C) (2) of that section; 22973

(b) Instruct the superintendent to submit the completed 22974  
report of the criminal records check required by this section 22975  
directly to the chief administrator of the waiver agency. 22976

(3) Except as provided in rules authorized by this 22977  
section, the applicant or employee is found by a criminal 22978  
records check required by this section to have been convicted of 22979  
or have pleaded guilty to a disqualifying offense, regardless of 22980  
the date of the conviction or date of entry of the guilty plea. 22981

(D) At the time of each applicant's initial application 22982  
for employment in a position that involves providing home and 22983  
community-based services, the chief administrator of a waiver 22984  
agency shall inform the applicant of both of the following: 22985

(1) That a review of the databases listed in division (E) 22986  
of this section will be conducted to determine whether the 22987  
waiver agency is prohibited by division (C) (1) of this section 22988  
from employing the applicant in the position; 22989

(2) That, unless the database review reveals that the 22990  
applicant may not be employed in the position, a criminal 22991  
records check of the applicant will be conducted and the 22992  
applicant is required to provide a set of the applicant's 22993  
fingerprint impressions as part of the criminal records check. 22994

(E) As a condition of employing any applicant in a 22995  
position that involves providing home and community-based 22996  
services, the chief administrator of a waiver agency shall 22997  
conduct a database review of the applicant in accordance with 22998  
rules authorized by this section. If rules authorized by this 22999  
section so require, the chief administrator of a waiver agency 23000

shall conduct a database review of an employee in accordance 23001  
with the rules as a condition of continuing to employ the 23002  
employee in a position that involves providing home and 23003  
community-based services. A database review shall determine 23004  
whether the applicant or employee is included in any of the 23005  
following: 23006

(1) The excluded parties list system that is maintained by 23007  
the United States general services administration pursuant to 23008  
subpart 9.4 of the federal acquisition regulation and available 23009  
at the federal web site known as the system for award 23010  
management; 23011

(2) The list of excluded individuals and entities 23012  
maintained by the office of inspector general in the United 23013  
States department of health and human services pursuant to the 23014  
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 23015  
and 1320c-5; 23016

(3) The registry of ~~MR/DD~~ developmental disabilities 23017  
employees established under section 5123.52 of the Revised Code; 23018

(4) The internet-based sex offender and child-victim 23019  
offender database established under division (A)(11) of section 23020  
2950.13 of the Revised Code; 23021

(5) The internet-based database of inmates established 23022  
under section 5120.66 of the Revised Code; 23023

(6) The state nurse aide registry established under 23024  
section 3721.32 of the Revised Code; 23025

(7) Any other database, if any, specified in rules 23026  
authorized by this section. 23027

(F)(1) As a condition of employing any applicant in a 23028

position that involves providing home and community-based 23029  
services, the chief administrator of a waiver agency shall 23030  
require the applicant to request that the superintendent of the 23031  
bureau of criminal identification and investigation conduct a 23032  
criminal records check of the applicant. If rules authorized by 23033  
this section so require, the chief administrator of a waiver 23034  
agency shall require an employee to request that the 23035  
superintendent conduct a criminal records check of the employee 23036  
at times specified in the rules as a condition of continuing to 23037  
employ the employee in a position that involves providing home 23038  
and community-based services. However, a criminal records check 23039  
is not required for an applicant or employee if the waiver 23040  
agency is prohibited by division (C) (1) of this section from 23041  
employing the applicant or continuing to employ the employee in 23042  
a position that involves providing home and community-based 23043  
services. If an applicant or employee for whom a criminal 23044  
records check request is required by this section does not 23045  
present proof of having been a resident of this state for the 23046  
five-year period immediately prior to the date the criminal 23047  
records check is requested or provide evidence that within that 23048  
five-year period the superintendent has requested information 23049  
about the applicant or employee from the federal bureau of 23050  
investigation in a criminal records check, the chief 23051  
administrator shall require the applicant or employee to request 23052  
that the superintendent obtain information from the federal 23053  
bureau of investigation as part of the criminal records check. 23054  
Even if an applicant or employee for whom a criminal records 23055  
check request is required by this section presents proof of 23056  
having been a resident of this state for the five-year period, 23057  
the chief administrator may require the applicant or employee to 23058  
request that the superintendent include information from the 23059  
federal bureau of investigation in the criminal records check. 23060

(2) The chief administrator shall provide the following to each applicant and employee for whom a criminal records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or employee is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator.

(3) A waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for any criminal records check required by this section. However, a waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays to the bureau under this section if the waiver agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(G)(1) A waiver agency may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The waiver agency is not prohibited by division (C)(1)

of this section from employing the applicant in a position that 23090  
involves providing home and community-based services. 23091

(b) The chief administrator of the waiver agency requires 23092  
the applicant to request a criminal records check regarding the 23093  
applicant in accordance with division (F)(1) of this section not 23094  
later than five business days after the applicant begins 23095  
conditional employment. 23096

(2) A waiver agency that employs an applicant 23097  
conditionally under division (G)(1) of this section shall 23098  
terminate the applicant's employment if the results of the 23099  
criminal records check, other than the results of any request 23100  
for information from the federal bureau of investigation, are 23101  
not obtained within the period ending sixty days after the date 23102  
the request for the criminal records check is made. Regardless 23103  
of when the results of the criminal records check are obtained, 23104  
if the results indicate that the applicant has been convicted of 23105  
or has pleaded guilty to a disqualifying offense, the waiver 23106  
agency shall terminate the applicant's employment unless 23107  
circumstances specified in rules authorized by this section 23108  
exist that permit the waiver agency to employ the applicant and 23109  
the waiver agency chooses to employ the applicant. 23110

(H) The report of any criminal records check conducted 23111  
pursuant to a request made under this section is not a public 23112  
record for the purposes of section 149.43 of the Revised Code 23113  
and shall not be made available to any person other than the 23114  
following: 23115

(1) The applicant or employee who is the subject of the 23116  
criminal records check or the representative of the applicant or 23117  
employee; 23118

(2) The chief administrator of the waiver agency that requires the applicant or employee to request the criminal records check or the administrator's representative;	23119 23120 23121
(3) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;	23122 23123
(4) The director of aging or the director's designee if the waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor;	23124 23125 23126
(5) An individual receiving or deciding whether to receive home and community-based services from the subject of the criminal records check;	23127 23128 23129
(6) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	23130 23131
(a) A denial of employment of the applicant or employee;	23132
(b) Employment or unemployment benefits of the applicant or employee;	23133 23134
(c) A civil or criminal action regarding the medicaid program.	23135 23136
(I) The medicaid director shall adopt rules under section 5164.02 of the Revised Code to implement this section.	23137 23138
(1) The rules may do the following:	23139
(a) Require employees to undergo database reviews and criminal records checks under this section;	23140 23141
(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;	23142 23143 23144
(c) For the purpose of division (E) (7) of this section,	23145

specify other databases that are to be checked as part of a 23146  
database review conducted under this section. 23147

(2) The rules shall specify all of the following: 23148

(a) The procedures for conducting a database review under 23149  
this section; 23150

(b) If the rules require employees to undergo database 23151  
reviews and criminal records checks under this section, the 23152  
times at which the database reviews and criminal records checks 23153  
are to be conducted; 23154

(c) If the rules specify other databases to be checked as 23155  
part of a database review, the circumstances under which a 23156  
waiver agency is prohibited from employing an applicant or 23157  
continuing to employ an employee who is found by the database 23158  
review to be included in one or more of those databases; 23159

(d) The circumstances under which a waiver agency may 23160  
employ an applicant or employee who is found by a criminal 23161  
records check required by this section to have been convicted of 23162  
or have pleaded guilty to a disqualifying offense. 23163

(J) The amendments made by H.B. 487 of the 129th general 23164  
assembly to this section do not preclude the department of 23165  
medicaid from taking action against a person for failure to 23166  
comply with former division (H) of this section as that division 23167  
existed on the day preceding January 1, 2013. 23168

**Sec. 5164.881.** The medicaid director, in consultation with 23169  
the director of developmental disabilities, may develop and 23170  
implement within the medicaid program a system under which 23171  
eligible individuals with chronic conditions, as defined in the 23172  
"Social Security Act," section 1945 (h) (1), 42 U.S.C. 1396w-4(h) 23173  
(1), who also have ~~mental retardation or other~~ developmental 23174

disabilities may receive health home services, as defined in the 23175  
"Social Security Act," section 1945 (h) (4), 42 U.S.C. 1396w-4(h) 23176  
(4). Any such system shall focus on the needs of individuals and 23177  
have as its goal improving services and outcomes under the 23178  
medicaid program by improving integration of long-term care 23179  
services and supportive services with primary and acute health 23180  
care services. 23181

In developing any system under this section, the directors 23182  
shall consult with representatives of county boards of 23183  
developmental disabilities, the Ohio provider resource 23184  
association, and the arc of Ohio. The directors may consult with 23185  
any other individuals or entities that have an interest in the 23186  
well being of individuals with developmental disabilities. 23187

**Sec. 5165.01.** As used in this chapter: 23188

(A) "Affiliated operator" means an operator affiliated 23189  
with either of the following: 23190

(1) The exiting operator for whom the affiliated operator 23191  
is to assume liability for the entire amount of the exiting 23192  
operator's debt under the medicaid program or the portion of the 23193  
debt that represents the franchise permit fee the exiting 23194  
operator owes; 23195

(2) The entering operator involved in the change of 23196  
operator with the exiting operator specified in division (A) (1) 23197  
of this section. 23198

(B) "Allowable costs" are a nursing facility's costs that 23199  
the department of medicaid determines are reasonable. Fines paid 23200  
under sections 5165.60 to 5165.89 and section 5165.99 of the 23201  
Revised Code are not allowable costs. 23202

(C) "Ancillary and support costs" means all reasonable 23203

costs incurred by a nursing facility other than direct care 23204  
costs, tax costs, or capital costs. "Ancillary and support 23205  
costs" includes, but is not limited to, costs of activities, 23206  
social services, pharmacy consultants, habilitation supervisors, 23207  
qualified ~~mental retardation~~ intellectual disability 23208  
professionals, program directors, medical and habilitation 23209  
records, program supplies, incontinence supplies, food, 23210  
enterals, dietary supplies and personnel, laundry, housekeeping, 23211  
security, administration, medical equipment, utilities, 23212  
liability insurance, bookkeeping, purchasing department, human 23213  
resources, communications, travel, dues, license fees, 23214  
subscriptions, home office costs not otherwise allocated, legal 23215  
services, accounting services, minor equipment, maintenance and 23216  
repairs, help-wanted advertising, informational advertising, 23217  
start-up costs, organizational expenses, other interest, 23218  
property insurance, employee training and staff development, 23219  
employee benefits, payroll taxes, and workers' compensation 23220  
premiums or costs for self-insurance claims and related costs as 23221  
specified in rules adopted under section 5165.02 of the Revised 23222  
Code, for personnel listed in this division. "Ancillary and 23223  
support costs" also means the cost of equipment, including 23224  
vehicles, acquired by operating lease executed before December 23225  
1, 1992, if the costs are reported as administrative and general 23226  
costs on the nursing facility's cost report for the cost 23227  
reporting period ending December 31, 1992. 23228

(D) (1) "Capital costs" means the actual expense incurred 23229  
by a nursing facility for all of the following: 23230

(a) Depreciation and interest on any capital assets that 23231  
cost five hundred dollars or more per item, including the 23232  
following: 23233

(i) Buildings;	23234
(ii) Building improvements;	23235
(iii) Except as provided in division (C) of this section, equipment;	23236 23237
(iv) Transportation equipment.	23238
(b) Amortization and interest on land improvements and leasehold improvements;	23239 23240
(c) Amortization of financing costs;	23241
(d) Lease and rent of land, buildings, and equipment.	23242
(2) The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	23243 23244 23245
(E) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	23246 23247 23248
(F) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.	23249 23250 23251 23252
(G) "Change of operator" means an entering operator becoming the operator of a nursing facility in the place of the exiting operator.	23253 23254 23255
(1) Actions that constitute a change of operator include the following:	23256 23257
(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;	23258 23259 23260

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred;	23261 23262 23263 23264 23265
(c) A lease of the nursing facility to the entering operator or the exiting operator's termination of the exiting operator's lease;	23266 23267 23268
(d) If the exiting operator is a partnership, dissolution of the partnership;	23269 23270
(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:	23271 23272 23273
(i) The change in composition does not cause the partnership's dissolution under state law.	23274 23275
(ii) The partners agree that the change in composition does not constitute a change in operator.	23276 23277
(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.	23278 23279 23280 23281 23282
(2) The following, alone, do not constitute a change of operator:	23283 23284
(a) A contract for an entity to manage a nursing facility as the operator's agent, subject to the operator's approval of daily operating and management decisions;	23285 23286 23287
(b) A change of ownership, lease, or termination of a	23288

lease of real property or personal property associated with a 23289  
nursing facility if an entering operator does not become the 23290  
operator in place of an exiting operator; 23291

(c) If the operator is a corporation, a change of one or 23292  
more members of the corporation's governing body or transfer of 23293  
ownership of one or more shares of the corporation's stock, if 23294  
the same corporation continues to be the operator. 23295

(H) "Cost center" means the following: 23296

(1) Ancillary and support costs; 23297

(2) Capital costs; 23298

(3) Direct care costs; 23299

(4) Tax costs. 23300

(I) "Custom wheelchair" means a wheelchair to which both 23301  
of the following apply: 23302

(1) It has been measured, fitted, or adapted in 23303  
consideration of either of the following: 23304

(a) The body size or disability of the individual who is 23305  
to use the wheelchair; 23306

(b) The individual's period of need for, or intended use 23307  
of, the wheelchair. 23308

(2) It has customized features, modifications, or 23309  
components, such as adaptive seating and positioning systems, 23310  
that the supplier who assembled the wheelchair, or the 23311  
manufacturer from which the wheelchair was ordered, added or 23312  
made in accordance with the instructions of the physician of the 23313  
individual who is to use the wheelchair. 23314

(J) (1) "Date of licensure" means the following: 23315

(a) In the case of a nursing facility that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, the date the nursing facility was originally so licensed;

(b) In the case of a nursing facility that was not required by law to be licensed as a nursing home when it originally began to be operated as a nursing home, the date it first began to be operated as a nursing home, regardless of the date the nursing facility was first licensed as a nursing home.

(2) If, after a nursing facility's original date of licensure, more nursing home beds are added to the nursing facility, the nursing facility has a different date of licensure for the additional beds. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the continuing beds already located in that part of the nursing facility;

(b) The part of the nursing facility in which the additional beds are located was constructed as part of the nursing facility at a time when the nursing facility was not required by law to be licensed as a nursing home.

(3) The definition of "date of licensure" in this section applies in determinations of nursing facilities' medicaid payment rates but does not apply in determinations of nursing facilities' franchise permit fees.

(K) "Desk-reviewed" means that a nursing facility's costs as reported on a cost report submitted under section 5165.10 of

the Revised Code have been subjected to a desk review under 23345  
section 5165.108 of the Revised Code and preliminarily 23346  
determined to be allowable costs. 23347

(L) "Direct care costs" means all of the following costs 23348  
incurred by a nursing facility: 23349

(1) Costs for registered nurses, licensed practical 23350  
nurses, and nurse aides employed by the nursing facility; 23351

(2) Costs for direct care staff, administrative nursing 23352  
staff, medical directors, respiratory therapists, and except as 23353  
provided in division (L)(8) of this section, other persons 23354  
holding degrees qualifying them to provide therapy; 23355

(3) Costs of purchased nursing services; 23356

(4) Costs of quality assurance; 23357

(5) Costs of training and staff development, employee 23358  
benefits, payroll taxes, and workers' compensation premiums or 23359  
costs for self-insurance claims and related costs as specified 23360  
in rules adopted under section 5165.02 of the Revised Code, for 23361  
personnel listed in divisions (L)(1), (2), (4), and (8) of this 23362  
section; 23363

(6) Costs of consulting and management fees related to 23364  
direct care; 23365

(7) Allocated direct care home office costs; 23366

(8) Costs of habilitation staff (other than habilitation 23367  
supervisors), medical supplies, emergency oxygen, over-the- 23368  
counter pharmacy products, behavioral and mental health 23369  
services, physical therapists, physical therapy assistants, 23370  
occupational therapists, occupational therapy assistants, speech 23371  
therapists, audiologists, habilitation supplies, and universal 23372

precautions supplies;	23373
(9) Until January 1, 2014, costs of oxygen, wheelchairs, and resident transportation;	23374 23375
(10) Beginning January 1, 2014, costs of both of the following:	23376 23377
(a) Emergency oxygen;	23378
(b) Wheelchairs other than the following:	23379
(i) Custom wheelchairs;	23380
(ii) Repairs to and replacements of custom wheelchairs and parts that are made in accordance with the instructions of the physician of the individual who uses the custom wheelchair.	23381 23382 23383
(11) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5165.02 of the Revised Code.	23384 23385 23386
(M) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.	23387 23388
(N) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.	23389 23390 23391
(O) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility.	23392 23393 23394
(P) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility.	23395 23396 23397
(Q) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to	23398 23399

accept new medicaid residents other than the individuals who 23400  
reside in the nursing facility on the day before the effective 23401  
date of the voluntary withdrawal of participation. 23402

(R) "Entering operator" means the person or government 23403  
entity that will become the operator of a nursing facility when 23404  
a change of operator occurs or following an involuntary 23405  
termination. 23406

(S) "Exiting operator" means any of the following: 23407

(1) An operator that will cease to be the operator of a 23408  
nursing facility on the effective date of a change of operator; 23409

(2) An operator that will cease to be the operator of a 23410  
nursing facility on the effective date of a facility closure; 23411

(3) An operator of a nursing facility that is undergoing 23412  
or has undergone a voluntary withdrawal of participation; 23413

(4) An operator of a nursing facility that is undergoing 23414  
or has undergone an involuntary termination. 23415

(T) (1) Subject to divisions (T) (2) and (3) of this 23416  
section, "facility closure" means either of the following: 23417

(a) Discontinuance of the use of the building, or part of 23418  
the building, that houses the facility as a nursing facility 23419  
that results in the relocation of all of the nursing facility's 23420  
residents; 23421

(b) Conversion of the building, or part of the building, 23422  
that houses a nursing facility to a different use with any 23423  
necessary license or other approval needed for that use being 23424  
obtained and one or more of the nursing facility's residents 23425  
remaining in the building, or part of the building, to receive 23426  
services under the new use. 23427

(2) A facility closure occurs regardless of any of the following:	23428 23429
(a) The operator completely or partially replacing the nursing facility by constructing a new nursing facility or transferring the nursing facility's license to another nursing facility;	23430 23431 23432 23433
(b) The nursing facility's residents relocating to another of the operator's nursing facilities;	23434 23435
(c) Any action the department of health takes regarding the nursing facility's medicaid certification that may result in the transfer of part of the nursing facility's survey findings to another of the operator's nursing facilities;	23436 23437 23438 23439
(d) Any action the department of health takes regarding the nursing facility's license under Chapter 3721. of the Revised Code.	23440 23441 23442
(3) A facility closure does not occur if all of the nursing facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs.	23443 23444 23445 23446 23447
(U) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.	23448 23449
(V) "Franchise permit fee" means the fee imposed by sections 5168.40 to 5168.56 of the Revised Code.	23450 23451
(W) "Inpatient days" means both of the following:	23452
(1) All days during which a resident, regardless of payment source, occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity;	23453 23454 23455

- (2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code. 23456  
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- (X) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request. 23458  
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- (Y) "Low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data. 23462  
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- (Z) "Maintenance and repair expenses" means a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the costs of ordinary repairs such as painting and wallpapering. 23469  
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- (AA) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds. 23476  
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- (BB) "Medicaid days" means both of the following: 23479
- (1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity; 23480  
23481  
23482  
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- (2) Fifty per cent of the days for which payment is made 23484

under section 5165.34 of the Revised Code. 23485

(CC) (1) "New nursing facility" means a nursing facility 23486  
for which the provider obtains an initial provider agreement 23487  
following medicaid certification of the nursing facility by the 23488  
director of health, including such a nursing facility that 23489  
replaces one or more nursing facilities for which a provider 23490  
previously held a provider agreement. 23491

(2) "New nursing facility" does not mean a nursing 23492  
facility for which the entering operator seeks a provider 23493  
agreement pursuant to section 5165.511 or 5165.512 or (pursuant 23494  
to section 5165.515) section 5165.07 of the Revised Code. 23495

(DD) "Nursing facility" has the same meaning as in the 23496  
"Social Security Act," section 1919(a), 42 U.S.C. 1396r(a). 23497

(EE) "Nursing facility services" has the same meaning as 23498  
in the "Social Security Act," section 1905(f), 42 U.S.C. 23499  
1396d(f). 23500

(FF) "Nursing home" has the same meaning as in section 23501  
3721.01 of the Revised Code. 23502

(GG) "Operator" means the person or government entity 23503  
responsible for the daily operating and management decisions for 23504  
a nursing facility. 23505

(HH) (1) "Owner" means any person or government entity that 23506  
has at least five per cent ownership or interest, either 23507  
directly, indirectly, or in any combination, in any of the 23508  
following regarding a nursing facility: 23509

(a) The land on which the nursing facility is located; 23510

(b) The structure in which the nursing facility is 23511  
located; 23512

(c) Any mortgage, contract for deed, or other obligation 23513  
secured in whole or in part by the land or structure on or in 23514  
which the nursing facility is located; 23515

(d) Any lease or sublease of the land or structure on or 23516  
in which the nursing facility is located. 23517

(2) "Owner" does not mean a holder of a debenture or bond 23518  
related to the nursing facility and purchased at public issue or 23519  
a regulated lender that has made a loan related to the nursing 23520  
facility unless the holder or lender operates the nursing 23521  
facility directly or through a subsidiary. 23522

(II) "Per diem" means a nursing facility's actual, 23523  
allowable costs in a given cost center in a cost reporting 23524  
period, divided by the nursing facility's inpatient days for 23525  
that cost reporting period. 23526

(JJ) "Provider" means an operator with a provider 23527  
agreement. 23528

(KK) "Provider agreement" means a provider agreement, as 23529  
defined in section 5164.01 of the Revised Code, that is between 23530  
the department of medicaid and the operator of a nursing 23531  
facility for the provision of nursing facility services under 23532  
the medicaid program. 23533

(LL) "Purchased nursing services" means services that are 23534  
provided in a nursing facility by registered nurses, licensed 23535  
practical nurses, or nurse aides who are not employees of the 23536  
nursing facility. 23537

(MM) "Reasonable" means that a cost is an actual cost that 23538  
is appropriate and helpful to develop and maintain the operation 23539  
of patient care facilities and activities, including normal 23540  
standby costs, and that does not exceed what a prudent buyer 23541

pays for a given item or services. Reasonable costs may vary 23542  
from provider to provider and from time to time for the same 23543  
provider. 23544

(NN) "Related party" means an individual or organization 23545  
that, to a significant extent, has common ownership with, is 23546  
associated or affiliated with, has control of, or is controlled 23547  
by, the provider. 23548

(1) An individual who is a relative of an owner is a 23549  
related party. 23550

(2) Common ownership exists when an individual or 23551  
individuals possess significant ownership or equity in both the 23552  
provider and the other organization. Significant ownership or 23553  
equity exists when an individual or individuals possess five per 23554  
cent ownership or equity in both the provider and a supplier. 23555  
Significant ownership or equity is presumed to exist when an 23556  
individual or individuals possess ten per cent ownership or 23557  
equity in both the provider and another organization from which 23558  
the provider purchases or leases real property. 23559

(3) Control exists when an individual or organization has 23560  
the power, directly or indirectly, to significantly influence or 23561  
direct the actions or policies of an organization. 23562

(4) An individual or organization that supplies goods or 23563  
services to a provider shall not be considered a related party 23564  
if all of the following conditions are met: 23565

(a) The supplier is a separate bona fide organization. 23566

(b) A substantial part of the supplier's business activity 23567  
of the type carried on with the provider is transacted with 23568  
others than the provider and there is an open, competitive 23569  
market for the types of goods or services the supplier 23570

furnishes.	23571
(c) The types of goods or services are commonly obtained	23572
by other nursing facilities from outside organizations and are	23573
not a basic element of patient care ordinarily furnished	23574
directly to patients by nursing facilities.	23575
(d) The charge to the provider is in line with the charge	23576
for the goods or services in the open market and no more than	23577
the charge made under comparable circumstances to others by the	23578
supplier.	23579
(OO) "Relative of owner" means an individual who is	23580
related to an owner of a nursing facility by one of the	23581
following relationships:	23582
(1) Spouse;	23583
(2) Natural parent, child, or sibling;	23584
(3) Adopted parent, child, or sibling;	23585
(4) Stepparent, stepchild, stepbrother, or stepsister;	23586
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-	23587
law, brother-in-law, or sister-in-law;	23588
(6) Grandparent or grandchild;	23589
(7) Foster caregiver, foster child, foster brother, or	23590
foster sister.	23591
(PP) "Residents' rights advocate" has the same meaning as	23592
in section 3721.10 of the Revised Code.	23593
(QQ) "Skilled nursing facility" has the same meaning as in	23594
the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-	23595
3(a).	23596

(RR) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.	23597 23598
(SS) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.	23599 23600 23601
(TT) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.	23602 23603
(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.	23604 23605
(VV) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.	23606 23607 23608 23609
<b>Sec. 5166.20.</b> (A) The department of medicaid may create the following:	23610 23611
(1) One or more medicaid waiver components under which home and community-based services are provided to individuals with <del>mental retardation or other developmental disability</del> <u>disabilities</u> as an alternative to placement in ICFs/IID;	23612 23613 23614 23615
(2) One or more medicaid waiver components under which home and community-based services are provided in the form of any of the following:	23616 23617 23618
(a) Early intervention and supportive services for children under three years of age who have developmental delays or disabilities the department determines are significant;	23619 23620 23621
(b) Therapeutic services for children who have autism;	23622
(c) Specialized habilitative services for individuals who	23623

are eighteen years of age or older and have autism. 23624

(B) No medicaid waiver component created pursuant to 23625  
division (A) (2) (b) or (c) of this section shall provide services 23626  
that are available under another medicaid waiver component. No 23627  
medicaid waiver component created pursuant to division (A) (2) (b) 23628  
of this section shall provide services to an individual that the 23629  
individual is eligible to receive through an individualized 23630  
education program as defined in section 3323.01 of the Revised 23631  
Code. 23632

(C) The director of developmental disabilities and 23633  
director of health may request that the department of medicaid 23634  
create one or more medicaid waiver components under this 23635  
section. 23636

(D) Before creating a medicaid waiver component under this 23637  
section, the department of medicaid shall seek, accept, and 23638  
consider public comments. 23639

**Sec. 5166.21.** The department of medicaid shall enter into 23640  
a contract with the department of developmental disabilities 23641  
under section 5162.35 of the Revised Code with regard to one or 23642  
more of the medicaid waiver components created by the department 23643  
of medicaid under section 5166.20 of the Revised Code. The 23644  
contract shall include the medicaid waiver component known as 23645  
the transitions developmental disabilities waiver. The contract 23646  
shall provide for the department of developmental disabilities 23647  
to administer the components in accordance with the terms of the 23648  
federal medicaid waivers authorizing the components. The 23649  
contract shall include a schedule for the department of 23650  
developmental disabilities to begin administering the 23651  
transitions developmental disabilities waiver. 23652

If the department of developmental disabilities or the 23653  
department of medicaid denies an individual's application for 23654  
home and community-based services provided under any of these 23655  
medicaid components, the department that denied the services 23656  
shall give timely notice to the individual that the individual 23657  
may appeal pursuant to section 5160.31 of the Revised Code. 23658

The departments of developmental disabilities and medicaid 23659  
may approve, reduce, deny, or terminate a medicaid service 23660  
included in the ~~individualized~~ individual service plan developed 23661  
for a medicaid recipient eligible for home and community-based 23662  
services provided under any of these medicaid components. The 23663  
departments shall consider the recommendations a county board of 23664  
developmental disabilities makes under division (A) (1) (c) of 23665  
section 5126.055 of the Revised Code. If either department 23666  
approves, reduces, denies, or terminates a medicaid service, 23667  
that department shall give timely notice to the medicaid 23668  
recipient that the recipient may appeal pursuant to section 23669  
5160.31 of the Revised Code. 23670

If supported living, as defined in section 5126.01 of the 23671  
Revised Code, is to be provided as a medicaid service under any 23672  
of these components, any person or government entity with a 23673  
current, valid provider agreement and a current, valid 23674  
certificate under section 5123.161 of the Revised Code may 23675  
provide the medicaid service. 23676

If a medicaid service is to be provided under any of these 23677  
components by a residential facility, as defined in section 23678  
5123.19 of the Revised Code, any person or government entity 23679  
with a current, valid provider agreement and a current, valid 23680  
license under section 5123.19 of the Revised Code may provide 23681  
the medicaid service. 23682

**Sec. 5166.22.** (A) Subject to division (B) of this section, 23683  
when the department of developmental disabilities allocates 23684  
enrollment numbers to a county board of developmental 23685  
disabilities for home and community-based services specified in 23686  
division (A) (1) of section 5166.20 of the Revised Code and 23687  
provided under any of the medicaid waiver components that the 23688  
department administers under section 5166.21 of the Revised 23689  
Code, the department shall consider all of the following: 23690

(1) The number of individuals with ~~mental retardation or~~ 23691  
~~other developmental disability~~ disabilities who are on a waiting 23692  
list the county board establishes under section 5126.042 of the 23693  
Revised Code for those services and are given priority on the 23694  
waiting list; 23695

(2) The implementation component required by division (A) 23696  
(3) of section 5126.054 of the Revised Code of the county 23697  
board's plan approved under section 5123.046 of the Revised 23698  
Code; 23699

(3) Anything else the department considers necessary to 23700  
enable county boards to provide those services to individuals in 23701  
accordance with the priority requirements for waiting lists 23702  
established under section 5126.042 of the Revised Code for those 23703  
services. 23704

(B) Division (A) of this section applies to home and 23705  
community-based services provided under the medicaid waiver 23706  
component known as the transitions developmental disabilities 23707  
waiver only to the extent, if any, provided by the contract 23708  
required by section 5166.21 of the Revised Code regarding the 23709  
component. 23710

**Sec. 5168.68.** There is hereby created in the state 23711

treasury the home and community-based services for ~~the mentally-~~ 23712  
~~retarded and developmentally disabled persons with developmental~~ 23713  
disabilities fund. All installment payments and penalties paid 23714  
by an ICF/IID under sections 5168.63 and 5168.65 of the Revised 23715  
Code shall be deposited into the fund. As soon as possible after 23716  
the end of each quarter, the medicaid director shall certify to 23717  
the director of budget and management the amount of money that 23718  
is in the fund as of the last day of that quarter. On receipt of 23719  
a certification, the director of budget and management shall 23720  
transfer the amount so certified from the home and community- 23721  
based services for ~~the mentally retarded and developmentally-~~ 23722  
~~disabled persons with developmental disabilities~~ fund to the 23723  
department of developmental disabilities operating and services 23724  
fund created under section 5168.69 of the Revised Code. 23725

**Sec. 5301.22.** As used in this section, "incompetent 23726  
person" means a person who is so mentally impaired, as a result 23727  
of a mental or physical illness or disability, ~~or mental-~~ 23728  
~~retardation~~ as a result of an intellectual disability, or as a 23729  
result of chronic substance abuse, that the person is incapable 23730  
of taking proper care of the person's self or property or fails 23731  
to provide for the person's family or other persons for whom the 23732  
person is charged by law to provide. 23733

No agreement described in section 5301.21 of the Revised 23734  
Code shall be executed by a minor or incompetent person, but it 23735  
may be executed and delivered for record, on such a person's 23736  
behalf, by the person's guardian. When executed, acknowledged, 23737  
delivered for record, and recorded, such agreement shall be as 23738  
effectual against such minor or incompetent person, as if the 23739  
person had been under no disability, and had performed such acts 23740  
personally. An owner, not under any of such disabilities, may 23741  
perform all such acts by an attorney in fact. The power of such 23742

attorney must be in writing and first recorded in the county 23743  
recorder's office. 23744

**Sec. 5305.17.** As used in this section and sections 5305.18 23745  
to 5305.22 of the Revised Code, "incompetent person" means a 23746  
person who is so mentally impaired, as a result of a mental or 23747  
physical illness or disability, ~~or mental retardation~~ as a result 23748  
of an intellectual disability, or as a result of chronic 23749  
substance abuse, that the person is incapable of taking proper 23750  
care of the person's self or property or fails to provide for 23751  
the person's family or other persons for whom the person is 23752  
charged by law to provide. 23753

The guardian of a surviving spouse who has been adjudged 23754  
to be an incompetent person may appear and answer for such 23755  
incompetent person in an action under section 5305.15 of the 23756  
Revised Code, subject to the approval of the court in which it 23757  
is pending. Such answer has the same effect as if such spouse 23758  
answered personally. The guardian shall be liable to such 23759  
spouse, or the heirs, for all damage or loss sustained by the 23760  
guardian's fraud or collusion, notwithstanding the approval of 23761  
the court. 23762

**Sec. 5307.19.** As used in this section and section 5307.20 23763  
of the Revised Code, "incompetent person" means a person who is 23764  
so mentally impaired, as a result of a mental or physical 23765  
illness or disability, ~~or mental retardation~~ as a result of an 23766  
intellectual disability, or as a result of chronic substance 23767  
abuse, that the person is incapable of taking proper care of the 23768  
person's self or property or fails to provide for the person's 23769  
family or other persons for whom the person is charged by law to 23770  
provide. 23771

The guardian of a minor or incompetent person, on behalf 23772

of the guardian's ward, may perform any act, matter, or thing 23773  
respecting the partition of an estate which such ward could do 23774  
under sections 5307.01 to 5307.25 of the Revised Code, if the 23775  
ward were of age and of sound mind. On behalf of such ward, the 23776  
guardian may elect to take the estate, when it cannot be divided 23777  
without injury, and make payments therefor on the ward's behalf. 23778

**Sec. 5310.12.** As used in this section, "incompetent 23779  
person" means a person who is so mentally impaired, as a result 23780  
of a mental or physical illness or disability, ~~or mental~~ 23781  
~~retardation~~ as a result of an intellectual disability, or as a 23782  
result of chronic substance abuse, that the person is incapable 23783  
of taking proper care of the person's self or property or fails 23784  
to provide for the person's family or other persons for whom the 23785  
person is charged by law to provide. 23786

No action or proceeding for compensation from the 23787  
assurance fund provided for in section 5310.05 of the Revised 23788  
Code for, or by reason of, any deprivation, loss, or damage 23789  
shall be made, brought or taken, except within a period of six 23790  
years from the time when the right to bring such action or 23791  
proceeding first accrued. If at the time when such right of 23792  
action first accrues the person entitled to bring such action or 23793  
take such proceedings is within the age of eighteen years, an 23794  
incompetent person, imprisoned, or absent from the United States 23795  
in the service of the United States or of this state, such 23796  
person or anyone claiming from, by, or under the person, may 23797  
bring the action at any time within two years after such 23798  
disability is removed. 23799

**Sec. 5321.01.** As used in this chapter: 23800

(A) "Tenant" means a person entitled under a rental 23801  
agreement to the use and occupancy of residential premises to 23802

the exclusion of others. 23803

(B) "Landlord" means the owner, lessor, or sublessor of 23804  
residential premises, the agent of the owner, lessor, or 23805  
sublessor, or any person authorized by the owner, lessor, or 23806  
sublessor to manage the premises or to receive rent from a 23807  
tenant under a rental agreement. 23808

(C) "Residential premises" means a dwelling unit for 23809  
residential use and occupancy and the structure of which it is a 23810  
part, the facilities and appurtenances in it, and the grounds, 23811  
areas, and facilities for the use of tenants generally or the 23812  
use of which is promised the tenant. "Residential premises" 23813  
includes a dwelling unit that is owned or operated by a college 23814  
or university. "Residential premises" does not include any of 23815  
the following: 23816

(1) Prisons, jails, workhouses, and other places of 23817  
incarceration or correction, including, but not limited to, 23818  
halfway houses or residential arrangements that are used or 23819  
occupied as a requirement of a community control sanction, a 23820  
post-release control sanction, or parole; 23821

(2) Hospitals and similar institutions with the primary 23822  
purpose of providing medical services, and homes licensed 23823  
pursuant to Chapter 3721. of the Revised Code; 23824

(3) Tourist homes, hotels, motels, recreational vehicle 23825  
parks, recreation camps, combined park-camps, temporary park- 23826  
camps, and other similar facilities where circumstances indicate 23827  
a transient occupancy; 23828

(4) Elementary and secondary boarding schools, where the 23829  
cost of room and board is included as part of the cost of 23830  
tuition; 23831

(5) Orphanages and similar institutions;	23832
(6) Farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or more of the occupants;	23833 23834 23835
(7) Dwelling units subject to sections 3733.41 to 3733.49 of the Revised Code;	23836 23837
(8) Occupancy by an owner of a condominium unit;	23838
(9) Occupancy in a facility licensed as an SRO facility pursuant to Chapter 3731. of the Revised Code, if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or group of entities in which such an organization has a controlling interest, and if either of the following applies:	23839 23840 23841 23842 23843 23844 23845
(a) The occupancy is for a period of less than sixty days.	23846
(b) The occupancy is for participation in a program operated by the facility, or by a public entity or private charitable organization pursuant to a contract with the facility, to provide either of the following:	23847 23848 23849 23850
(i) Services licensed, certified, registered, or approved by a governmental agency or private accrediting organization for the rehabilitation of mentally ill persons, <del>developmentally disabled persons</del> <u>with developmental disabilities</u> , adults or juveniles convicted of criminal offenses, or persons suffering from substance abuse;	23851 23852 23853 23854 23855 23856
(ii) Shelter for juvenile runaways, victims of domestic violence, or homeless persons.	23857 23858
(10) Emergency shelters operated by organizations exempt	23859

from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, for persons whose circumstances indicate a transient occupancy, including homeless people, victims of domestic violence, and juvenile runaways.

(D) "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(E) "Security deposit" means any deposit of money or property to secure performance by the tenant under a rental agreement.

(F) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(G) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Student tenant" means a person who occupies a dwelling unit owned or operated by the college or university at which the person is a student, and who has a rental agreement that is contingent upon the person's status as a student.

(I) "Recreational vehicle park," "recreation camp," "combined park-camp," and "temporary park-camp" have the same meanings as in section 3729.01 of the Revised Code.

(J) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(K) "Post-release control sanction" has the same meaning

as in section 2967.01 of the Revised Code.	23888
(L) "School premises" has the same meaning as in section 2925.01 of the Revised Code.	23889 23890
(M) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	23891 23892 23893
(N) "Preschool or child day-care center premises" has the <del>the</del> same meaning as in section 2950.034 of the Revised Code.	23894 23895
<b>Sec. 5705.05.</b> The purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expenses of any kind may be made. The taxing authority of a political subdivision may include in such levy the amounts required for carrying into effect any of the general or special powers granted by law to such subdivision, including the acquisition or construction of permanent improvements and the payment of judgments, but excluding the payment of debt charges and, in the case of counties, the construction, reconstruction, resurfacing, or repair of roads and bridges. The power to include in the general levy for current expenses additional amounts for purposes for which a special tax is authorized shall not affect the right or obligation to levy such special tax. Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include:	23896 23897 23898 23899 23900 23901 23902 23903 23904 23905 23906 23907 23908 23909 23910 23911 23912
(A) The amounts certified to be necessary for the payment of final judgments;	23913 23914
(B) The amounts necessary for general, special, and primary elections;	23915 23916

(C) The amounts necessary for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or part from the subdivision;

(D) In the case of municipal corporations, the amounts necessary for the maintenance, operation, and repair of public buildings, wharves, bridges, parks, and streets, for the prevention, control, and abatement of air pollution, and for a sanitary fund;

(E) In the case of counties, the amounts necessary for the maintenance, operation, and repair of public buildings, for providing or maintaining senior citizens services or facilities, for the relief and support of the poor, for the relief of needy blind, for the support of mental health, ~~mental retardation~~, or developmental disability services, for the relief of honorably discharged soldiers, indigent soldiers, sailors, and marines, for the operation and maintenance and the acquisition, construction, or improvement of permanent improvements, including, without limitation, the acquisition and improvement of land and buildings owned or used by a county land reutilization corporation organized under Chapter 1724. of the Revised Code, for mothers' pension fund, support of soil and water conservation districts, watershed conservancy districts, and educational television, for the prevention, control, and abatement of air pollution, and for the county's share of the compensation paid judges;

(F) In the case of a school district, the amounts necessary for tuition, the state teachers retirement system, and the maintenance, operation, and repair of schools;

(G) In the case of a township, the amounts necessary for the relief of the poor and for the prevention, control, and

abatement of air pollution. 23947

This section does not require the inclusion within the 23948  
general levy of amounts for any purpose for which a special levy 23949  
is authorized by section 5705.06 of the Revised Code. 23950

**Sec. 5705.091.** The board of county commissioners of each 23951  
county shall establish a county developmental disabilities 23952  
general fund. Notwithstanding section 5705.10 of the Revised 23953  
Code, proceeds from levies under section 5705.222 and division 23954  
(L) of section 5705.19 of the Revised Code shall be deposited to 23955  
the credit of the county developmental disabilities general 23956  
fund. Accounts shall be established within the county 23957  
developmental disabilities general fund for each of the several 23958  
particular purposes of the levies as specified in the 23959  
resolutions under which the levies were approved, and proceeds 23960  
from different levies that were approved for the same particular 23961  
purpose shall be credited to accounts for that purpose. Other 23962  
money received by the county for the purposes of Chapters 3323. 23963  
and 5126. of the Revised Code and not required by state or 23964  
federal law to be deposited to the credit of a different fund 23965  
shall also be deposited to the credit of the county 23966  
developmental disabilities general fund, in an account 23967  
appropriate to the particular purpose for which the money was 23968  
received. Unless otherwise provided by law, an unexpended 23969  
balance at the end of a fiscal year in any account in the county 23970  
developmental disabilities general fund shall be appropriated 23971  
the next fiscal year to the same fund. 23972

A county board of developmental disabilities may request, 23973  
by resolution, that the board of county commissioners establish 23974  
a county developmental disabilities capital fund for money to be 23975  
used for acquisition, construction, or improvement of capital 23976

facilities or acquisition of capital equipment used in providing 23977  
services to ~~mentally retarded and developmentally disabled~~ 23978  
persons with developmental disabilities. The county board of 23979  
developmental disabilities shall transmit a certified copy of 23980  
the resolution to the board of county commissioners. Upon 23981  
receiving the resolution, the board of county commissioners 23982  
shall establish a county developmental disabilities capital 23983  
fund. 23984

**Sec. 5705.19.** This section does not apply to school 23985  
districts, county school financing districts, or lake facilities 23986  
authorities. 23987

The taxing authority of any subdivision at any time and in 23988  
any year, by vote of two-thirds of all the members of the taxing 23989  
authority, may declare by resolution and certify the resolution 23990  
to the board of elections not less than ninety days before the 23991  
election upon which it will be voted that the amount of taxes 23992  
that may be raised within the ten-mill limitation will be 23993  
insufficient to provide for the necessary requirements of the 23994  
subdivision and that it is necessary to levy a tax in excess of 23995  
that limitation for any of the following purposes: 23996

(A) For current expenses of the subdivision, except that 23997  
the total levy for current expenses of a detention facility 23998  
district or district organized under section 2151.65 of the 23999  
Revised Code shall not exceed two mills and that the total levy 24000  
for current expenses of a combined district organized under 24001  
sections 2151.65 and 2152.41 of the Revised Code shall not 24002  
exceed four mills; 24003

(B) For the payment of debt charges on certain described 24004  
bonds, notes, or certificates of indebtedness of the subdivision 24005  
issued subsequent to January 1, 1925; 24006

(C) For the debt charges on all bonds, notes, and	24007
certificates of indebtedness issued and authorized to be issued	24008
prior to January 1, 1925;	24009
(D) For a public library of, or supported by, the	24010
subdivision under whatever law organized or authorized to be	24011
supported;	24012
(E) For a municipal university, not to exceed two mills	24013
over the limitation of one mill prescribed in section 3349.13 of	24014
the Revised Code;	24015
(F) For the construction or acquisition of any specific	24016
permanent improvement or class of improvements that the taxing	24017
authority of the subdivision may include in a single bond issue;	24018
(G) For the general construction, reconstruction,	24019
resurfacing, and repair of streets, roads, and bridges in	24020
municipal corporations, counties, or townships;	24021
(H) For parks and recreational purposes;	24022
(I) For the purpose of providing and maintaining fire	24023
apparatus, appliances, buildings, or sites therefor, or sources	24024
of water supply and materials therefor, or the establishment and	24025
maintenance of lines of fire alarm telegraph, or the payment of	24026
firefighting companies or permanent, part-time, or volunteer	24027
firefighting, emergency medical service, administrative, or	24028
communications personnel to operate the same, including the	24029
payment of any employer contributions required for such	24030
personnel under section 145.48 or 742.34 of the Revised Code, or	24031
the purchase of ambulance equipment, or the provision of	24032
ambulance, paramedic, or other emergency medical services	24033
operated by a fire department or firefighting company;	24034
(J) For the purpose of providing and maintaining motor	24035

vehicles, communications, other equipment, buildings, and sites 24036  
for such buildings used directly in the operation of a police 24037  
department, or the payment of salaries of permanent or part-time 24038  
police, communications, or administrative personnel to operate 24039  
the same, including the payment of any employer contributions 24040  
required for such personnel under section 145.48 or 742.33 of 24041  
the Revised Code, or the payment of the costs incurred by 24042  
townships as a result of contracts made with other political 24043  
subdivisions in order to obtain police protection, or the 24044  
provision of ambulance or emergency medical services operated by 24045  
a police department; 24046

(K) For the maintenance and operation of a county home or 24047  
detention facility; 24048

(L) For community ~~mental retardation and~~ developmental 24049  
disabilities programs and services pursuant to Chapter 5126. of 24050  
the Revised Code, except that the procedure for such levies 24051  
shall be as provided in section 5705.222 of the Revised Code; 24052

(M) For regional planning; 24053

(N) For a county's share of the cost of maintaining and 24054  
operating schools, district detention facilities, forestry 24055  
camps, or other facilities, or any combination thereof, 24056  
established under section 2151.65 or 2152.41 of the Revised Code 24057  
or both of those sections; 24058

(O) For providing for flood defense, providing and 24059  
maintaining a flood wall or pumps, and other purposes to prevent 24060  
floods; 24061

(P) For maintaining and operating sewage disposal plants 24062  
and facilities; 24063

(Q) For the purpose of purchasing, acquiring, 24064

constructing, enlarging, improving, equipping, repairing, 24065  
maintaining, or operating, or any combination of the foregoing, 24066  
a county transit system pursuant to sections 306.01 to 306.13 of 24067  
the Revised Code, or of making any payment to a board of county 24068  
commissioners operating a transit system or a county transit 24069  
board pursuant to section 306.06 of the Revised Code; 24070

(R) For the subdivision's share of the cost of acquiring 24071  
or constructing any schools, forestry camps, detention 24072  
facilities, or other facilities, or any combination thereof, 24073  
under section 2151.65 or 2152.41 of the Revised Code or both of 24074  
those sections; 24075

(S) For the prevention, control, and abatement of air 24076  
pollution; 24077

(T) For maintaining and operating cemeteries; 24078

(U) For providing ambulance service, emergency medical 24079  
service, or both; 24080

(V) For providing for the collection and disposal of 24081  
garbage or refuse, including yard waste; 24082

(W) For the payment of the police officer employers' 24083  
contribution or the firefighter employers' contribution required 24084  
under sections 742.33 and 742.34 of the Revised Code; 24085

(X) For the construction and maintenance of a drainage 24086  
improvement pursuant to section 6131.52 of the Revised Code; 24087

(Y) For providing or maintaining senior citizens services 24088  
or facilities as authorized by section 307.694, 307.85, 505.70, 24089  
or 505.706 or division (EE) of section 717.01 of the Revised 24090  
Code; 24091

(Z) For the provision and maintenance of zoological park 24092

services and facilities as authorized under section 307.76 of	24093
the Revised Code;	24094
(AA) For the maintenance and operation of a free public	24095
museum of art, science, or history;	24096
(BB) For the establishment and operation of a 9-1-1	24097
system, as defined in section 128.01 of the Revised Code;	24098
(CC) For the purpose of acquiring, rehabilitating, or	24099
developing rail property or rail service. As used in this	24100
division, "rail property" and "rail service" have the same	24101
meanings as in section 4981.01 of the Revised Code. This	24102
division applies only to a county, township, or municipal	24103
corporation.	24104
(DD) For the purpose of acquiring property for,	24105
constructing, operating, and maintaining community centers as	24106
provided for in section 755.16 of the Revised Code;	24107
(EE) For the creation and operation of an office or joint	24108
office of economic development, for any economic development	24109
purpose of the office, and to otherwise provide for the	24110
establishment and operation of a program of economic development	24111
pursuant to sections 307.07 and 307.64 of the Revised Code, or	24112
to the extent that the expenses of a county land reutilization	24113
corporation organized under Chapter 1724. of the Revised Code	24114
are found by the board of county commissioners to constitute the	24115
promotion of economic development, for the payment of such	24116
operations and expenses;	24117
(FF) For the purpose of acquiring, establishing,	24118
constructing, improving, equipping, maintaining, or operating,	24119
or any combination of the foregoing, a township airport, landing	24120
field, or other air navigation facility pursuant to section	24121

505.15 of the Revised Code; 24122

(GG) For the payment of costs incurred by a township as a 24123  
result of a contract made with a county pursuant to section 24124  
505.263 of the Revised Code in order to pay all or any part of 24125  
the cost of constructing, maintaining, repairing, or operating a 24126  
water supply improvement; 24127

(HH) For a board of township trustees to acquire, other 24128  
than by appropriation, an ownership interest in land, water, or 24129  
wetlands, or to restore or maintain land, water, or wetlands in 24130  
which the board has an ownership interest, not for purposes of 24131  
recreation, but for the purposes of protecting and preserving 24132  
the natural, scenic, open, or wooded condition of the land, 24133  
water, or wetlands against modification or encroachment 24134  
resulting from occupation, development, or other use, which may 24135  
be styled as protecting or preserving "greenspace" in the 24136  
resolution, notice of election, or ballot form. Except as 24137  
otherwise provided in this division, land is not acquired for 24138  
purposes of recreation, even if the land is used for 24139  
recreational purposes, so long as no building, structure, or 24140  
fixture used for recreational purposes is permanently attached 24141  
or affixed to the land. Except as otherwise provided in this 24142  
division, land that previously has been acquired in a township 24143  
for these greenspace purposes may subsequently be used for 24144  
recreational purposes if the board of township trustees adopts a 24145  
resolution approving that use and no building, structure, or 24146  
fixture used for recreational purposes is permanently attached 24147  
or affixed to the land. The authorization to use greenspace land 24148  
for recreational use does not apply to land located in a 24149  
township that had a population, at the time it passed its first 24150  
greenspace levy, of more than thirty-eight thousand within a 24151  
county that had a population, at that time, of at least eight 24152

hundred sixty thousand.	24153
(II) For the support by a county of a crime victim	24154
assistance program that is provided and maintained by a county	24155
agency or a private, nonprofit corporation or association under	24156
section 307.62 of the Revised Code;	24157
(JJ) For any or all of the purposes set forth in divisions	24158
(I) and (J) of this section. This division applies only to a	24159
township.	24160
(KK) For a countywide public safety communications system	24161
under section 307.63 of the Revised Code. This division applies	24162
only to counties.	24163
(LL) For the support by a county of criminal justice	24164
services under section 307.45 of the Revised Code;	24165
(MM) For the purpose of maintaining and operating a jail	24166
or other detention facility as defined in section 2921.01 of the	24167
Revised Code;	24168
(NN) For purchasing, maintaining, or improving, or any	24169
combination of the foregoing, real estate on which to hold, and	24170
the operating expenses of, agricultural fairs operated by a	24171
county agricultural society or independent agricultural society	24172
under Chapter 1711. of the Revised Code. This division applies	24173
only to a county.	24174
(OO) For constructing, rehabilitating, repairing, or	24175
maintaining sidewalks, walkways, trails, bicycle pathways, or	24176
similar improvements, or acquiring ownership interests in land	24177
necessary for the foregoing improvements;	24178
(PP) For both of the purposes set forth in divisions (G)	24179
and (OO) of this section.	24180

(QQ) For both of the purposes set forth in divisions (H)	24181
and (HH) of this section. This division applies only to a	24182
township.	24183
(RR) For the legislative authority of a municipal	24184
corporation, board of county commissioners of a county, or board	24185
of township trustees of a township to acquire agricultural	24186
easements, as defined in section 5301.67 of the Revised Code,	24187
and to supervise and enforce the easements.	24188
(SS) For both of the purposes set forth in divisions (BB)	24189
and (KK) of this section. This division applies only to a	24190
county.	24191
(TT) For the maintenance and operation of a facility that	24192
is organized in whole or in part to promote the sciences and	24193
natural history under section 307.761 of the Revised Code.	24194
(UU) For the creation and operation of a county land	24195
reutilization corporation and for any programs or activities of	24196
the corporation found by the board of directors of the	24197
corporation to be consistent with the purposes for which the	24198
corporation is organized;	24199
(VV) For construction and maintenance of improvements and	24200
expenses of soil and water conservation district programs under	24201
Chapter 1515. of the Revised Code;	24202
(WW) For the OSU extension fund created under section	24203
3335.35 of the Revised Code for the purposes prescribed under	24204
section 3335.36 of the Revised Code for the benefit of the	24205
citizens of a county. This division applies only to a county.	24206
(XX) For a municipal corporation that withdraws or	24207
proposes by resolution to withdraw from a regional transit	24208
authority under section 306.55 of the Revised Code to provide	24209

transportation services for the movement of persons within, 24210  
from, or to the municipal corporation; 24211

(YY) For any combination of the purposes specified in 24212  
divisions (NN), (VV), and (WW) of this section. This division 24213  
applies only to a county. 24214

The resolution shall be confined to the purpose or 24215  
purposes described in one division of this section, to which the 24216  
revenue derived therefrom shall be applied. The existence in any 24217  
other division of this section of authority to levy a tax for 24218  
any part or all of the same purpose or purposes does not 24219  
preclude the use of such revenues for any part of the purpose or 24220  
purposes of the division under which the resolution is adopted. 24221

The resolution shall specify the amount of the increase in 24222  
rate that it is necessary to levy, the purpose of that increase 24223  
in rate, and the number of years during which the increase in 24224  
rate shall be in effect, which may or may not include a levy 24225  
upon the duplicate of the current year. The number of years may 24226  
be any number not exceeding five, except as follows: 24227

(1) When the additional rate is for the payment of debt 24228  
charges, the increased rate shall be for the life of the 24229  
indebtedness. 24230

(2) When the additional rate is for any of the following, 24231  
the increased rate shall be for a continuing period of time: 24232

(a) For the current expenses for a detention facility 24233  
district, a district organized under section 2151.65 of the 24234  
Revised Code, or a combined district organized under sections 24235  
2151.65 and 2152.41 of the Revised Code; 24236

(b) For providing a county's share of the cost of 24237  
maintaining and operating schools, district detention 24238

facilities, forestry camps, or other facilities, or any 24239  
combination thereof, established under section 2151.65 or 24240  
2152.41 of the Revised Code or under both of those sections. 24241

(3) When the additional rate is for either of the 24242  
following, the increased rate may be for a continuing period of 24243  
time: 24244

(a) For the purposes set forth in division (I), (J), (U), 24245  
or (KK) of this section; 24246

(b) For the maintenance and operation of a joint 24247  
recreation district. 24248

(4) When the increase is for the purpose or purposes set 24249  
forth in division (D), (G), (H), (Z), (CC), or (PP) of this 24250  
section, the tax levy may be for any specified number of years 24251  
or for a continuing period of time, as set forth in the 24252  
resolution. 24253

A levy for one of the purposes set forth in division (G), 24254  
(I), (J), or (U) of this section may be reduced pursuant to 24255  
section 5705.261 or 5705.31 of the Revised Code. A levy for one 24256  
of the purposes set forth in division (G), (I), (J), or (U) of 24257  
this section may also be terminated or permanently reduced by 24258  
the taxing authority if it adopts a resolution stating that the 24259  
continuance of the levy is unnecessary and the levy shall be 24260  
terminated or that the millage is excessive and the levy shall 24261  
be decreased by a designated amount. 24262

A resolution of a detention facility district, a district 24263  
organized under section 2151.65 of the Revised Code, or a 24264  
combined district organized under both sections 2151.65 and 24265  
2152.41 of the Revised Code may include both current expenses 24266  
and other purposes, provided that the resolution shall apportion 24267

the annual rate of levy between the current expenses and the 24268  
other purpose or purposes. The apportionment need not be the 24269  
same for each year of the levy, but the respective portions of 24270  
the rate actually levied each year for the current expenses and 24271  
the other purpose or purposes shall be limited by the 24272  
apportionment. 24273

Whenever a board of county commissioners, acting either as 24274  
the taxing authority of its county or as the taxing authority of 24275  
a sewer district or subdistrict created under Chapter 6117. of 24276  
the Revised Code, by resolution declares it necessary to levy a 24277  
tax in excess of the ten-mill limitation for the purpose of 24278  
constructing, improving, or extending sewage disposal plants or 24279  
sewage systems, the tax may be in effect for any number of years 24280  
not exceeding twenty, and the proceeds of the tax, 24281  
notwithstanding the general provisions of this section, may be 24282  
used to pay debt charges on any obligations issued and 24283  
outstanding on behalf of the subdivision for the purposes 24284  
enumerated in this paragraph, provided that any such obligations 24285  
have been specifically described in the resolution. 24286

A resolution adopted by the legislative authority of a 24287  
municipal corporation that is for the purpose in division (XX) 24288  
of this section may be combined with the purpose provided in 24289  
section 306.55 of the Revised Code, by vote of two-thirds of all 24290  
members of the legislative authority. The legislative authority 24291  
may certify the resolution to the board of elections as a 24292  
combined question. The question appearing on the ballot shall be 24293  
as provided in section 5705.252 of the Revised Code. 24294

The resolution shall go into immediate effect upon its 24295  
passage, and no publication of the resolution is necessary other 24296  
than that provided for in the notice of election. 24297

When the electors of a subdivision or, in the case of a 24298  
qualifying library levy for the support of a library association 24299  
or private corporation, the electors of the association library 24300  
district, have approved a tax levy under this section, the 24301  
taxing authority of the subdivision may anticipate a fraction of 24302  
the proceeds of the levy and issue anticipation notes in 24303  
accordance with section 5705.191 or 5705.193 of the Revised 24304  
Code. 24305

**Sec. 5705.222.** (A) At any time the board of county 24306  
commissioners of any county by a majority vote of the full 24307  
membership may declare by resolution and certify to the board of 24308  
elections of the county that the amount of taxes which may be 24309  
raised within the ten-mill limitation by levies on the current 24310  
tax duplicate will be insufficient to provide the necessary 24311  
requirements of the county board of developmental disabilities 24312  
established pursuant to Chapter 5126. of the Revised Code and 24313  
that it is necessary to levy a tax in excess of such limitation 24314  
for the operation of programs and services by county boards of 24315  
developmental disabilities and for the acquisition, 24316  
construction, renovation, financing, maintenance, and operation 24317  
of ~~mental retardation and~~ developmental disabilities facilities. 24318

Such resolution shall conform to section 5705.19 of the 24319  
Revised Code, except that the increased rate may be in effect 24320  
for any number of years not exceeding ten or for a continuing 24321  
period of time. 24322

The resolution shall be certified and submitted in the 24323  
manner provided in section 5705.25 of the Revised Code, except 24324  
that it may be placed on the ballot in any election, and shall 24325  
be certified to the board of elections not less than ninety days 24326  
before the election at which it will be voted upon. 24327

If the majority of the electors voting on a levy for the support of the programs and services of the county board of developmental disabilities vote in favor of the levy, the board of county commissioners may levy a tax within the county at the additional rate outside the ten-mill limitation during the specified or continuing period, for the purpose stated in the resolution. The county board of developmental disabilities, within its budget and with the approval of the board of county commissioners through annual appropriations, shall use the proceeds of a levy approved under this section solely for the purposes authorized by this section.

(B) When electors have approved a tax levy under this section, the county commissioners may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

(C) The county auditor, upon receipt of a resolution from the county board of developmental disabilities, shall establish a capital improvements account or a reserve balance account, or both, as specified in the resolution. The capital improvements account shall be a contingency account for the necessary acquisition, replacement, renovation, or construction of facilities and movable and fixed equipment. Upon the request of the county board of developmental disabilities, moneys not needed to pay for current expenses may be appropriated to this account, in amounts such that this account does not exceed twenty-five per cent of the replacement value of all capital facilities and equipment currently used by the county board of developmental disabilities for ~~mental retardation and~~ developmental disabilities programs and services. Other moneys available for current capital expenses from federal, state, or

local sources may also be appropriated to this account. 24359

The reserve balance account shall contain those moneys 24360  
that are not needed to pay for current operating expenses and 24361  
not deposited in the capital improvements account but that will 24362  
be needed to pay for operating expenses in the future. Upon the 24363  
request of a county board of developmental disabilities, the 24364  
board of county commissioners may appropriate moneys to the 24365  
reserve balance account. 24366

**Sec. 5709.40.** (A) As used in this section: 24367

(1) "Blighted area" and "impacted city" have the same 24368  
meanings as in section 1728.01 of the Revised Code. 24369

(2) "Business day" means a day of the week excluding 24370  
Saturday, Sunday, and a legal holiday as defined under section 24371  
1.14 of the Revised Code. 24372

(3) "Housing renovation" means a project carried out for 24373  
residential purposes. 24374

(4) "Improvement" means the increase in the assessed value 24375  
of any real property that would first appear on the tax list and 24376  
duplicate of real and public utility property after the 24377  
effective date of an ordinance adopted under this section were 24378  
it not for the exemption granted by that ordinance. 24379

(5) "Incentive district" means an area not more than three 24380  
hundred acres in size enclosed by a continuous boundary in which 24381  
a project is being, or will be, undertaken and having one or 24382  
more of the following distress characteristics: 24383

(a) At least fifty-one per cent of the residents of the 24384  
district have incomes of less than eighty per cent of the median 24385  
income of residents of the political subdivision in which the 24386

district is located, as determined in the same manner specified 24387  
under section 119(b) of the "Housing and Community Development 24388  
Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 24389

(b) The average rate of unemployment in the district 24390  
during the most recent twelve-month period for which data are 24391  
available is equal to at least one hundred fifty per cent of the 24392  
average rate of unemployment for this state for the same period. 24393

(c) At least twenty per cent of the people residing in the 24394  
district live at or below the poverty level as defined in the 24395  
federal Housing and Community Development Act of 1974, 42 U.S.C. 24396  
5301, as amended, and regulations adopted pursuant to that act. 24397

(d) The district is a blighted area. 24398

(e) The district is in a situational distress area as 24399  
designated by the director of development services under 24400  
division (F) of section 122.23 of the Revised Code. 24401

(f) As certified by the engineer for the political 24402  
subdivision, the public infrastructure serving the district is 24403  
inadequate to meet the development needs of the district as 24404  
evidenced by a written economic development plan or urban 24405  
renewal plan for the district that has been adopted by the 24406  
legislative authority of the subdivision. 24407

(g) The district is comprised entirely of unimproved land 24408  
that is located in a distressed area as defined in section 24409  
122.23 of the Revised Code. 24410

(6) "Project" means development activities undertaken on 24411  
one or more parcels, including, but not limited to, 24412  
construction, expansion, and alteration of buildings or 24413  
structures, demolition, remediation, and site development, and 24414  
any building or structure that results from those activities. 24415

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and the enhancement of public waterways through improvements that allow for greater public access.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. For this purpose, "parcel that is used or to be used for residential purposes" means a parcel that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the parcel as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared

to be a public purpose may be exempted from real property 24447  
taxation for a period of not more than ten years. The ordinance 24448  
shall specify the percentage of the improvement to be exempted 24449  
from taxation and the life of the exemption. 24450

An ordinance adopted or amended under this division shall 24451  
designate the specific public infrastructure improvements made, 24452  
to be made, or in the process of being made by the municipal 24453  
corporation that directly benefit, or that once made will 24454  
directly benefit, the parcels for which improvements are 24455  
declared to be a public purpose. The service payments provided 24456  
for in section 5709.42 of the Revised Code shall be used to 24457  
finance the public infrastructure improvements designated in the 24458  
ordinance, for the purpose described in division (D) (1) of this 24459  
section or as provided in section 5709.43 of the Revised Code. 24460

(C) (1) The legislative authority of a municipal 24461  
corporation may adopt an ordinance creating an incentive 24462  
district and declaring improvements to parcels within the 24463  
district to be a public purpose and, except as provided in 24464  
division (F) of this section, exempt from taxation as provided 24465  
in this section, but no legislative authority of a municipal 24466  
corporation that has a population that exceeds twenty-five 24467  
thousand, as shown by the most recent federal decennial census, 24468  
shall adopt an ordinance that creates an incentive district if 24469  
the sum of the taxable value of real property in the proposed 24470  
district for the preceding tax year and the taxable value of all 24471  
real property in the municipal corporation that would have been 24472  
taxable in the preceding year were it not for the fact that the 24473  
property was in an existing incentive district and therefore 24474  
exempt from taxation exceeds twenty-five per cent of the taxable 24475  
value of real property in the municipal corporation for the 24476  
preceding tax year. The ordinance shall delineate the boundary 24477

of the district and specifically identify each parcel within the 24478  
district. A district may not include any parcel that is or has 24479  
been exempted from taxation under division (B) of this section 24480  
or that is or has been within another district created under 24481  
this division. An ordinance may create more than one such 24482  
district, and more than one ordinance may be adopted under 24483  
division (C) (1) of this section. 24484

(2) Not later than thirty days prior to adopting an 24485  
ordinance under division (C) (1) of this section, if the 24486  
municipal corporation intends to apply for exemptions from 24487  
taxation under section 5709.911 of the Revised Code on behalf of 24488  
owners of real property located within the proposed incentive 24489  
district, the legislative authority of a municipal corporation 24490  
shall conduct a public hearing on the proposed ordinance. Not 24491  
later than thirty days prior to the public hearing, the 24492  
legislative authority shall give notice of the public hearing 24493  
and the proposed ordinance by first class mail to every real 24494  
property owner whose property is located within the boundaries 24495  
of the proposed incentive district that is the subject of the 24496  
proposed ordinance. 24497

(3) (a) An ordinance adopted under division (C) (1) of this 24498  
section shall specify the life of the incentive district and the 24499  
percentage of the improvements to be exempted, shall designate 24500  
the public infrastructure improvements made, to be made, or in 24501  
the process of being made, that benefit or serve, or, once made, 24502  
will benefit or serve parcels in the district. The ordinance 24503  
also shall identify one or more specific projects being, or to 24504  
be, undertaken in the district that place additional demand on 24505  
the public infrastructure improvements designated in the 24506  
ordinance. The project identified may, but need not be, the 24507  
project under division (C) (3) (b) of this section that places 24508

real property in use for commercial or industrial purposes. 24509  
Except as otherwise permitted under that division, the service 24510  
payments provided for in section 5709.42 of the Revised Code 24511  
shall be used to finance the designated public infrastructure 24512  
improvements, for the purpose described in division (D) (1) or 24513  
(E) of this section, or as provided in section 5709.43 of the 24514  
Revised Code. 24515

An ordinance adopted under division (C) (1) of this section 24516  
on or after March 30, 2006, shall not designate police or fire 24517  
equipment as public infrastructure improvements, and no service 24518  
payment provided for in section 5709.42 of the Revised Code and 24519  
received by the municipal corporation under the ordinance shall 24520  
be used for police or fire equipment. 24521

(b) An ordinance adopted under division (C) (1) of this 24522  
section may authorize the use of service payments provided for 24523  
in section 5709.42 of the Revised Code for the purpose of 24524  
housing renovations within the incentive district, provided that 24525  
the ordinance also designates public infrastructure improvements 24526  
that benefit or serve the district, and that a project within 24527  
the district places real property in use for commercial or 24528  
industrial purposes. Service payments may be used to finance or 24529  
support loans, deferred loans, and grants to persons for the 24530  
purpose of housing renovations within the district. The 24531  
ordinance shall designate the parcels within the district that 24532  
are eligible for housing renovation. The ordinance shall state 24533  
separately the amounts or the percentages of the expected 24534  
aggregate service payments that are designated for each public 24535  
infrastructure improvement and for the general purpose of 24536  
housing renovations. 24537

(4) Except with the approval of the board of education of 24538

each city, local, or exempted village school district within the 24539  
territory of which the incentive district is or will be located, 24540  
and subject to division (E) of this section, the life of an 24541  
incentive district shall not exceed ten years, and the 24542  
percentage of improvements to be exempted shall not exceed 24543  
seventy-five per cent. With approval of the board of education, 24544  
the life of a district may be not more than thirty years, and 24545  
the percentage of improvements to be exempted may be not more 24546  
than one hundred per cent. The approval of a board of education 24547  
shall be obtained in the manner provided in division (D) of this 24548  
section. 24549

(D) (1) If the ordinance declaring improvements to a parcel 24550  
to be a public purpose or creating an incentive district 24551  
specifies that payments in lieu of taxes provided for in section 24552  
5709.42 of the Revised Code shall be paid to the city, local, or 24553  
exempted village, and joint vocational school district in which 24554  
the parcel or incentive district is located in the amount of the 24555  
taxes that would have been payable to the school district if the 24556  
improvements had not been exempted from taxation, the percentage 24557  
of the improvement that may be exempted from taxation may exceed 24558  
seventy-five per cent, and the exemption may be granted for up 24559  
to thirty years, without the approval of the board of education 24560  
as otherwise required under division (D) (2) of this section. 24561

(2) Improvements with respect to a parcel may be exempted 24562  
from taxation under division (B) of this section, and 24563  
improvements to parcels within an incentive district may be 24564  
exempted from taxation under division (C) of this section, for 24565  
up to ten years or, with the approval under this paragraph of 24566  
the board of education of the city, local, or exempted village 24567  
school district within which the parcel or district is located, 24568  
for up to thirty years. The percentage of the improvement 24569

exempted from taxation may, with such approval, exceed seventy- 24570  
five per cent, but shall not exceed one hundred per cent. Not 24571  
later than forty-five business days prior to adopting an 24572  
ordinance under this section declaring improvements to be a 24573  
public purpose that is subject to approval by a board of 24574  
education under this division, the legislative authority shall 24575  
deliver to the board of education a notice stating its intent to 24576  
adopt an ordinance making that declaration. The notice regarding 24577  
improvements with respect to a parcel under division (B) of this 24578  
section shall identify the parcels for which improvements are to 24579  
be exempted from taxation, provide an estimate of the true value 24580  
in money of the improvements, specify the period for which the 24581  
improvements would be exempted from taxation and the percentage 24582  
of the improvement that would be exempted, and indicate the date 24583  
on which the legislative authority intends to adopt the 24584  
ordinance. The notice regarding improvements to parcels within 24585  
an incentive district under division (C) of this section shall 24586  
delineate the boundaries of the district, specifically identify 24587  
each parcel within the district, identify each anticipated 24588  
improvement in the district, provide an estimate of the true 24589  
value in money of each such improvement, specify the life of the 24590  
district and the percentage of improvements that would be 24591  
exempted, and indicate the date on which the legislative 24592  
authority intends to adopt the ordinance. The board of 24593  
education, by resolution adopted by a majority of the board, may 24594  
approve the exemption for the period or for the exemption 24595  
percentage specified in the notice; may disapprove the exemption 24596  
for the number of years in excess of ten, may disapprove the 24597  
exemption for the percentage of the improvement to be exempted 24598  
in excess of seventy-five per cent, or both; or may approve the 24599  
exemption on the condition that the legislative authority and 24600  
the board negotiate an agreement providing for compensation to 24601

the school district equal in value to a percentage of the amount 24602  
of taxes exempted in the eleventh and subsequent years of the 24603  
exemption period or, in the case of exemption percentages in 24604  
excess of seventy-five per cent, compensation equal in value to 24605  
a percentage of the taxes that would be payable on the portion 24606  
of the improvement in excess of seventy-five per cent were that 24607  
portion to be subject to taxation, or other mutually agreeable 24608  
compensation. If an agreement is negotiated between the 24609  
legislative authority and the board to compensate the school 24610  
district for all or part of the taxes exempted, including 24611  
agreements for payments in lieu of taxes under section 5709.42 24612  
of the Revised Code, the legislative authority shall compensate 24613  
the joint vocational school district within which the parcel or 24614  
district is located at the same rate and under the same terms 24615  
received by the city, local, or exempted village school 24616  
district. 24617

(3) The board of education shall certify its resolution to 24618  
the legislative authority not later than fourteen days prior to 24619  
the date the legislative authority intends to adopt the 24620  
ordinance as indicated in the notice. If the board of education 24621  
and the legislative authority negotiate a mutually acceptable 24622  
compensation agreement, the ordinance may declare the 24623  
improvements a public purpose for the number of years specified 24624  
in the ordinance or, in the case of exemption percentages in 24625  
excess of seventy-five per cent, for the exemption percentage 24626  
specified in the ordinance. In either case, if the board and the 24627  
legislative authority fail to negotiate a mutually acceptable 24628  
compensation agreement, the ordinance may declare the 24629  
improvements a public purpose for not more than ten years, and 24630  
shall not exempt more than seventy-five per cent of the 24631  
improvements from taxation. If the board fails to certify a 24632

resolution to the legislative authority within the time 24633  
prescribed by this division, the legislative authority thereupon 24634  
may adopt the ordinance and may declare the improvements a 24635  
public purpose for up to thirty years, or, in the case of 24636  
exemption percentages proposed in excess of seventy-five per 24637  
cent, for the exemption percentage specified in the ordinance. 24638  
The legislative authority may adopt the ordinance at any time 24639  
after the board of education certifies its resolution approving 24640  
the exemption to the legislative authority, or, if the board 24641  
approves the exemption on the condition that a mutually 24642  
acceptable compensation agreement be negotiated, at any time 24643  
after the compensation agreement is agreed to by the board and 24644  
the legislative authority. 24645

(4) If a board of education has adopted a resolution 24646  
waiving its right to approve exemptions from taxation under this 24647  
section and the resolution remains in effect, approval of 24648  
exemptions by the board is not required under division (D) of 24649  
this section. If a board of education has adopted a resolution 24650  
allowing a legislative authority to deliver the notice required 24651  
under division (D) of this section fewer than forty-five 24652  
business days prior to the legislative authority's adoption of 24653  
the ordinance, the legislative authority shall deliver the 24654  
notice to the board not later than the number of days prior to 24655  
such adoption as prescribed by the board in its resolution. If a 24656  
board of education adopts a resolution waiving its right to 24657  
approve agreements or shortening the notification period, the 24658  
board shall certify a copy of the resolution to the legislative 24659  
authority. If the board of education rescinds such a resolution, 24660  
it shall certify notice of the rescission to the legislative 24661  
authority. 24662

(5) If the legislative authority is not required by 24663

division (D) of this section to notify the board of education of 24664  
the legislative authority's intent to declare improvements to be 24665  
a public purpose, the legislative authority shall comply with 24666  
the notice requirements imposed under section 5709.83 of the 24667  
Revised Code, unless the board has adopted a resolution under 24668  
that section waiving its right to receive such a notice. 24669

(E) (1) If a proposed ordinance under division (C) (1) of 24670  
this section exempts improvements with respect to a parcel 24671  
within an incentive district for more than ten years, or the 24672  
percentage of the improvement exempted from taxation exceeds 24673  
seventy-five per cent, not later than forty-five business days 24674  
prior to adopting the ordinance the legislative authority of the 24675  
municipal corporation shall deliver to the board of county 24676  
commissioners of the county within which the incentive district 24677  
will be located a notice that states its intent to adopt an 24678  
ordinance creating an incentive district. The notice shall 24679  
include a copy of the proposed ordinance, identify the parcels 24680  
for which improvements are to be exempted from taxation, provide 24681  
an estimate of the true value in money of the improvements, 24682  
specify the period of time for which the improvements would be 24683  
exempted from taxation, specify the percentage of the 24684  
improvements that would be exempted from taxation, and indicate 24685  
the date on which the legislative authority intends to adopt the 24686  
ordinance. 24687

(2) The board of county commissioners, by resolution 24688  
adopted by a majority of the board, may object to the exemption 24689  
for the number of years in excess of ten, may object to the 24690  
exemption for the percentage of the improvement to be exempted 24691  
in excess of seventy-five per cent, or both. If the board of 24692  
county commissioners objects, the board may negotiate a mutually 24693  
acceptable compensation agreement with the legislative 24694

authority. In no case shall the compensation provided to the 24695  
board exceed the property taxes forgone due to the exemption. If 24696  
the board of county commissioners objects, and the board and 24697  
legislative authority fail to negotiate a mutually acceptable 24698  
compensation agreement, the ordinance adopted under division (C) 24699  
(1) of this section shall provide to the board compensation in 24700  
the eleventh and subsequent years of the exemption period equal 24701  
in value to not more than fifty per cent of the taxes that would 24702  
be payable to the county or, if the board's objection includes 24703  
an objection to an exemption percentage in excess of seventy- 24704  
five per cent, compensation equal in value to not more than 24705  
fifty per cent of the taxes that would be payable to the county, 24706  
on the portion of the improvement in excess of seventy-five per 24707  
cent, were that portion to be subject to taxation. The board of 24708  
county commissioners shall certify its resolution to the 24709  
legislative authority not later than thirty days after receipt 24710  
of the notice. 24711

(3) If the board of county commissioners does not object 24712  
or fails to certify its resolution objecting to an exemption 24713  
within thirty days after receipt of the notice, the legislative 24714  
authority may adopt the ordinance, and no compensation shall be 24715  
provided to the board of county commissioners. If the board 24716  
timely certifies its resolution objecting to the ordinance, the 24717  
legislative authority may adopt the ordinance at any time after 24718  
a mutually acceptable compensation agreement is agreed to by the 24719  
board and the legislative authority, or, if no compensation 24720  
agreement is negotiated, at any time after the legislative 24721  
authority agrees in the proposed ordinance to provide 24722  
compensation to the board of fifty per cent of the taxes that 24723  
would be payable to the county in the eleventh and subsequent 24724  
years of the exemption period or on the portion of the 24725

improvement in excess of seventy-five per cent, were that 24726  
portion to be subject to taxation. 24727

(F) Service payments in lieu of taxes that are 24728  
attributable to any amount by which the effective tax rate of 24729  
either a renewal levy with an increase or a replacement levy 24730  
exceeds the effective tax rate of the levy renewed or replaced, 24731  
or that are attributable to an additional levy, for a levy 24732  
authorized by the voters for any of the following purposes on or 24733  
after January 1, 2006, and which are provided pursuant to an 24734  
ordinance creating an incentive district under division (C) (1) 24735  
of this section that is adopted on or after January 1, 2006, 24736  
shall be distributed to the appropriate taxing authority as 24737  
required under division (C) of section 5709.42 of the Revised 24738  
Code in an amount equal to the amount of taxes from that 24739  
additional levy or from the increase in the effective tax rate 24740  
of such renewal or replacement levy that would have been payable 24741  
to that taxing authority from the following levies were it not 24742  
for the exemption authorized under division (C) of this section: 24743

(1) A tax levied under division (L) of section 5705.19 or 24744  
section 5705.191 of the Revised Code for community ~~mental-~~ 24745  
~~retardation and~~ developmental disabilities programs and services 24746  
pursuant to Chapter 5126. of the Revised Code; 24747

(2) A tax levied under division (Y) of section 5705.19 of 24748  
the Revised Code for providing or maintaining senior citizens 24749  
services or facilities; 24750

(3) A tax levied under section 5705.22 of the Revised Code 24751  
for county hospitals; 24752

(4) A tax levied by a joint-county district or by a county 24753  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 24754

for alcohol, drug addiction, and mental health services or facilities;	24755 24756
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	24757 24758
(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;	24759 24760 24761
(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;	24762 24763 24764 24765
(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;	24766 24767 24768
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	24769 24770 24771 24772
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	24773 24774
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;	24775 24776 24777 24778 24779
(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.	24780 24781
(G) An exemption from taxation granted under this section	24782

commences with the tax year specified in the ordinance so long 24783  
as the year specified in the ordinance commences after the 24784  
effective date of the ordinance. If the ordinance specifies a 24785  
year commencing before the effective date of the resolution or 24786  
specifies no year whatsoever, the exemption commences with the 24787  
tax year in which an exempted improvement first appears on the 24788  
tax list and duplicate of real and public utility property and 24789  
that commences after the effective date of the ordinance. In 24790  
lieu of stating a specific year, the ordinance may provide that 24791  
the exemption commences in the tax year in which the value of an 24792  
improvement exceeds a specified amount or in which the 24793  
construction of one or more improvements is completed, provided 24794  
that such tax year commences after the effective date of the 24795  
ordinance. With respect to the exemption of improvements to 24796  
parcels under division (B) of this section, the ordinance may 24797  
allow for the exemption to commence in different tax years on a 24798  
parcel-by-parcel basis, with a separate exemption term specified 24799  
for each parcel. 24800

Except as otherwise provided in this division, the 24801  
exemption ends on the date specified in the ordinance as the 24802  
date the improvement ceases to be a public purpose or the 24803  
incentive district expires, or ends on the date on which the 24804  
public infrastructure improvements and housing renovations are 24805  
paid in full from the municipal public improvement tax increment 24806  
equivalent fund established under division (A) of section 24807  
5709.43 of the Revised Code, whichever occurs first. The 24808  
exemption of an improvement with respect to a parcel or within 24809  
an incentive district may end on a later date, as specified in 24810  
the ordinance, if the legislative authority and the board of 24811  
education of the city, local, or exempted village school 24812  
district within which the parcel or district is located have 24813

entered into a compensation agreement under section 5709.82 of 24814  
the Revised Code with respect to the improvement, and the board 24815  
of education has approved the term of the exemption under 24816  
division (D) (2) of this section, but in no case shall the 24817  
improvement be exempted from taxation for more than thirty 24818  
years. Exemptions shall be claimed and allowed in the same 24819  
manner as in the case of other real property exemptions. If an 24820  
exemption status changes during a year, the procedure for the 24821  
apportionment of the taxes for that year is the same as in the 24822  
case of other changes in tax exemption status during the year. 24823

(H) Additional municipal financing of public 24824  
infrastructure improvements and housing renovations may be 24825  
provided by any methods that the municipal corporation may 24826  
otherwise use for financing such improvements or renovations. If 24827  
the municipal corporation issues bonds or notes to finance the 24828  
public infrastructure improvements and housing renovations and 24829  
pledges money from the municipal public improvement tax 24830  
increment equivalent fund to pay the interest on and principal 24831  
of the bonds or notes, the bonds or notes are not subject to 24832  
Chapter 133. of the Revised Code. 24833

(I) The municipal corporation, not later than fifteen days 24834  
after the adoption of an ordinance under this section, shall 24835  
submit to the director of development services a copy of the 24836  
ordinance. On or before the thirty-first day of March of each 24837  
year, the municipal corporation shall submit a status report to 24838  
the director of development services. The report shall indicate, 24839  
in the manner prescribed by the director, the progress of the 24840  
project during each year that an exemption remains in effect, 24841  
including a summary of the receipts from service payments in 24842  
lieu of taxes; expenditures of money from the funds created 24843  
under section 5709.43 of the Revised Code; a description of the 24844

public infrastructure improvements and housing renovations 24845  
financed with such expenditures; and a quantitative summary of 24846  
changes in employment and private investment resulting from each 24847  
project. 24848

(J) Nothing in this section shall be construed to prohibit 24849  
a legislative authority from declaring to be a public purpose 24850  
improvements with respect to more than one parcel. 24851

(K) If a parcel is located in a new community district in 24852  
which the new community authority imposes a community 24853  
development charge on the basis of rentals received from leases 24854  
of real property as described in division (L) (2) of section 24855  
349.01 of the Revised Code, the parcel may not be exempted from 24856  
taxation under this section. 24857

**Sec. 5709.73.** (A) As used in this section and section 24858  
5709.74 of the Revised Code: 24859

(1) "Business day" means a day of the week excluding 24860  
Saturday, Sunday, and a legal holiday as defined in section 1.14 24861  
of the Revised Code. 24862

(2) "Further improvements" or "improvements" means the 24863  
increase in the assessed value of real property that would first 24864  
appear on the tax list and duplicate of real and public utility 24865  
property after the effective date of a resolution adopted under 24866  
this section were it not for the exemption granted by that 24867  
resolution. For purposes of division (B) of this section, 24868  
"improvements" do not include any property used or to be used 24869  
for residential purposes. For this purpose, "property that is 24870  
used or to be used for residential purposes" means property 24871  
that, as improved, is used or to be used for purposes that would 24872  
cause the tax commissioner to classify the property as 24873

residential property in accordance with rules adopted by the 24874  
commissioner under section 5713.041 of the Revised Code. 24875

(3) "Housing renovation" means a project carried out for 24876  
residential purposes. 24877

(4) "Incentive district" has the same meaning as in 24878  
section 5709.40 of the Revised Code, except that a blighted area 24879  
is in the unincorporated area of a township. 24880

(5) "Project" and "public infrastructure improvement" have 24881  
the same meanings as in section 5709.40 of the Revised Code. 24882

(B) A board of township trustees may, by unanimous vote, 24883  
adopt a resolution that declares to be a public purpose any 24884  
public infrastructure improvements made that are necessary for 24885  
the development of certain parcels of land located in the 24886  
unincorporated area of the township. Except with the approval 24887  
under division (D) of this section of the board of education of 24888  
each city, local, or exempted village school district within 24889  
which the improvements are located, the resolution may exempt 24890  
from real property taxation not more than seventy-five per cent 24891  
of further improvements to a parcel of land that directly 24892  
benefits from the public infrastructure improvements, for a 24893  
period of not more than ten years. The resolution shall specify 24894  
the percentage of the further improvements to be exempted and 24895  
the life of the exemption. 24896

(C) (1) A board of township trustees may adopt, by 24897  
unanimous vote, a resolution creating an incentive district and 24898  
declaring improvements to parcels within the district to be a 24899  
public purpose and, except as provided in division (F) of this 24900  
section, exempt from taxation as provided in this section, but 24901  
no board of township trustees of a township that has a 24902

population that exceeds twenty-five thousand, as shown by the 24903  
most recent federal decennial census, shall adopt a resolution 24904  
that creates an incentive district if the sum of the taxable 24905  
value of real property in the proposed district for the 24906  
preceding tax year and the taxable value of all real property in 24907  
the township that would have been taxable in the preceding year 24908  
were it not for the fact that the property was in an existing 24909  
incentive district and therefore exempt from taxation exceeds 24910  
twenty-five per cent of the taxable value of real property in 24911  
the township for the preceding tax year. The district shall be 24912  
located within the unincorporated area of the township and shall 24913  
not include any territory that is included within a district 24914  
created under division (B) of section 5709.78 of the Revised 24915  
Code. The resolution shall delineate the boundary of the 24916  
district and specifically identify each parcel within the 24917  
district. A district may not include any parcel that is or has 24918  
been exempted from taxation under division (B) of this section 24919  
or that is or has been within another district created under 24920  
this division. A resolution may create more than one district, 24921  
and more than one resolution may be adopted under division (C) 24922  
(1) of this section. 24923

(2) Not later than thirty days prior to adopting a 24924  
resolution under division (C) (1) of this section, if the 24925  
township intends to apply for exemptions from taxation under 24926  
section 5709.911 of the Revised Code on behalf of owners of real 24927  
property located within the proposed incentive district, the 24928  
board shall conduct a public hearing on the proposed resolution. 24929  
Not later than thirty days prior to the public hearing, the 24930  
board shall give notice of the public hearing and the proposed 24931  
resolution by first class mail to every real property owner 24932  
whose property is located within the boundaries of the proposed 24933

incentive district that is the subject of the proposed 24934  
resolution. 24935

(3) (a) A resolution adopted under division (C) (1) of this 24936  
section shall specify the life of the incentive district and the 24937  
percentage of the improvements to be exempted, shall designate 24938  
the public infrastructure improvements made, to be made, or in 24939  
the process of being made, that benefit or serve, or, once made, 24940  
will benefit or serve parcels in the district. The resolution 24941  
also shall identify one or more specific projects being, or to 24942  
be, undertaken in the district that place additional demand on 24943  
the public infrastructure improvements designated in the 24944  
resolution. The project identified may, but need not be, the 24945  
project under division (C) (3) (b) of this section that places 24946  
real property in use for commercial or industrial purposes. 24947

A resolution adopted under division (C) (1) of this section 24948  
on or after March 30, 2006, shall not designate police or fire 24949  
equipment as public infrastructure improvements, and no service 24950  
payment provided for in section 5709.74 of the Revised Code and 24951  
received by the township under the resolution shall be used for 24952  
police or fire equipment. 24953

(b) A resolution adopted under division (C) (1) of this 24954  
section may authorize the use of service payments provided for 24955  
in section 5709.74 of the Revised Code for the purpose of 24956  
housing renovations within the incentive district, provided that 24957  
the resolution also designates public infrastructure 24958  
improvements that benefit or serve the district, and that a 24959  
project within the district places real property in use for 24960  
commercial or industrial purposes. Service payments may be used 24961  
to finance or support loans, deferred loans, and grants to 24962  
persons for the purpose of housing renovations within the 24963

district. The resolution shall designate the parcels within the 24964  
district that are eligible for housing renovations. The 24965  
resolution shall state separately the amount or the percentages 24966  
of the expected aggregate service payments that are designated 24967  
for each public infrastructure improvement and for the purpose 24968  
of housing renovations. 24969

(4) Except with the approval of the board of education of 24970  
each city, local, or exempted village school district within the 24971  
territory of which the incentive district is or will be located, 24972  
and subject to division (E) of this section, the life of an 24973  
incentive district shall not exceed ten years, and the 24974  
percentage of improvements to be exempted shall not exceed 24975  
seventy-five per cent. With approval of the board of education, 24976  
the life of a district may be not more than thirty years, and 24977  
the percentage of improvements to be exempted may be not more 24978  
than one hundred per cent. The approval of a board of education 24979  
shall be obtained in the manner provided in division (D) of this 24980  
section. 24981

(D) Improvements with respect to a parcel may be exempted 24982  
from taxation under division (B) of this section, and 24983  
improvements to parcels within an incentive district may be 24984  
exempted from taxation under division (C) of this section, for 24985  
up to ten years or, with the approval of the board of education 24986  
of the city, local, or exempted village school district within 24987  
which the parcel or district is located, for up to thirty years. 24988  
The percentage of the improvements exempted from taxation may, 24989  
with such approval, exceed seventy-five per cent, but shall not 24990  
exceed one hundred per cent. Not later than forty-five business 24991  
days prior to adopting a resolution under this section declaring 24992  
improvements to be a public purpose that is subject to approval 24993  
by a board of education under this division, the board of 24994

township trustees shall deliver to the board of education a 24995  
notice stating its intent to adopt a resolution making that 24996  
declaration. The notice regarding improvements with respect to a 24997  
parcel under division (B) of this section shall identify the 24998  
parcels for which improvements are to be exempted from taxation, 24999  
provide an estimate of the true value in money of the 25000  
improvements, specify the period for which the improvements 25001  
would be exempted from taxation and the percentage of the 25002  
improvements that would be exempted, and indicate the date on 25003  
which the board of township trustees intends to adopt the 25004  
resolution. The notice regarding improvements made under 25005  
division (C) of this section to parcels within an incentive 25006  
district shall delineate the boundaries of the district, 25007  
specifically identify each parcel within the district, identify 25008  
each anticipated improvement in the district, provide an 25009  
estimate of the true value in money of each such improvement, 25010  
specify the life of the district and the percentage of 25011  
improvements that would be exempted, and indicate the date on 25012  
which the board of township trustees intends to adopt the 25013  
resolution. The board of education, by resolution adopted by a 25014  
majority of the board, may approve the exemption for the period 25015  
or for the exemption percentage specified in the notice; may 25016  
disapprove the exemption for the number of years in excess of 25017  
ten, may disapprove the exemption for the percentage of the 25018  
improvements to be exempted in excess of seventy-five per cent, 25019  
or both; or may approve the exemption on the condition that the 25020  
board of township trustees and the board of education negotiate 25021  
an agreement providing for compensation to the school district 25022  
equal in value to a percentage of the amount of taxes exempted 25023  
in the eleventh and subsequent years of the exemption period or, 25024  
in the case of exemption percentages in excess of seventy-five 25025  
per cent, compensation equal in value to a percentage of the 25026

taxes that would be payable on the portion of the improvements 25027  
in excess of seventy-five per cent were that portion to be 25028  
subject to taxation, or other mutually agreeable compensation. 25029

The board of education shall certify its resolution to the 25030  
board of township trustees not later than fourteen days prior to 25031  
the date the board of township trustees intends to adopt the 25032  
resolution as indicated in the notice. If the board of education 25033  
and the board of township trustees negotiate a mutually 25034  
acceptable compensation agreement, the resolution may declare 25035  
the improvements a public purpose for the number of years 25036  
specified in the resolution or, in the case of exemption 25037  
percentages in excess of seventy-five per cent, for the 25038  
exemption percentage specified in the resolution. In either 25039  
case, if the board of education and the board of township 25040  
trustees fail to negotiate a mutually acceptable compensation 25041  
agreement, the resolution may declare the improvements a public 25042  
purpose for not more than ten years, and shall not exempt more 25043  
than seventy-five per cent of the improvements from taxation. If 25044  
the board of education fails to certify a resolution to the 25045  
board of township trustees within the time prescribed by this 25046  
section, the board of township trustees thereupon may adopt the 25047  
resolution and may declare the improvements a public purpose for 25048  
up to thirty years or, in the case of exemption percentages 25049  
proposed in excess of seventy-five per cent, for the exemption 25050  
percentage specified in the resolution. The board of township 25051  
trustees may adopt the resolution at any time after the board of 25052  
education certifies its resolution approving the exemption to 25053  
the board of township trustees, or, if the board of education 25054  
approves the exemption on the condition that a mutually 25055  
acceptable compensation agreement be negotiated, at any time 25056  
after the compensation agreement is agreed to by the board of 25057

education and the board of township trustees. If a mutually 25058  
acceptable compensation agreement is negotiated between the 25059  
board of township trustees and the board of education, including 25060  
agreements for payments in lieu of taxes under section 5709.74 25061  
of the Revised Code, the board of township trustees shall 25062  
compensate the joint vocational school district within which the 25063  
parcel or district is located at the same rate and under the 25064  
same terms received by the city, local, or exempted village 25065  
school district. 25066

If a board of education has adopted a resolution waiving 25067  
its right to approve exemptions from taxation under this section 25068  
and the resolution remains in effect, approval of such 25069  
exemptions by the board of education is not required under 25070  
division (D) of this section. If a board of education has 25071  
adopted a resolution allowing a board of township trustees to 25072  
deliver the notice required under division (D) of this section 25073  
fewer than forty-five business days prior to adoption of the 25074  
resolution by the board of township trustees, the board of 25075  
township trustees shall deliver the notice to the board of 25076  
education not later than the number of days prior to the 25077  
adoption as prescribed by the board of education in its 25078  
resolution. If a board of education adopts a resolution waiving 25079  
its right to approve exemptions or shortening the notification 25080  
period, the board of education shall certify a copy of the 25081  
resolution to the board of township trustees. If the board of 25082  
education rescinds the resolution, it shall certify notice of 25083  
the rescission to the board of township trustees. 25084

If the board of township trustees is not required by 25085  
division (D) of this section to notify the board of education of 25086  
the board of township trustees' intent to declare improvements 25087  
to be a public purpose, the board of township trustees shall 25088

comply with the notice requirements imposed under section 25089  
5709.83 of the Revised Code before taking formal action to adopt 25090  
the resolution making that declaration, unless the board of 25091  
education has adopted a resolution under that section waiving 25092  
its right to receive the notice. 25093

(E) (1) If a proposed resolution under division (C) (1) of 25094  
this section exempts improvements with respect to a parcel 25095  
within an incentive district for more than ten years, or the 25096  
percentage of the improvement exempted from taxation exceeds 25097  
seventy-five per cent, not later than forty-five business days 25098  
prior to adopting the resolution the board of township trustees 25099  
shall deliver to the board of county commissioners of the county 25100  
within which the incentive district is or will be located a 25101  
notice that states its intent to adopt a resolution creating an 25102  
incentive district. The notice shall include a copy of the 25103  
proposed resolution, identify the parcels for which improvements 25104  
are to be exempted from taxation, provide an estimate of the 25105  
true value in money of the improvements, specify the period of 25106  
time for which the improvements would be exempted from taxation, 25107  
specify the percentage of the improvements that would be 25108  
exempted from taxation, and indicate the date on which the board 25109  
of township trustees intends to adopt the resolution. 25110

(2) The board of county commissioners, by resolution 25111  
adopted by a majority of the board, may object to the exemption 25112  
for the number of years in excess of ten, may object to the 25113  
exemption for the percentage of the improvement to be exempted 25114  
in excess of seventy-five per cent, or both. If the board of 25115  
county commissioners objects, the board may negotiate a mutually 25116  
acceptable compensation agreement with the board of township 25117  
trustees. In no case shall the compensation provided to the 25118  
board of county commissioners exceed the property taxes foregone 25119

due to the exemption. If the board of county commissioners 25120  
objects, and the board of county commissioners and board of 25121  
township trustees fail to negotiate a mutually acceptable 25122  
compensation agreement, the resolution adopted under division 25123  
(C) (1) of this section shall provide to the board of county 25124  
commissioners compensation in the eleventh and subsequent years 25125  
of the exemption period equal in value to not more than fifty 25126  
per cent of the taxes that would be payable to the county or, if 25127  
the board of county commissioner's objection includes an 25128  
objection to an exemption percentage in excess of seventy-five 25129  
per cent, compensation equal in value to not more than fifty per 25130  
cent of the taxes that would be payable to the county, on the 25131  
portion of the improvement in excess of seventy-five per cent, 25132  
were that portion to be subject to taxation. The board of county 25133  
commissioners shall certify its resolution to the board of 25134  
township trustees not later than thirty days after receipt of 25135  
the notice. 25136

(3) If the board of county commissioners does not object 25137  
or fails to certify its resolution objecting to an exemption 25138  
within thirty days after receipt of the notice, the board of 25139  
township trustees may adopt its resolution, and no compensation 25140  
shall be provided to the board of county commissioners. If the 25141  
board of county commissioners timely certifies its resolution 25142  
objecting to the trustees' resolution, the board of township 25143  
trustees may adopt its resolution at any time after a mutually 25144  
acceptable compensation agreement is agreed to by the board of 25145  
county commissioners and the board of township trustees, or, if 25146  
no compensation agreement is negotiated, at any time after the 25147  
board of township trustees agrees in the proposed resolution to 25148  
provide compensation to the board of county commissioners of 25149  
fifty per cent of the taxes that would be payable to the county 25150

in the eleventh and subsequent years of the exemption period or 25151  
on the portion of the improvement in excess of seventy-five per 25152  
cent, were that portion to be subject to taxation. 25153

(F) Service payments in lieu of taxes that are 25154  
attributable to any amount by which the effective tax rate of 25155  
either a renewal levy with an increase or a replacement levy 25156  
exceeds the effective tax rate of the levy renewed or replaced, 25157  
or that are attributable to an additional levy, for a levy 25158  
authorized by the voters for any of the following purposes on or 25159  
after January 1, 2006, and which are provided pursuant to a 25160  
resolution creating an incentive district under division (C) (1) 25161  
of this section that is adopted on or after January 1, 2006, 25162  
shall be distributed to the appropriate taxing authority as 25163  
required under division (C) of section 5709.74 of the Revised 25164  
Code in an amount equal to the amount of taxes from that 25165  
additional levy or from the increase in the effective tax rate 25166  
of such renewal or replacement levy that would have been payable 25167  
to that taxing authority from the following levies were it not 25168  
for the exemption authorized under division (C) of this section: 25169

(1) A tax levied under division (L) of section 5705.19 or 25170  
section 5705.191 of the Revised Code for community ~~mental-~~ 25171  
~~retardation and~~ developmental disabilities programs and services 25172  
pursuant to Chapter 5126. of the Revised Code; 25173

(2) A tax levied under division (Y) of section 5705.19 of 25174  
the Revised Code for providing or maintaining senior citizens 25175  
services or facilities; 25176

(3) A tax levied under section 5705.22 of the Revised Code 25177  
for county hospitals; 25178

(4) A tax levied by a joint-county district or by a county 25179

under section 5705.19, 5705.191, or 5705.221 of the Revised Code	25180
for alcohol, drug addiction, and mental health services or	25181
families;	25182
(5) A tax levied under section 5705.23 of the Revised Code	25183
for library purposes;	25184
(6) A tax levied under section 5705.24 of the Revised Code	25185
for the support of children services and the placement and care	25186
of children;	25187
(7) A tax levied under division (Z) of section 5705.19 of	25188
the Revised Code for the provision and maintenance of zoological	25189
park services and facilities under section 307.76 of the Revised	25190
Code;	25191
(8) A tax levied under section 511.27 or division (H) of	25192
section 5705.19 of the Revised Code for the support of township	25193
park districts;	25194
(9) A tax levied under division (A), (F), or (H) of	25195
section 5705.19 of the Revised Code for parks and recreational	25196
purposes of a joint recreation district organized pursuant to	25197
division (B) of section 755.14 of the Revised Code;	25198
(10) A tax levied under section 1545.20 or 1545.21 of the	25199
Revised Code for park district purposes;	25200
(11) A tax levied under section 5705.191 of the Revised	25201
Code for the purpose of making appropriations for public	25202
assistance; human or social services; public relief; public	25203
welfare; public health and hospitalization; and support of	25204
general hospitals;	25205
(12) A tax levied under section 3709.29 of the Revised	25206
Code for a general health district program.	25207

(G) An exemption from taxation granted under this section 25208  
commences with the tax year specified in the resolution so long 25209  
as the year specified in the resolution commences after the 25210  
effective date of the resolution. If the resolution specifies a 25211  
year commencing before the effective date of the resolution or 25212  
specifies no year whatsoever, the exemption commences with the 25213  
tax year in which an exempted improvement first appears on the 25214  
tax list and duplicate of real and public utility property and 25215  
that commences after the effective date of the resolution. In 25216  
lieu of stating a specific year, the resolution may provide that 25217  
the exemption commences in the tax year in which the value of an 25218  
improvement exceeds a specified amount or in which the 25219  
construction of one or more improvements is completed, provided 25220  
that such tax year commences after the effective date of the 25221  
resolution. With respect to the exemption of improvements to 25222  
parcels under division (B) of this section, the resolution may 25223  
allow for the exemption to commence in different tax years on a 25224  
parcel-by-parcel basis, with a separate exemption term specified 25225  
for each parcel. 25226

Except as otherwise provided in this division, the 25227  
exemption ends on the date specified in the resolution as the 25228  
date the improvement ceases to be a public purpose or the 25229  
incentive district expires, or ends on the date on which the 25230  
public infrastructure improvements and housing renovations are 25231  
paid in full from the township public improvement tax increment 25232  
equivalent fund established under section 5709.75 of the Revised 25233  
Code, whichever occurs first. The exemption of an improvement 25234  
with respect to a parcel or within an incentive district may end 25235  
on a later date, as specified in the resolution, if the board of 25236  
township trustees and the board of education of the city, local, 25237  
or exempted village school district within which the parcel or 25238

district is located have entered into a compensation agreement 25239  
under section 5709.82 of the Revised Code with respect to the 25240  
improvement and the board of education has approved the term of 25241  
the exemption under division (D) of this section, but in no case 25242  
shall the improvement be exempted from taxation for more than 25243  
thirty years. The board of township trustees may, by majority 25244  
vote, adopt a resolution permitting the township to enter into 25245  
such agreements as the board finds necessary or appropriate to 25246  
provide for the construction or undertaking of public 25247  
infrastructure improvements and housing renovations. Any 25248  
exemption shall be claimed and allowed in the same or a similar 25249  
manner as in the case of other real property exemptions. If an 25250  
exemption status changes during a tax year, the procedure for 25251  
the apportionment of the taxes for that year is the same as in 25252  
the case of other changes in tax exemption status during the 25253  
year. 25254

(H) The board of township trustees may issue the notes of 25255  
the township to finance all costs pertaining to the construction 25256  
or undertaking of public infrastructure improvements and housing 25257  
renovations made pursuant to this section. The notes shall be 25258  
signed by the board and attested by the signature of the 25259  
township fiscal officer, shall bear interest not to exceed the 25260  
rate provided in section 9.95 of the Revised Code, and are not 25261  
subject to Chapter 133. of the Revised Code. The resolution 25262  
authorizing the issuance of the notes shall pledge the funds of 25263  
the township public improvement tax increment equivalent fund 25264  
established pursuant to section 5709.75 of the Revised Code to 25265  
pay the interest on and principal of the notes. The notes, which 25266  
may contain a clause permitting prepayment at the option of the 25267  
board, shall be offered for sale on the open market or given to 25268  
the vendor or contractor if no sale is made. 25269

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development services a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development services. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L) (2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on

private property, or stormwater and flood remediation projects 25300  
may do so provided that the board currently is a party to a 25301  
hold-harmless agreement with the board of education of the city, 25302  
local, or exempted village school district within the territory 25303  
of which are located the parcels that are subject to an 25304  
exemption. For the purposes of this division, a "hold-harmless 25305  
agreement" means an agreement under which the board of township 25306  
trustees agrees to compensate the school district for one 25307  
hundred per cent of the tax revenue that the school district 25308  
would have received from further improvements to parcels 25309  
designated in the resolution were it not for the exemption 25310  
granted by the resolution. 25311

**Sec. 5709.78.** (A) A board of county commissioners may, by 25312  
resolution, declare improvements to certain parcels of real 25313  
property located in the unincorporated territory of the county 25314  
to be a public purpose. Except with the approval under division 25315  
(C) of this section of the board of education of each city, 25316  
local, or exempted village school district within which the 25317  
improvements are located, not more than seventy-five per cent of 25318  
an improvement thus declared to be a public purpose may be 25319  
exempted from real property taxation, for a period of not more 25320  
than ten years. The resolution shall specify the percentage of 25321  
the improvement to be exempted and the life of the exemption. 25322

A resolution adopted under this division shall designate 25323  
the specific public infrastructure improvements made, to be 25324  
made, or in the process of being made by the county that 25325  
directly benefit, or that once made will directly benefit, the 25326  
parcels for which improvements are declared to be a public 25327  
purpose. The service payments provided for in section 5709.79 of 25328  
the Revised Code shall be used to finance the public 25329  
infrastructure improvements designated in the resolution, or as 25330

provided in section 5709.80 of the Revised Code. 25331

(B) (1) A board of county commissioners may adopt a 25332  
resolution creating an incentive district and declaring 25333  
improvements to parcels within the district to be a public 25334  
purpose and, except as provided in division (E) of this section, 25335  
exempt from taxation as provided in this section, but no board 25336  
of county commissioners of a county that has a population that 25337  
exceeds twenty-five thousand, as shown by the most recent 25338  
federal decennial census, shall adopt a resolution that creates 25339  
an incentive district if the sum of the taxable value of real 25340  
property in the proposed district for the preceding tax year and 25341  
the taxable value of all real property in the county that would 25342  
have been taxable in the preceding year were it not for the fact 25343  
that the property was in an existing incentive district and 25344  
therefore exempt from taxation exceeds twenty-five per cent of 25345  
the taxable value of real property in the county for the 25346  
preceding tax year. The district shall be located within the 25347  
unincorporated territory of the county and shall not include any 25348  
territory that is included within a district created under 25349  
division (C) of section 5709.73 of the Revised Code. The 25350  
resolution shall delineate the boundary of the district and 25351  
specifically identify each parcel within the district. A 25352  
district may not include any parcel that is or has been exempted 25353  
from taxation under division (A) of this section or that is or 25354  
has been within another district created under this division. A 25355  
resolution may create more than one such district, and more than 25356  
one resolution may be adopted under division (B) (1) of this 25357  
section. 25358

(2) Not later than thirty days prior to adopting a 25359  
resolution under division (B) (1) of this section, if the county 25360  
intends to apply for exemptions from taxation under section 25361

5709.911 of the Revised Code on behalf of owners of real 25362  
property located within the proposed incentive district, the 25363  
board of county commissioners shall conduct a public hearing on 25364  
the proposed resolution. Not later than thirty days prior to the 25365  
public hearing, the board shall give notice of the public 25366  
hearing and the proposed resolution by first class mail to every 25367  
real property owner whose property is located within the 25368  
boundaries of the proposed incentive district that is the 25369  
subject of the proposed resolution. The board also shall provide 25370  
the notice by first class mail to the clerk of each township in 25371  
which the proposed incentive district will be located. 25372

(3) (a) A resolution adopted under division (B) (1) of this 25373  
section shall specify the life of the incentive district and the 25374  
percentage of the improvements to be exempted, shall designate 25375  
the public infrastructure improvements made, to be made, or in 25376  
the process of being made, that benefit or serve, or, once made, 25377  
will benefit or serve parcels in the district. The resolution 25378  
also shall identify one or more specific projects being, or to 25379  
be, undertaken in the district that place additional demand on 25380  
the public infrastructure improvements designated in the 25381  
resolution. The project identified may, but need not be, the 25382  
project under division (B) (3) (b) of this section that places 25383  
real property in use for commercial or industrial purposes. 25384

A resolution adopted under division (B) (1) of this section 25385  
on or after March 30, 2006, shall not designate police or fire 25386  
equipment as public infrastructure improvements, and no service 25387  
payment provided for in section 5709.79 of the Revised Code and 25388  
received by the county under the resolution shall be used for 25389  
police or fire equipment. 25390

(b) A resolution adopted under division (B) (1) of this 25391

section may authorize the use of service payments provided for 25392  
in section 5709.79 of the Revised Code for the purpose of 25393  
housing renovations within the incentive district, provided that 25394  
the resolution also designates public infrastructure 25395  
improvements that benefit or serve the district, and that a 25396  
project within the district places real property in use for 25397  
commercial or industrial purposes. Service payments may be used 25398  
to finance or support loans, deferred loans, and grants to 25399  
persons for the purpose of housing renovations within the 25400  
district. The resolution shall designate the parcels within the 25401  
district that are eligible for housing renovations. The 25402  
resolution shall state separately the amount or the percentages 25403  
of the expected aggregate service payments that are designated 25404  
for each public infrastructure improvement and for the purpose 25405  
of housing renovations. 25406

(4) Except with the approval of the board of education of 25407  
each city, local, or exempted village school district within the 25408  
territory of which the incentive district is or will be located, 25409  
and subject to division (D) of this section, the life of an 25410  
incentive district shall not exceed ten years, and the 25411  
percentage of improvements to be exempted shall not exceed 25412  
seventy-five per cent. With approval of the board of education, 25413  
the life of a district may be not more than thirty years, and 25414  
the percentage of improvements to be exempted may be not more 25415  
than one hundred per cent. The approval of a board of education 25416  
shall be obtained in the manner provided in division (C) of this 25417  
section. 25418

(C) (1) Improvements with respect to a parcel may be 25419  
exempted from taxation under division (A) of this section, and 25420  
improvements to parcels within an incentive district may be 25421  
exempted from taxation under division (B) of this section, for 25422

up to ten years or, with the approval of the board of education 25423  
of each city, local, or exempted village school district within 25424  
which the parcel or district is located, for up to thirty years. 25425  
The percentage of the improvements exempted from taxation may, 25426  
with such approval, exceed seventy-five per cent, but shall not 25427  
exceed one hundred per cent. Not later than forty-five business 25428  
days prior to adopting a resolution under this section declaring 25429  
improvements to be a public purpose that is subject to the 25430  
approval of a board of education under this division, the board 25431  
of county commissioners shall deliver to the board of education 25432  
a notice stating its intent to adopt a resolution making that 25433  
declaration. The notice regarding improvements with respect to a 25434  
parcel under division (A) of this section shall identify the 25435  
parcels for which improvements are to be exempted from taxation, 25436  
provide an estimate of the true value in money of the 25437  
improvements, specify the period for which the improvements 25438  
would be exempted from taxation and the percentage of the 25439  
improvements that would be exempted, and indicate the date on 25440  
which the board of county commissioners intends to adopt the 25441  
resolution. The notice regarding improvements to parcels within 25442  
an incentive district under division (B) of this section shall 25443  
delineate the boundaries of the district, specifically identify 25444  
each parcel within the district, identify each anticipated 25445  
improvement in the district, provide an estimate of the true 25446  
value in money of each such improvement, specify the life of the 25447  
district and the percentage of improvements that would be 25448  
exempted, and indicate the date on which the board of county 25449  
commissioners intends to adopt the resolution. The board of 25450  
education, by resolution adopted by a majority of the board, may 25451  
approve the exemption for the period or for the exemption 25452  
percentage specified in the notice; may disapprove the exemption 25453  
for the number of years in excess of ten, may disapprove the 25454

exemption for the percentage of the improvements to be exempted 25455  
in excess of seventy-five per cent, or both; or may approve the 25456  
exemption on the condition that the board of county 25457  
commissioners and the board of education negotiate an agreement 25458  
providing for compensation to the school district equal in value 25459  
to a percentage of the amount of taxes exempted in the eleventh 25460  
and subsequent years of the exemption period or, in the case of 25461  
exemption percentages in excess of seventy-five per cent, 25462  
compensation equal in value to a percentage of the taxes that 25463  
would be payable on the portion of the improvements in excess of 25464  
seventy-five per cent were that portion to be subject to 25465  
taxation, or other mutually agreeable compensation. 25466

(2) The board of education shall certify its resolution to 25467  
the board of county commissioners not later than fourteen days 25468  
prior to the date the board of county commissioners intends to 25469  
adopt its resolution as indicated in the notice. If the board of 25470  
education and the board of county commissioners negotiate a 25471  
mutually acceptable compensation agreement, the resolution of 25472  
the board of county commissioners may declare the improvements a 25473  
public purpose for the number of years specified in that 25474  
resolution or, in the case of exemption percentages in excess of 25475  
seventy-five per cent, for the exemption percentage specified in 25476  
the resolution. In either case, if the board of education and 25477  
the board of county commissioners fail to negotiate a mutually 25478  
acceptable compensation agreement, the resolution may declare 25479  
the improvements a public purpose for not more than ten years, 25480  
and shall not exempt more than seventy-five per cent of the 25481  
improvements from taxation. If the board of education fails to 25482  
certify a resolution to the board of county commissioners within 25483  
the time prescribed by this section, the board of county 25484  
commissioners thereupon may adopt the resolution and may declare 25485

the improvements a public purpose for up to thirty years or, in 25486  
the case of exemption percentages proposed in excess of seventy- 25487  
five per cent, for the exemption percentage specified in the 25488  
resolution. The board of county commissioners may adopt the 25489  
resolution at any time after the board of education certifies 25490  
its resolution approving the exemption to the board of county 25491  
commissioners, or, if the board of education approves the 25492  
exemption on the condition that a mutually acceptable 25493  
compensation agreement be negotiated, at any time after the 25494  
compensation agreement is agreed to by the board of education 25495  
and the board of county commissioners. If a mutually acceptable 25496  
compensation agreement is negotiated between the board of county 25497  
commissioners and the board of education, including agreements 25498  
for payments in lieu of taxes under section 5709.79 of the 25499  
Revised Code, the board of county commissioners shall compensate 25500  
the joint vocational school district within which the parcel or 25501  
district is located at the same rate and under the same terms 25502  
received by the city, local, or exempted village school 25503  
district. 25504

(3) If a board of education has adopted a resolution 25505  
waiving its right to approve exemptions from taxation under this 25506  
section and the resolution remains in effect, approval of such 25507  
exemptions by the board of education is not required under 25508  
division (C) of this section. If a board of education has 25509  
adopted a resolution allowing a board of county commissioners to 25510  
deliver the notice required under division (C) of this section 25511  
fewer than forty-five business days prior to approval of the 25512  
resolution by the board of county commissioners, the board of 25513  
county commissioners shall deliver the notice to the board of 25514  
education not later than the number of days prior to such 25515  
approval as prescribed by the board of education in its 25516

resolution. If a board of education adopts a resolution waiving 25517  
its right to approve exemptions or shortening the notification 25518  
period, the board of education shall certify a copy of the 25519  
resolution to the board of county commissioners. If the board of 25520  
education rescinds such a resolution, it shall certify notice of 25521  
the rescission to the board of county commissioners. 25522

(D) (1) If a proposed resolution under division (B) (1) of 25523  
this section exempts improvements with respect to a parcel 25524  
within an incentive district for more than ten years, or the 25525  
percentage of the improvement exempted from taxation exceeds 25526  
seventy-five per cent, not later than forty-five business days 25527  
prior to adopting the resolution the board of county 25528  
commissioners shall deliver to the board of township trustees of 25529  
any township within which the incentive district is or will be 25530  
located a notice that states its intent to adopt a resolution 25531  
creating an incentive district. The notice shall include a copy 25532  
of the proposed resolution, identify the parcels for which 25533  
improvements are to be exempted from taxation, provide an 25534  
estimate of the true value in money of the improvements, specify 25535  
the period of time for which the improvements would be exempted 25536  
from taxation, specify the percentage of the improvements that 25537  
would be exempted from taxation, and indicate the date on which 25538  
the board intends to adopt the resolution. 25539

(2) The board of township trustees, by resolution adopted 25540  
by a majority of the board, may object to the exemption for the 25541  
number of years in excess of ten, may object to the exemption 25542  
for the percentage of the improvement to be exempted in excess 25543  
of seventy-five per cent, or both. If the board of township 25544  
trustees objects, the board of township trustees may negotiate a 25545  
mutually acceptable compensation agreement with the board of 25546  
county commissioners. In no case shall the compensation provided 25547

to the board of township trustees exceed the property taxes 25548  
forgone due to the exemption. If the board of township trustees 25549  
objects, and the board of township trustees and the board of 25550  
county commissioners fail to negotiate a mutually acceptable 25551  
compensation agreement, the resolution adopted under division 25552  
(B)(1) of this section shall provide to the board of township 25553  
trustees compensation in the eleventh and subsequent years of 25554  
the exemption period equal in value to not more than fifty per 25555  
cent of the taxes that would be payable to the township or, if 25556  
the board of township trustee's objection includes an objection 25557  
to an exemption percentage in excess of seventy-five per cent, 25558  
compensation equal in value to not more than fifty per cent of 25559  
the taxes that would be payable to the township on the portion 25560  
of the improvement in excess of seventy-five per cent, were that 25561  
portion to be subject to taxation. The board of township 25562  
trustees shall certify its resolution to the board of county 25563  
commissioners not later than thirty days after receipt of the 25564  
notice. 25565

(3) If the board of township trustees does not object or 25566  
fails to certify a resolution objecting to an exemption within 25567  
thirty days after receipt of the notice, the board of county 25568  
commissioners may adopt its resolution, and no compensation 25569  
shall be provided to the board of township trustees. If the 25570  
board of township trustees certifies its resolution objecting to 25571  
the commissioners' resolution, the board of county commissioners 25572  
may adopt its resolution at any time after a mutually acceptable 25573  
compensation agreement is agreed to by the board of county 25574  
commissioners and the board of township trustees. If the board 25575  
of township trustees certifies a resolution objecting to the 25576  
commissioners' resolution, the board of county commissioners may 25577  
adopt its resolution at any time after a mutually acceptable 25578

compensation agreement is agreed to by the board of county 25579  
commissioners and the board of township trustees, or, if no 25580  
compensation agreement is negotiated, at any time after the 25581  
board of county commissioners in the proposed resolution to 25582  
provide compensation to the board of township trustees of fifty 25583  
per cent of the taxes that would be payable to the township in 25584  
the eleventh and subsequent years of the exemption period or on 25585  
the portion of the improvement in excess of seventy-five per 25586  
cent, were that portion to be subject to taxation. 25587

(E) Service payments in lieu of taxes that are 25588  
attributable to any amount by which the effective tax rate of 25589  
either a renewal levy with an increase or a replacement levy 25590  
exceeds the effective tax rate of the levy renewed or replaced, 25591  
or that are attributable to an additional levy, for a levy 25592  
authorized by the voters for any of the following purposes on or 25593  
after January 1, 2006, and which are provided pursuant to a 25594  
resolution creating an incentive district under division (B) (1) 25595  
of this section that is adopted on or after January 1, 2006, 25596  
shall be distributed to the appropriate taxing authority as 25597  
required under division (D) of section 5709.79 of the Revised 25598  
Code in an amount equal to the amount of taxes from that 25599  
additional levy or from the increase in the effective tax rate 25600  
of such renewal or replacement levy that would have been payable 25601  
to that taxing authority from the following levies were it not 25602  
for the exemption authorized under division (B) of this section: 25603

(1) A tax levied under division (L) of section 5705.19 or 25604  
section 5705.191 of the Revised Code for community ~~mental-~~ 25605  
~~retardation~~ and developmental disabilities programs and services 25606  
pursuant to Chapter 5126. of the Revised Code; 25607

(2) A tax levied under division (Y) of section 5705.19 of 25608

the Revised Code for providing or maintaining senior citizens services or facilities;	25609 25610
(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;	25611 25612
(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;	25613 25614 25615 25616
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	25617 25618
(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;	25619 25620 25621
(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;	25622 25623 25624 25625
(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;	25626 25627 25628
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	25629 25630 25631 25632
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	25633 25634
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public	25635 25636

assistance; human or social services; public relief; public 25637  
welfare; public health and hospitalization; and support of 25638  
general hospitals; 25639

(12) A tax levied under section 3709.29 of the Revised 25640  
Code for a general health district program. 25641

(F) An exemption from taxation granted under this section 25642  
commences with the tax year specified in the resolution so long 25643  
as the year specified in the resolution commences after the 25644  
effective date of the resolution. If the resolution specifies a 25645  
year commencing before the effective date of the resolution or 25646  
specifies no year whatsoever, the exemption commences with the 25647  
tax year in which an exempted improvement first appears on the 25648  
tax list and duplicate of real and public utility property and 25649  
that commences after the effective date of the resolution. In 25650  
lieu of stating a specific year, the resolution may provide that 25651  
the exemption commences in the tax year in which the value of an 25652  
improvement exceeds a specified amount or in which the 25653  
construction of one or more improvements is completed, provided 25654  
that such tax year commences after the effective date of the 25655  
resolution. With respect to the exemption of improvements to 25656  
parcels under division (A) of this section, the resolution may 25657  
allow for the exemption to commence in different tax years on a 25658  
parcel-by-parcel basis, with a separate exemption term specified 25659  
for each parcel. 25660

Except as otherwise provided in this division, the 25661  
exemption ends on the date specified in the resolution as the 25662  
date the improvement ceases to be a public purpose or the 25663  
incentive district expires, or ends on the date on which the 25664  
county can no longer require annual service payments in lieu of 25665  
taxes under section 5709.79 of the Revised Code, whichever 25666

occurs first. The exemption of an improvement with respect to a 25667  
parcel or within an incentive district may end on a later date, 25668  
as specified in the resolution, if the board of commissioners 25669  
and the board of education of the city, local, or exempted 25670  
village school district within which the parcel or district is 25671  
located have entered into a compensation agreement under section 25672  
5709.82 of the Revised Code with respect to the improvement, and 25673  
the board of education has approved the term of the exemption 25674  
under division (C) (1) of this section, but in no case shall the 25675  
improvement be exempted from taxation for more than thirty 25676  
years. Exemptions shall be claimed and allowed in the same or a 25677  
similar manner as in the case of other real property exemptions. 25678  
If an exemption status changes during a tax year, the procedure 25679  
for the apportionment of the taxes for that year is the same as 25680  
in the case of other changes in tax exemption status during the 25681  
year. 25682

(G) If the board of county commissioners is not required 25683  
by this section to notify the board of education of the board of 25684  
county commissioners' intent to declare improvements to be a 25685  
public purpose, the board of county commissioners shall comply 25686  
with the notice requirements imposed under section 5709.83 of 25687  
the Revised Code before taking formal action to adopt the 25688  
resolution making that declaration, unless the board of 25689  
education has adopted a resolution under that section waiving 25690  
its right to receive such a notice. 25691

(H) The county, not later than fifteen days after the 25692  
adoption of a resolution under this section, shall submit to the 25693  
director of development services a copy of the resolution. On or 25694  
before the thirty-first day of March of each year, the county 25695  
shall submit a status report to the director of development 25696  
services. The report shall indicate, in the manner prescribed by 25697

the director, the progress of the project during each year that 25698  
an exemption remains in effect, including a summary of the 25699  
receipts from service payments in lieu of taxes; expenditures of 25700  
money from the fund created under section 5709.80 of the Revised 25701  
Code; a description of the public infrastructure improvements 25702  
and housing renovations financed with such expenditures; and a 25703  
quantitative summary of changes in employment and private 25704  
investment resulting from each project. 25705

(I) Nothing in this section shall be construed to prohibit 25706  
a board of county commissioners from declaring to be a public 25707  
purpose improvements with respect to more than one parcel. 25708

(J) If a parcel is located in a new community district in 25709  
which the new community authority imposes a community 25710  
development charge on the basis of rentals received from leases 25711  
of real property as described in division (L) (2) of section 25712  
349.01 of the Revised Code, the parcel may not be exempted from 25713  
taxation under this section. 25714

**Sec. 5711.07.** Personal property used in business shall be 25715  
listed and assessed in the taxing district in which such 25716  
business is carried on. If such business is carried on in more 25717  
than one taxing district in the same county, the return shall 25718  
set forth the amount of the property used therein which is 25719  
situated in each taxing district in such county, and the value 25720  
of all the personal property used in business shall be 25721  
apportioned to and assessed in each of such taxing districts in 25722  
proportion to the value of the personal property situated 25723  
therein. Domestic animals not used in business shall be listed 25724  
and assessed in the taxing district where kept. Ships, vessels, 25725  
boats, and aircraft, and shares and interests therein, shall be 25726  
listed and assessed in the taxing district in which the owner 25727

resides. All other taxable property shall be listed and assessed 25728  
in the municipal corporation in which the owner resides, or, if 25729  
the owner resides outside a municipal corporation, then in the 25730  
county in which the owner resides except as provided in sections 25731  
5711.01 to 5711.36 of the Revised Code. Whenever, under such 25732  
sections, taxable property required by this section to be listed 25733  
and assessed in the taxing district or county in which the owner 25734  
resides is required to be listed by a fiduciary, such property 25735  
shall be listed and assessed by such fiduciary in the taxing 25736  
district or county in which such fiduciary resides, or, in the 25737  
case of joint fiduciaries, in which either such fiduciary 25738  
resides; but such property belonging to the estate of a deceased 25739  
resident of this state shall be listed and assessed in the 25740  
taxing district or county in which the deceased resident resided 25741  
at the time of death, regardless of the residence of the 25742  
deceased resident's executors, administrators, or personal 25743  
representatives, and such property belonging to a ward, minor, 25744  
incompetent person, or beneficiary of a trust residing in this 25745  
state, title, custody, or possession of which is vested in a 25746  
nonresident fiduciary, shall be listed and assessed in the 25747  
taxing district or county in which such ward, minor, incompetent 25748  
person, or beneficiary resides. 25749

As used in this section, "incompetent person" means a 25750  
person who is so mentally impaired, as a result of a mental or 25751  
physical illness or disability, ~~or mental retardation~~ as a result 25752  
of an intellectual disability, or as a result of chronic 25753  
substance abuse, that the person is incapable of taking proper 25754  
care of the person's self or property or fails to provide for 25755  
the person's family or other persons for whom the person is 25756  
charged by law to provide. 25757

**Sec. 5747.03.** (A) All money collected under this chapter 25758

arising from the taxes imposed by section 5747.02 or 5747.41 of 25759  
the Revised Code shall be credited to the general revenue fund, 25760  
except that the treasurer of state shall, at the beginning of 25761  
each calendar quarter, credit to the Ohio political party fund, 25762  
pursuant to section 3517.16 of the Revised Code, an amount equal 25763  
to the total dollar value realized from the taxpayer exercise of 25764  
the income tax checkoff option on tax forms processed during the 25765  
preceding calendar quarter. 25766

(B) (1) Following the crediting of moneys pursuant to 25767  
division (A) of this section, the remainder deposited in the 25768  
general revenue fund shall be distributed pursuant to division 25769  
(F) of section 321.24 and section 323.156 of the Revised Code; 25770  
to make subsidy payments to institutions of higher education 25771  
from appropriations to the Ohio board of regents; to support 25772  
expenditures for programs and services for the mentally ill, 25773  
~~mentally retarded, developmentally disabled~~persons with 25774  
developmental disabilities, and the elderly; for primary and 25775  
secondary education; for medical assistance; and for any other 25776  
purposes authorized by law, subject to the limitation that at 25777  
least fifty per cent of the income tax collected by the state 25778  
from the tax imposed by section 5747.02 of the Revised Code 25779  
shall be returned pursuant to Section 9 of Article XII, Ohio 25780  
Constitution. 25781

(2) To ensure that such constitutional requirement is 25782  
satisfied the tax commissioner shall, on or before the thirtieth 25783  
day of June of each year, from the best information available to 25784  
the tax commissioner, determine and certify for each county to 25785  
the director of budget and management the amount of taxes 25786  
collected under this chapter from the tax imposed under section 25787  
5747.02 of the Revised Code during the preceding calendar year 25788  
that are required to be returned to the county by Section 9 of 25789

Article XII, Ohio Constitution. The director shall provide for 25790  
payment from the general revenue fund to the county in the 25791  
amount, if any, that the sum of the amount so certified for that 25792  
county exceeds the sum of the following: 25793

(a) The sum of the payments from the general revenue fund 25794  
for the preceding calendar year credited to the county's 25795  
undivided income tax fund pursuant to division (F) of section 25796  
321.24 and section 323.156 of the Revised Code or made directly 25797  
from the general revenue fund to political subdivisions located 25798  
in the county; 25799

(b) The sum of the amounts from the general revenue fund 25800  
distributed in the county during the preceding calendar year for 25801  
subsidy payments to institutions of higher education from 25802  
appropriations to the Ohio board of regents; for programs and 25803  
services for mentally ill persons, ~~mentally retarded,~~ 25804  
~~developmentally disabled~~ persons with developmental 25805  
disabilities, and elderly persons; for primary and secondary 25806  
education; and for medical assistance. 25807

(c) In the case of payments made by the director under 25808  
this division in 2007, the total amount distributed to the 25809  
county during the preceding calendar year from the local 25810  
government fund and the local government revenue assistance 25811  
fund, and, in the case of payments made by the director under 25812  
this division in subsequent calendar years, the amount 25813  
distributed to the county from the local government fund; 25814

(d) In the case of payments made by the director under 25815  
this division, the total amount distributed to the county during 25816  
the preceding calendar year from the public library fund. 25817

Payments under this division shall be credited to the 25818

county's undivided income tax fund, except that, notwithstanding 25819  
section 5705.14 of the Revised Code, such payments may be 25820  
transferred by the board of county commissioners to the county 25821  
general fund by resolution adopted with the affirmative vote of 25822  
two-thirds of the members thereof. 25823

(C) All payments received in each month from taxes imposed 25824  
under Chapter 5748. of the Revised Code and any penalties or 25825  
interest thereon shall be paid into the school district income 25826  
tax fund, which is hereby created in the state treasury, except 25827  
that an amount equal to the following portion of such payments 25828  
shall be paid into the general school district income tax 25829  
administrative fund, which is hereby created in the state 25830  
treasury: 25831

(1) One and three-quarters of one per cent of those 25832  
received in fiscal year 1996; 25833

(2) One and one-half per cent of those received in fiscal 25834  
year 1997 and thereafter. 25835

Money in the school district income tax administrative 25836  
fund shall be used by the tax commissioner to defray costs 25837  
incurred in administering the school district's income tax, 25838  
including the cost of providing employers with information 25839  
regarding the rate of tax imposed by any school district. Any 25840  
moneys remaining in the fund after such use shall be deposited 25841  
in the school district income tax fund. 25842

All interest earned on moneys in the school district 25843  
income tax fund shall be credited to the fund. 25844

(D) (1) (a) Within thirty days of the end of each calendar 25845  
quarter ending on the last day of March, June, September, and 25846  
December, the director of budget and management shall make a 25847

payment from the school district income tax fund to each school 25848  
district for which school district income tax revenue was 25849  
received during that quarter. The amount of the payment shall 25850  
equal the balance in the school district's account at the end of 25851  
that quarter. 25852

(b) After a school district ceases to levy an income tax, 25853  
the director of budget and management shall adjust the payments 25854  
under division (D) (1) (a) of this section to retain sufficient 25855  
money in the school district's account to pay refunds. For the 25856  
calendar quarters ending on the last day of March and December 25857  
of the calendar year following the last calendar year the tax is 25858  
levied, the director shall make the payments in the amount 25859  
required under division (D) (1) (a) of this section. For the 25860  
calendar quarter ending on the last day of June of the calendar 25861  
year following the last calendar year the tax is levied, the 25862  
director shall make a payment equal to nine-tenths of the 25863  
balance in the account at the end of that quarter. For the 25864  
calendar quarter ending on the last day of September of the 25865  
calendar year following the last calendar year the tax is 25866  
levied, the director shall make no payment. For the second and 25867  
succeeding calendar years following the last calendar year the 25868  
tax is levied, the director shall make one payment each year, 25869  
within thirty days of the last day of June, in an amount equal 25870  
to the balance in the district's account on the last day of 25871  
June. 25872

(2) Moneys paid to a school district under this division 25873  
shall be deposited in its school district income tax fund. All 25874  
interest earned on moneys in the school district income tax fund 25875  
shall be apportioned by the tax commissioner pro rata among the 25876  
school districts in the proportions and at the times the 25877  
districts are entitled to receive payments under this division. 25878

<b>Sec. 5815.28.</b> (A) As used in this section:	25879
(1) "Ascertainable standard" includes a standard in a trust instrument requiring the trustee to provide for the care, comfort, maintenance, welfare, education, or general well-being of the beneficiary.	25880 25881 25882 25883
(2) "Disability" means any substantial, medically determinable impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least twelve months, except that "disability" does not include an impairment that is the result of abuse of alcohol or drugs.	25884 25885 25886 25887 25888 25889
(3) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	25890 25891
(4) "Supplemental services" means services specified by rule of the department of mental health and addiction services under section 5119.10 of the Revised Code or the department of developmental disabilities under section 5123.04 of the Revised Code that are provided to an individual with a disability in addition to services the individual is eligible to receive under programs authorized by federal or state law.	25892 25893 25894 25895 25896 25897 25898
(B) Any person may create a trust under this section to provide funding for supplemental services for the benefit of another individual who meets either of the following conditions:	25899 25900 25901
(1) The individual has a physical or mental disability and is eligible to receive services through the department of developmental disabilities or a county board of developmental disabilities;	25902 25903 25904 25905
(2) The individual has a mental disability and is eligible to receive services through the department of mental health and	25906 25907

addiction services or a board of alcohol, drug addiction, and 25908  
mental health services. 25909

The trust may confer discretion upon the trustee and may 25910  
contain specific instructions or conditions governing the 25911  
exercise of the discretion. 25912

(C) The general division of the court of common pleas and 25913  
the probate court of the county in which the beneficiary of a 25914  
trust authorized by division (B) of this section resides or is 25915  
confined have concurrent original jurisdiction to hear and 25916  
determine actions pertaining to the trust. In any action 25917  
pertaining to the trust in a court of common pleas or probate 25918  
court and in any appeal of the action, all of the following 25919  
apply to the trial or appellate court: 25920

(1) The court shall render determinations consistent with 25921  
the testator's or other settlor's intent in creating the trust, 25922  
as evidenced by the terms of the trust instrument. 25923

(2) The court may order the trustee to exercise discretion 25924  
that the trust instrument confers upon the trustee only if the 25925  
instrument contains specific instructions or conditions 25926  
governing the exercise of that discretion and the trustee has 25927  
failed to comply with the instructions or conditions. In issuing 25928  
an order pursuant to this division, the court shall require the 25929  
trustee to exercise the trustee's discretion only in accordance 25930  
with the instructions or conditions. 25931

(3) The court may order the trustee to maintain the trust 25932  
and distribute assets in accordance with rules adopted by the 25933  
director of mental health and addiction services under section 25934  
5119.10 of the Revised Code or the director of developmental 25935  
disabilities under section 5123.04 of the Revised Code if the 25936

trustee has failed to comply with such rules. 25937

(D) To the extent permitted by federal law and subject to 25938  
the provisions of division (C) (2) of this section pertaining to 25939  
the enforcement of specific instructions or conditions governing 25940  
a trustee's discretion, a trust authorized by division (B) of 25941  
this section that confers discretion upon the trustee shall not 25942  
be considered an asset or resource of the beneficiary, the 25943  
beneficiary's estate, the settlor, or the settlor's estate and 25944  
shall be exempt from the claims of creditors, political 25945  
subdivisions, the state, other governmental entities, and other 25946  
claimants against the beneficiary, the beneficiary's estate, the 25947  
settlor, or the settlor's estate, including claims regarding the 25948  
medicaid program or based on provisions of Chapters 5121. or 25949  
5123. of the Revised Code and claims sought to be satisfied by 25950  
way of a civil action, subrogation, execution, garnishment, 25951  
attachment, judicial sale, or other legal process, if all of the 25952  
following apply: 25953

(1) At the time the trust is created, the trust principal 25954  
does not exceed the maximum amount determined under division (E) 25955  
of this section; 25956

(2) The trust instrument contains a statement of the 25957  
settlor's intent, or otherwise clearly evidences the settlor's 25958  
intent, that the beneficiary does not have authority to compel 25959  
the trustee under any circumstances to furnish the beneficiary 25960  
with minimal or other maintenance or support, to make payments 25961  
from the principal of the trust or from the income derived from 25962  
the principal, or to convert any portion of the principal into 25963  
cash, whether pursuant to an ascertainable standard specified in 25964  
the instrument or otherwise; 25965

(3) The trust instrument provides that trust assets can be 25966

used only to provide supplemental services, as defined by rule 25967  
of the director of mental health and addiction services under 25968  
section 5119.10 of the Revised Code or the director of 25969  
developmental disabilities under section 5123.04 of the Revised 25970  
Code, to the beneficiary; 25971

(4) The trust is maintained and assets are distributed in 25972  
accordance with rules adopted by the director of mental health 25973  
and addiction services under section 5119.10 of the Revised Code 25974  
or the director of developmental disabilities under section 25975  
5123.04 of the Revised Code; 25976

(5) The trust instrument provides that on the death of the 25977  
beneficiary, a portion of the remaining assets of the trust, 25978  
which shall be not less than fifty per cent of such assets, will 25979  
be deposited to the credit of the services fund for individuals 25980  
with mental illness created by section 5119.51 of the Revised 25981  
Code or the services fund for individuals with ~~mental~~ 25982  
~~retardation and~~ developmental disabilities created by section 25983  
5123.40 of the Revised Code. 25984

(E) In 1994, the trust principal maximum amount for a 25985  
trust created under this section shall be two hundred thousand 25986  
dollars. The maximum amount for a trust created under this 25987  
section prior to November 11, 1994, may be increased to two 25988  
hundred thousand dollars. 25989

In 1995, the maximum amount for a trust created under this 25990  
section shall be two hundred two thousand dollars. Each year 25991  
thereafter, the maximum amount shall be the prior year's amount 25992  
plus two thousand dollars. 25993

(F) This section does not limit or otherwise affect the 25994  
creation, validity, interpretation, or effect of any trust that 25995

is not created under this section. 25996

(G) Once a trustee takes action on a trust created by a 25997  
settlor under this section and disburses trust funds on behalf 25998  
of the beneficiary of the trust, then the trust may not be 25999  
terminated or otherwise revoked by a particular event or 26000  
otherwise without payment into the services fund created 26001  
pursuant to section 5119.51 or 5123.40 of the Revised Code of an 26002  
amount that is equal to the disbursements made on behalf of the 26003  
beneficiary for medical care by the state from the date the 26004  
trust vests but that is not more than fifty per cent of the 26005  
trust corpus. 26006

**Sec. 5815.35.** (A) (1) As used in this division, "fiduciary" 26007  
means any person, association, or corporation, other than a 26008  
trustee of a testamentary trust, an assignee or trustee for an 26009  
insolvent debtor, or a guardian under Chapter 5905. of the 26010  
Revised Code, that is appointed by and accountable to the 26011  
probate court, and that is acting in a fiduciary capacity for 26012  
another or charged with duties in relation to any property, 26013  
interest, or estate for another's benefit. A fiduciary also 26014  
includes an agency under contract with the department of 26015  
developmental disabilities for the provision of protective 26016  
service under sections 5123.55 to 5123.59 of the Revised Code, 26017  
when appointed by and accountable to the probate court as a 26018  
guardian or trustee for a ~~mentally retarded or developmentally-~~ 26019  
~~disabled person~~ with a developmental disability. 26020

(2) A fiduciary who enters a contract as fiduciary on or 26021  
after March 22, 1984, is not personally liable on that contract, 26022  
unless the contract otherwise specifies, if the contract is 26023  
within the fiduciary's authority and the fiduciary discloses 26024  
that the contract is being entered into in a fiduciary capacity. 26025

In a contract, the words "fiduciary" or "as fiduciary" or other words that indicate one's fiduciary capacity following the name or signature of a fiduciary are sufficient disclosure for purposes of this division.

(B) (1) As used in this division, "partnership" includes a partnership composed of only general partners and a partnership composed of general and limited partners.

(2) Subject to division (D) of this section, an executor or administrator who acquires, in a fiduciary capacity, a general partnership interest upon the death of a general partner of a partnership is not personally liable for any debt, obligation, or liability of the partnership that arises from the executor's or administrator's actions, except as provided in this division, as a general partner, or for any debt, obligation, or liability of the partnership for which the executor or administrator otherwise would be personally liable because the executor or administrator holds the general partnership interest, if the executor or administrator discloses that the general partnership interest is held by the executor or administrator in a fiduciary capacity. This immunity does not apply if an executor or administrator causes loss or injury to a person who is not a partner in the partnership by a wrongful act or omission. This immunity is not available to an executor or administrator who holds a general partnership interest in a fiduciary capacity if the spouse or any lineal descendants of the executor or administrator, or the executor or administrator other than in a fiduciary capacity, holds any interest in the partnership.

A partnership certificate that is filed pursuant to Chapter 1777. or another chapter of the Revised Code and that

indicates that an executor or administrator holds a general 26056  
partnership interest in a fiduciary capacity by the use 26057  
following the name or signature of the executor or administrator 26058  
of the words "executor under the will of (name of decedent)" or 26059  
"administrator of the estate of (name of decedent)" or other 26060  
words that indicate the executor's or administrator's fiduciary 26061  
capacity constitutes a sufficient disclosure for purposes of 26062  
this division. 26063

If a partnership certificate is not required to be filed 26064  
pursuant to Chapter 1776. or 1777. or another chapter of the 26065  
Revised Code, a sufficient disclosure for purposes of this 26066  
division can be made by an executor or administrator if a 26067  
certificate that satisfies the following requirements is filed 26068  
with the recorder of the county in which the partnership's 26069  
principal office or place of business is situated and with the 26070  
recorder of each county in which the partnership owns real 26071  
estate: 26072

(a) The certificate shall state in full the names of all 26073  
persons holding interests in the partnership and their places of 26074  
residence; 26075

(b) The certificate shall be signed by all persons who are 26076  
general partners in the partnership, and shall be acknowledged 26077  
by a person authorized to take acknowledgements of deeds; 26078

(c) The certificate shall use the words "executor under 26079  
the will of (name of decedent)" or "administrator of the estate 26080  
of (name of decedent)" or other words that indicate the 26081  
executor's or administrator's fiduciary capacity, following the 26082  
name or signature of the executor or administrator. 26083

A contract or other written instrument delivered to a 26084

party that contracts with the partnership in which an executor 26085  
or administrator holds a general partnership interest in a 26086  
fiduciary capacity, that indicates that the executor or 26087  
administrator so holds the interest, constitutes a disclosure 26088  
for purposes of this division with respect to transactions 26089  
between the party and the partnership. If a disclosure has been 26090  
made by a certificate in accordance with this division, a 26091  
disclosure for purposes of this division with respect to such 26092  
transactions exists regardless of whether a contract or other 26093  
instrument indicates the executor or administrator holds the 26094  
general partnership interest in a fiduciary capacity. 26095

If an executor or administrator acquires, in a fiduciary 26096  
capacity, a general partnership interest, the decedent's estate 26097  
is liable for debts, obligations, or liabilities of the 26098  
partnership. 26099

(C) An estate that includes a general partnership interest 26100  
is not liable for the debts, obligations, or liabilities of a 26101  
partnership in which another estate has a general partnership 26102  
interest, merely because the executor or administrator of the 26103  
estates holds a general partnership interest in both of the 26104  
partnerships in the executor's or administrator's fiduciary 26105  
capacities. 26106

(D) Divisions (B) and (C) of this section apply to general 26107  
partnership interests held by executors or administrators in 26108  
their fiduciary capacities prior to and on or after March 22, 26109  
1984. If an appropriate disclosure is made pursuant to division 26110  
(B) of this section, the immunity acquired under that division 26111  
extends only to debts, obligations, and liabilities of the 26112  
partnership arising on and after the date of the disclosure and 26113  
to debts, obligations, and liabilities of the partnership that 26114

arose prior to the acquisition of the general partnership 26115  
interest by the executor or administrator becoming a general 26116  
partner. 26117

(E) The liability limitations in this section apply to 26118  
fiduciaries as partners notwithstanding the broader personal 26119  
liabilities otherwise imposed by any partnership law. 26120

(F) If an estate or other fund held by a fiduciary is 26121  
identified as a partner, the reference is deemed to be to, and 26122  
the partner is, the current executor, administrator, or other 26123  
fiduciary of the estate or other fund and their successors as 26124  
executors, administrators, or other fiduciaries. 26125

**Section 2.** That existing sections 1.02, 121.22, 121.37, 26126  
135.801, 145.01, 145.012, 145.298, 145.332, 149.431, 152.04, 26127  
173.25, 173.27, 173.38, 173.381, 305.07, 307.02, 313.12, 325.07, 26128  
711.23, 1751.01, 1751.14, 2101.17, 2101.24, 2108.521, 2109.01, 26129  
2111.01, 2111.10, 2111.49, 2151.011, 2151.281, 2151.353, 26130  
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2305.111, 2311.14, 2317.021, 2503.37, 2721.05, 2744.01, 2901.13, 26133  
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5307.19, 5310.12, 5321.01, 5705.05, 5705.091, 5705.19, 5705.222, 26165  
5709.40, 5709.73, 5709.78, 5711.07, 5747.03, 5815.28, and 26166  
5815.35 of the Revised Code are hereby repealed. 26167

**Section 3.** The General Assembly, applying the principle 26168  
stated in division (B) of section 1.52 of the Revised Code that 26169  
amendments are to be harmonized if reasonably capable of 26170  
simultaneous operation, finds that the following sections, 26171  
presented in this act as composites of the sections as amended 26172  
by the acts indicated, are the resulting versions of the 26173  
sections in effect prior to the effective date of the sections 26174  
as presented in this act: 26175

Section 2151.414 of the Revised Code as amended by both 26176  
Am. Sub. H.B. 130 and Am. Sub. H.B. 213 of the 130th General 26177  
Assembly. 26178

Section 3323.05 of the Revised Code as amended by both Am. 26179  
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 26180

Section 3791.031 of the Revised Code as amended by both 26181  
Am. Sub. H.B. 117 and Am. Sub. S.B. 162 of the 121st General 26182  
Assembly. 26183

Section 5123.61 of the Revised Code as amended by both 26184  
Sub. H.B. 232 and Am. Sub. H.B. 483 of the 130th General 26185  
Assembly. 26186

Section 5705.05 of the Revised Code as amended by both 26187  
Sub. H.B. 458 and Sub. S.B. 353 of the 127th General Assembly. 26188

**Section 4.** Under this act, it is the intent of the General 26189  
Assembly to remove references in the Revised Code to the term 26190  
"mental retardation" and derivations of that term, to replace 26191  
those references with the term "intellectual disability" and 26192  
corresponding derivations of that term, and to do so without a 26193  
resulting change in meaning. 26194