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131st General Assembly

Regular Session

2015-2016

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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

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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
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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 otherwise requires:	104 105
(A) "Whoever" includes all persons, natural and artificial; partners; principals, agents, and employees; and all officials, public or private.	106 107 108
(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 mental retardation or derangement <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
Sec. 121.22. (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-	127 128 129 130

making body of any county, township, municipal corporation,	131
school district, or other political subdivision or local public	132
institution;	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 or retardation , <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 public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

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.

(D) This section does not apply to any of the following:

(1) A grand jury;

(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;

(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;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(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;

(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;	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 Code;	189 190 191 192
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	193 194 195
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;	196 197 198
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;	199 200 201 202 203
(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;	204 205 206 207
(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section 5101.37 of the Revised Code;	208 209 210 211
(13) The occupational therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license or limited permit without a hearing pursuant to division (D) of section 4755.11 of	212 213 214 215

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 543
agency represented on the council and whose families are or have 544
received services from an agency represented on the council or 545
another county's council. Where possible, the number of members 546
representing families shall be equal to twenty per cent of the 547
council's membership. 548

(b) The director of the board of alcohol, drug addiction, 549
and mental health services that serves the county, or, in the 550
case of a county that has a board of alcohol and drug addiction 551
services and a community mental health board, the directors of 552
both boards. If a board of alcohol, drug addiction, and mental 553
health services covers more than one county, the director may 554
designate a person to participate on the county's council. 555

(c) The health commissioner, or the commissioner's 556
designee, of the board of health of each city and general health 557
district in the county. If the county has two or more health 558
districts, the health commissioner membership may be limited to 559
the commissioners of the two districts with the largest 560
populations. 561

(d) The director of the county department of job and 562
family services; 563

(e) The executive director of the public children services 564
agency; 565

(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;	566 567 568 569
(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, which shall notify each board of county commissioners of its determination at least biennially;	570 571 572 573 574
(h) A school superintendent representing all other school districts with territory in the county, as designated at a biennial meeting of the superintendents of those districts;	575 576 577
(i) A representative of the municipal corporation with the largest population in the county;	578 579
(j) The president of the board of county commissioners or an individual designated by the board;	580 581
(k) A representative of the regional office of the department of youth services;	582 583
(l) A representative of the county's head start agencies, as defined in section 3301.32 of the Revised Code;	584 585
(m) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Individuals with Disabilities Education Act of 2004";	586 587 588 589
(n) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families.	590 591
Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on	592 593

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 (l) 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 meeting to develop or review the family's service coordination plan and allows the family to invite a family advocate, mentor, or support person of the family's choice to participate in any such meeting;

(4) A procedure for ensuring that a family service coordination plan meeting is conducted for each child who receives service coordination under the mechanism and for whom an emergency out-of-home placement has been made or for whom a nonemergency out-of-home placement is being considered. The meeting shall be conducted within ten days of an emergency out-of-home placement. The meeting shall be conducted before a nonemergency out-of-home placement. The family service coordination plan shall outline how the county council members will jointly pay for services, where applicable, and provide services in the least restrictive environment.

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

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

(7) A procedure for assessing the needs and strengths of any child or family that has been referred to the council for service coordination, including a child whose parent or

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 this section may include, but is not limited to, the following:	919 920
(a) Designation of the person or agency to conduct the assessment of the child and the child's family as described in division (C) (7) of this section and designation of the instrument or instruments to be used to conduct the assessment;	921 922 923 924
(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;	933 934 935 936 937 938
(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 suspended or expelled from school;	951 952 953
(g) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio family and children first cabinet council.	954 955 956 957
(F) Each county may review and revise the service coordination process described in division (D) of this section based on the availability of funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, or to the extent resources are available from any other federal, state, or local funds.	958 959 960 961 962 963
Sec. 135.801. (A) As used in sections 135.801 to 135.803 of the Revised Code, "eligible lending institution," "eligible organization," "investing authority," "residential facility," and "residential facility linked deposit program" have the same meanings as in section 5126.51 of the Revised Code.	964 965 966 967 968
(B) The board of county commissioners may adopt a resolution implementing a residential facility linked deposit program under sections 5126.51 to 5126.62 of the Revised Code if it finds each of the following:	969 970 971 972
(1) The county board of developmental disabilities has adopted a resolution under section 5126.49 of the Revised Code.	973 974

(2) There is a shortage of residential facilities in the county for individuals with mental retardation or developmental disabilities.	975 976 977
(3) Eligible organizations, otherwise willing and able to develop residential facilities in the county, have been unable to do so because of high interest rates.	978 979 980
(4) Placement of residential facility linked deposits will assist in financing the development of residential facilities in the county that otherwise would not be developed because of high interest rates.	981 982 983 984
(5) Public moneys of the county are available for purposes of the residential facility linked deposit program.	985 986
(6) At least one eligible lending institution has an office located within the territorial limits of the county into which the board may deposit the public moneys of the county.	987 988 989
Sec. 145.01. As used in this chapter:	990
(A) "Public employee" means:	991
(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio history connection, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in division (A) (1) of this section, or employed and paid in whole or in part by the state or any of the	992 993 994 995 996 997 998 999 1000 1001 1002 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 1069
person or persons who, as the result of the death of a member, 1070
contributor, or retirant, qualify for or are receiving some 1071
right or benefit under this chapter. 1072

(H) (1) "Total service credit," except as provided in 1073
section 145.37 of the Revised Code, means all service credited 1074
to a member of the retirement system since last becoming a 1075
member, including restored service credit as provided by section 1076
145.31 of the Revised Code; credit purchased under sections 1077
145.293 and 145.299 of the Revised Code; all the member's 1078
military service credit computed as provided in this chapter; 1079
all service credit established pursuant to section 145.297 of 1080
the Revised Code; and any other service credited under this 1081
chapter. For the exclusive purpose of satisfying the service 1082
credit requirement and of determining eligibility for benefits 1083
under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, 1084
and 145.361 of the Revised Code, "five or more years of total 1085
service credit" means sixty or more calendar months of 1086
contributing service in this system. 1087

(2) "One and one-half years of contributing service 1088
credit," as used in division (B) of section 145.45 of the 1089
Revised Code, also means eighteen or more calendar months of 1090
employment by a municipal corporation that formerly operated its 1091
own retirement plan for its employees or a part of its 1092

employees, provided that all employees of that municipal 1093
retirement plan who have eighteen or more months of such 1094
employment, upon establishing membership in the public employees 1095
retirement system, shall make a payment of the contributions 1096
they would have paid had they been members of this system for 1097
the eighteen months of employment preceding the date membership 1098
was established. When that payment has been made by all such 1099
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 Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter or under a combination of the coverage.

(Z) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

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

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

(1) Employed full time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the

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 officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

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

(JJ) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

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

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

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

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

(OO) "Special police officer for an institution for ~~the~~

~~developmentally disabled persons with intellectual disabilities"~~ 1381
means any person who is designated as such pursuant to section 1382
5123.13 of the Revised Code and is in compliance with section 1383
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 corporation with the duty of directing the activities of the municipal corporation's police department and fire department.

(VV) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for ~~the developmentally disabled persons with~~ developmental disabilities, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. "PERS law enforcement officer" also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were to preserve the peace, protect life and property, and enforce the laws of this state.

(WW) "Hamilton county municipal court bailiff" means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A)(3) of section 1901.32 of the Revised Code who is employed full time as a bailiff or deputy bailiff, who has received a certificate attesting to the person's satisfactory completion of the peace officer basic

training described in division (D)(1) of section 109.77 of the Revised Code. 1441
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 the administration of the system.	1472 1473
(ZZ) "Actuary" means an individual who satisfies all of the following requirements:	1474 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
Sec. 145.012. (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 course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:	1504 1505 1506 1507 1508
(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;	1509 1510 1511
(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;	1512 1513 1514 1515
(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.	1516 1517 1518
(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;	1519 1520 1521 1522 1523 1524
(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;	1525 1526

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

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

(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;

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

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

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 1593
unit's employees, the employing unit shall establish a 1594
retirement incentive plan for employees of the employing unit. 1595

(D) (1) A retirement incentive plan established under this 1596
section shall be consistent with the requirements of section 1597
145.297 of the Revised Code, except that the plan shall go into 1598
effect at the time the layoffs or proposed closings are 1599
announced and shall remain in effect until the date of the 1600
layoffs or closings. 1601

(2) If the employing unit already has a retirement 1602
incentive plan in effect, the plan shall remain in effect at 1603
least until the date of the layoffs or closings. The employing 1604
unit may revise the existing plan to provide greater benefits, 1605
but if it revises the plan, it shall give written notice of the 1606
changes to all employees who have elected to participate in the 1607
original plan, and it shall provide the greater benefits to all 1608
employees who participate in the plan, whether their elections 1609
to participate were made before or after the date of the 1610
revision. 1611

Sec. 145.332. Eligibility of members of the public 1612
employees retirement system, other than those subject to section 1613
145.32 of the Revised Code, for age and service retirement shall 1614
be determined under this section. 1615

(A) A member of the public employees retirement system is 1616
eligible for age and service retirement under this division if, 1617
not later than five years after ~~the effective date of this~~ 1618
~~section~~ January 7, 2013, the member meets one of the following 1619
requirements: 1620

(1) Has attained age forty-eight and has at least twenty- 1621
five years of total service credit as a PERS law enforcement 1622
officer; 1623

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

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

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

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

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

equal at least twenty-five years of total service credit; 1645

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

(2) A member who on ~~the effective date of this amendment~~ 1649
January 7, 2013, has twenty or more years of total service 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 division (F) of this section	1735 1736
49	80% of the benefit payable under division (F) of this section	1737 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
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(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 1757
1758
1759
1760

death, dishonesty, cowardice, intemperate habits, or conviction 1761
of a felony, on or after attaining age fifty-two, but before 1762
attaining age fifty-six, may elect to receive a reduced benefit. 1763
The benefit shall be the actuarial equivalent of the allowance 1764
calculated under division (F) of this section adjusted for age. 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 safety officer or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(1)(b) or (c), (B)(2), (C)(1)(b) or (c), or (C)(2) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996.

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

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

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

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

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

Sec. 149.431. (A) Except as provided in sections 9.833 and 2744.081 of the Revised Code, any governmental entity or agency and any nonprofit corporation or association, except a corporation organized pursuant to Chapter 1719. of the Revised Code prior to January 1, 1980 or organized pursuant to Chapter 3941. of the Revised Code, that enters into a contract or other agreement with the federal government, a unit of state

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 party or designee shall conduct a database review of an employee in accordance with the rules as a condition of the responsible party continuing to employ the employee in a position that involves providing ombudsman services to residents and recipients. A database review shall determine whether the applicant or employee is included in any of the following:

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

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

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

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

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

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

(7) Any other database, if any, specified in rules adopted

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 reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;	2287 2288 2289
(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.	2290 2291 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
Sec. 173.38. (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. 2314-2319
- (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 a consumer when the consumer is a responsible party. 2322-2323
- (4) "Community-based long-term care services" means community-based long-term care services, as defined in section 173.14 of the Revised Code, that are provided under a program the department of aging administers. 2324-2327
- (5) "Consumer" means an individual who receives community-based long-term care services. 2328-2329
- (6) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 2330-2331
- (7) (a) "Direct-care position" means an employment position in which an employee has either or both of the following: 2332-2333
- (i) In-person contact with one or more consumers; 2334
 - (ii) Access to one or more consumers' personal property or records. 2335-2336
- (b) "Direct-care position" does not include a person whose sole duties are transporting individuals under Chapter 306. of the Revised Code. 2337-2339
- (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 2435
section; 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 ~~MR/DD~~ developmental disabilities 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 2640
Code if the applicant makes any attempt to deceive the 2641
responsible party about the applicant's criminal record. 2642

(I) The report of any criminal records check conducted 2643
pursuant to a request made under this section is not a public 2644
record for the purposes of section 149.43 of the Revised Code 2645
and shall not be made available to any person other than the 2646
following: 2647

(1) The applicant or employee who is the subject of the 2648
criminal records check or the applicant's or employee's 2649
representative; 2650

(2) The chief administrator of the responsible party 2651
requesting the criminal records check or the administrator's 2652
representative; 2653

(3) The administrator of any other facility, agency, or 2654
program that provides community-based long-term care services 2655
that is owned or operated by the same entity that owns or 2656
operates the responsible party that requested the criminal 2657
records check; 2658

(4) The employment service that requested the criminal records check;	2659 2660
(5) The director of aging or a person authorized by the director to monitor a responsible party's compliance with this section;	2661 2662 2663
(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:	2664 2665 2666
(a) In the case of a criminal records check requested by a provider or subcontractor, the provider or subcontractor also is a waiver agency;	2667 2668 2669
(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a provider or subcontractor that also is a waiver agency;	2670 2671 2672 2673
(c) The criminal records check is requested by a consumer who is acting as a responsible party.	2674 2675
(7) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	2676 2677
(a) A denial of employment of the applicant or employee;	2678
(b) Employment or unemployment benefits of the applicant or employee;	2679 2680
(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.	2681 2682
(J) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a responsible	2683 2684 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	2751
listed or described in divisions (A) (3) (a) to (e) of section	2752
109.572 of the Revised Code.	2753
(6) "Provider" has the same meaning as in section 173.39	2754
of the Revised Code.	2755
(7) "Self-employed provider" means a provider who works	2756
for the provider's self and has no employees.	2757
(B) This section does not apply to any individual who is	2758
subject to a database review or criminal records check under	2759
section 3701.881 of the Revised Code.	2760
(C) (1) The department of aging or its designee shall take	2761
the following actions when the circumstances specified in	2762
division (C) (2) of this section apply:	2763
(a) Refuse to issue a community-based long-term care	2764
services certificate to a self-employed provider;	2765
(b) Revoke a self-employed provider's community-based	2766
long-term care services certificate;	2767
(c) Refuse to award a community-based long-term care	2768
services contract or grant to a self-employed provider;	2769

(d) Terminate a self-employed provider's community-based 2770
long-term care services contract or grant awarded on or after 2771
~~the effective date of this section~~ September 15, 2014. 2772

(2) The following are the circumstances that require the 2773
department of aging or its designee to take action under 2774
division (C) (1) of this section: 2775

(a) A review of the databases listed in division (E) of 2776
this section reveals any of the following: 2777

(i) That the self-employed provider is included in one or 2778
more of the databases listed in divisions (E) (1) to (5) of this 2779
section; 2780

(ii) That there is in the state nurse aide registry 2781
established under section 3721.32 of the Revised Code a 2782
statement detailing findings by the director of health that the 2783
self-employed provider neglected or abused a long-term care 2784
facility or residential care facility resident or 2785
misappropriated property of such a resident; 2786

(iii) That the self-employed provider is included in one 2787
or more of the databases, if any, specified in rules adopted 2788
under this section and the rules require the department or its 2789
designee to take action under division (C) (1) of this section if 2790
a self-employed provider is included in such a database. 2791

(b) After the self-employed provider is provided, pursuant 2792
to division (F) (2) (a) of this section, a copy of the form 2793
prescribed pursuant to division (C) (1) of section 109.572 of the 2794
Revised Code and the standard impression sheet prescribed 2795
pursuant to division (C) (2) of that section, the self-employed 2796
provider fails to complete the form or provide the self-employed 2797
provider's fingerprint impressions on the standard impression 2798

sheet. 2799

(c) Unless the self-employed provider meets standards 2800
specified in rules adopted under this section, the self-employed 2801
provider is found by a criminal records check required by this 2802
section to have been convicted of, pleaded guilty to, or been 2803
found eligible for intervention in lieu of conviction for a 2804
disqualifying offense. 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 kinds of material necessary to the construction;

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

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

The board of county commissioners shall invite bids in the manner prescribed in sections 307.86 to 307.92 of the Revised Code. Such bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the county. The form of the bid approved by the board of county commissioners shall be used and a bid shall be invalid and not considered unless such form is used without change, alteration, or addition.

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

On the day and at the place named for receiving bids for entering into lease agreements with the county, the board of county commissioners shall open the bids, and shall publicly proceed immediately to tabulate the bids. No such lease agreement shall be entered into until the bureau of workers' compensation has certified that the corporation, partnership, or person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, and until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that such corporation is

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 intellectual disabilities, any institution operated by the 3181
youth commission, children's homes, county homes, and all 3182

similar institutions, and for all expenses of maintaining 3183
transportation facilities necessary to the proper administration 3184
of the duties of ~~his~~ the sheriff's office. 3185

The board shall allow the sheriff ~~his~~ the actual 3186
transportation expense and telephone tolls expended by the 3187
sheriff in serving civil processes and subpoenaing witnesses in 3188
civil and criminal cases and before the grand jury, and it may 3189
allow any other necessary transportation expense for the proper 3190
administration of the duties of ~~his~~ the sheriff's office. Each 3191
sheriff shall file under oath a monthly report containing a 3192
full, accurate, and itemized account of all ~~his~~ the sheriff's 3193
actual and necessary expenses, including telephone tolls and any 3194
other transportation expense mentioned in this section, before 3195
the expense is allowed by the board. The statement shall show 3196
the number of the case, the court in which the service was 3197
rendered, and the point from which a transportation vehicle was 3198
used. 3199

For the purpose of making available to the sheriff funds 3200
necessary in the performance of the duties required ~~of him~~ under 3201
this section, the board may authorize, as an advancement to the 3202
sheriff, a sum not exceeding fifty per cent of ~~his~~ the sheriff's 3203
annual salary, from appropriations made to ~~him~~ the sheriff by 3204
the board for pursuing prisoners within or without the state or 3205
for transporting the prisoners to correctional institutions, or 3206
both, and for transporting persons to the institutions 3207
enumerated in this section, from which sum of money so advanced 3208
the necessary expenses for the transportation or pursuance may 3209
be paid by the sheriff. The county auditor shall draw ~~his~~ a 3210
warrant upon the county treasurer, in favor of the sheriff, as 3211
authorized by the board. 3212

After the itemized monthly report provided for in this 3213
section has been filed by the sheriff and approved and allowed 3214
by the board, the board shall restore to the fund the amount 3215
expended and disbursed by the sheriff, as approved and allowed 3216
by the board. 3217

Any unexpended balance of such fund remaining in the hands 3218
of the sheriff, at the end of each succeeding fiscal year, shall 3219
be returned and paid into the county treasury by the sheriff. 3220

Sec. 711.23. As used in this section, "incompetent person" 3221
means a person who is so mentally impaired, as a result of a 3222
mental or physical illness or disability, ~~or mental retardation~~ 3223
as a result of intellectual disability, or as a result of 3224
chronic substance abuse, that the person is incapable of taking 3225
proper care of the person's self or property or fails to provide 3226
for the person's family or other persons for whom the person is 3227
charged by law to provide. 3228

If the court of common pleas is of the opinion that any 3229
person owning a lot in a plat, addition, or part thereof 3230
proposed to be vacated or altered, and not assenting to such 3231
vacation or alteration, will sustain damage thereby, it may 3232
proceed to hear proof in reference thereto, and may render 3233
judgment against the petitioners for such damages as it thinks 3234
proper and just, to be assessed ratably against the petitioners 3235
by the court, according to the value of the property owned by 3236
the petitioners as it stands taxed on the tax list of the 3237
county. When necessary, the court shall appoint a guardian ad 3238
litem for all minors or incompetent persons interested in the 3239
premises. The judgment of the court vacating such plat, 3240
addition, or parts thereof, shall be conditioned upon the 3241
payment of the damages thus assessed. 3242

Sec. 1751.01. As used in this chapter:	3243
(A) (1) "Basic health care services" means the following services when medically necessary:	3244 3245
(a) Physician's services, except when such services are supplemental under division (B) of this section;	3246 3247
(b) Inpatient hospital services;	3248
(c) Outpatient medical services;	3249
(d) Emergency health services;	3250
(e) Urgent care services;	3251
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	3252 3253
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	3254 3255 3256
(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;	3257 3258 3259 3260
(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.	3261 3262 3263
"Basic health care services" does not include experimental procedures.	3264 3265
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	3266 3267 3268 3269

coverage for a health care service, defined as a basic health 3270
care service by this division, unless it offers coverage for all 3271
listed basic health care services. However, this requirement 3272
does not apply to the coverage of beneficiaries enrolled in 3273
medicare pursuant to a medicare contract, or to the coverage of 3274
beneficiaries enrolled in the federal employee health benefits 3275
program pursuant to 5 U.S.C.A. 8905, or to the coverage of 3276
medicaid recipients, or to the coverage of beneficiaries under 3277
any federal health care program regulated by a federal 3278
regulatory body, or to the coverage of beneficiaries under any 3279
contract covering officers or employees of the state that has 3280
been entered into by the department of administrative services. 3281

(2) A health insuring corporation may offer coverage for 3282
diagnostic and treatment services for biologically based mental 3283
illnesses without offering coverage for all other basic health 3284
care services. A health insuring corporation may offer coverage 3285
for diagnostic and treatment services for biologically based 3286
mental illnesses alone or in combination with one or more 3287
supplemental health care services. However, a health insuring 3288
corporation that offers coverage for any other basic health care 3289
service shall offer coverage for diagnostic and treatment 3290
services for biologically based mental illnesses in combination 3291
with the offer of coverage for all other listed basic health 3292
care services. 3293

(3) A health insuring corporation that offers coverage for 3294
basic health care services is not required to offer coverage for 3295
diagnostic and treatment services for biologically based mental 3296
illnesses in combination with the offer of coverage for all 3297
other listed basic health care services if all of the following 3298
apply: 3299

(a) The health insuring corporation submits documentation 3300
certified by an independent member of the American academy of 3301
actuaries to the superintendent of insurance showing that 3302
incurred claims for diagnostic and treatment services for 3303
biologically based mental illnesses for a period of at least six 3304
months independently caused the health insuring corporation's 3305
costs for claims and administrative expenses for the coverage of 3306
basic health care services to increase by more than one per cent 3307
per year. 3308

(b) The health insuring corporation submits a signed 3309
letter from an independent member of the American academy of 3310
actuaries to the superintendent of insurance opining that the 3311
increase in costs described in division (A) (3) (a) of this 3312
section could reasonably justify an increase of more than one 3313
per cent in the annual premiums or rates charged by the health 3314
insuring corporation for the coverage of basic health care 3315
services. 3316

(c) The superintendent of insurance makes the following 3317
determinations from the documentation and opinion submitted 3318
pursuant to divisions (A) (3) (a) and (b) of this section: 3319

(i) Incurred claims for diagnostic and treatment services 3320
for biologically based mental illnesses for a period of at least 3321
six months independently caused the health insuring 3322
corporation's costs for claims and administrative expenses for 3323
the coverage of basic health care services to increase by more 3324
than one per cent per year. 3325

(ii) The increase in costs reasonably justifies an 3326
increase of more than one per cent in the annual premiums or 3327
rates charged by the health insuring corporation for the 3328
coverage of basic health care services. 3329

Any determination made by the superintendent under this	3330
division is subject to Chapter 119. of the Revised Code.	3331
(B) (1) "Supplemental health care services" means any	3332
health care services other than basic health care services that	3333
a health insuring corporation may offer, alone or in combination	3334
with either basic health care services or other supplemental	3335
health care services, and includes:	3336
(a) Services of facilities for intermediate or long-term	3337
care, or both;	3338
(b) Dental care services;	3339
(c) Vision care and optometric services including lenses	3340
and frames;	3341
(d) Podiatric care or foot care services;	3342
(e) Mental health services, excluding diagnostic and	3343
treatment services for biologically based mental illnesses;	3344
(f) Short-term outpatient evaluative and crisis-	3345
intervention mental health services;	3346
(g) Medical or psychological treatment and referral	3347
services for alcohol and drug abuse or addiction;	3348
(h) Home health services;	3349
(i) Prescription drug services;	3350
(j) Nursing services;	3351
(k) Services of a dietitian licensed under Chapter 4759.	3352
of the Revised Code;	3353
(l) Physical therapy services;	3354
(m) Chiropractic services;	3355

(n) Any other category of services approved by the 3356
superintendent of insurance. 3357

(2) If a health insuring corporation offers prescription 3358
drug services under this division, the coverage shall include 3359
prescription drug services for the treatment of biologically 3360
based mental illnesses on the same terms and conditions as other 3361
physical diseases and disorders. 3362

(C) "Specialty health care services" means one of the 3363
supplemental health care services listed in division (B) of this 3364
section, when provided by a health insuring corporation on an 3365
outpatient-only basis and not in combination with other 3366
supplemental health care services. 3367

(D) "Biologically based mental illnesses" means 3368
schizophrenia, schizoaffective disorder, major depressive 3369
disorder, bipolar disorder, paranoia and other psychotic 3370
disorders, obsessive-compulsive disorder, and panic disorder, as 3371
these terms are defined in the most recent edition of the 3372
diagnostic and statistical manual of mental disorders published 3373
by the American psychiatric association. 3374

(E) "Closed panel plan" means a health care plan that 3375
requires enrollees to use participating providers. 3376

(F) "Compensation" means remuneration for the provision of 3377
health care services, determined on other than a fee-for-service 3378
or discounted-fee-for-service basis. 3379

(G) "Contractual periodic prepayment" means the formula 3380
for determining the premium rate for all subscribers of a health 3381
insuring corporation. 3382

(H) "Corporation" means a corporation formed under Chapter 3383
1701. or 1702. of the Revised Code or the similar laws of 3384

another state. 3385

(I) "Emergency health services" means those health care 3386
services that must be available on a seven-days-per-week, 3387
twenty-four-hours-per-day basis in order to prevent jeopardy to 3388
an enrollee's health status that would occur if such services 3389
were not received as soon as possible, and includes, where 3390
appropriate, provisions for transportation and indemnity 3391
payments or service agreements for out-of-area coverage. 3392

(J) "Enrollee" means any natural person who is entitled to 3393
receive health care benefits provided by a health insuring 3394
corporation. 3395

(K) "Evidence of coverage" means any certificate, 3396
agreement, policy, or contract issued to a subscriber that sets 3397
out the coverage and other rights to which such person is 3398
entitled under a health care plan. 3399

(L) "Health care facility" means any facility, except a 3400
health care practitioner's office, that provides preventive, 3401
diagnostic, therapeutic, acute convalescent, rehabilitation, 3402
mental health, ~~mental retardation~~ intellectual disability, 3403
intermediate care, or skilled nursing services. 3404

(M) "Health care services" means basic, supplemental, and 3405
specialty health care services. 3406

(N) "Health delivery network" means any group of providers 3407
or health care facilities, or both, or any representative 3408
thereof, that have entered into an agreement to offer health 3409
care services in a panel rather than on an individual basis. 3410

(O) "Health insuring corporation" means a corporation, as 3411
defined in division (H) of this section, that, pursuant to a 3412
policy, contract, certificate, or agreement, pays for, 3413

reimburses, or provides, delivers, arranges for, or otherwise 3414
makes available, basic health care services, supplemental health 3415
care services, or specialty health care services, or a 3416
combination of basic health care services and either 3417
supplemental health care services or specialty health care 3418
services, through either an open panel plan or a closed panel 3419
plan. 3420

"Health insuring corporation" does not include a limited 3421
liability company formed pursuant to Chapter 1705. of the 3422
Revised Code, an insurer licensed under Title XXXIX of the 3423
Revised Code if that insurer offers only open panel plans under 3424
which all providers and health care facilities participating 3425
receive their compensation directly from the insurer, a 3426
corporation formed by or on behalf of a political subdivision or 3427
a department, office, or institution of the state, or a public 3428
entity formed by or on behalf of a board of county 3429
commissioners, a county board of developmental disabilities, an 3430
alcohol and drug addiction services board, a board of alcohol, 3431
drug addiction, and mental health services, or a community 3432
mental health board, as those terms are used in Chapters 340. 3433
and 5126. of the Revised Code. Except as provided by division 3434
(D) of section 1751.02 of the Revised Code, or as otherwise 3435
provided by law, no board, commission, agency, or other entity 3436
under the control of a political subdivision may accept 3437
insurance risk in providing for health care services. However, 3438
nothing in this division shall be construed as prohibiting such 3439
entities from purchasing the services of a health insuring 3440
corporation or a third-party administrator licensed under 3441
Chapter 3959. of the Revised Code. 3442

(P) "Intermediary organization" means a health delivery 3443
network or other entity that contracts with licensed health 3444

insuring corporations or self-insured employers, or both, to 3445
provide health care services, and that enters into contractual 3446
arrangements with other entities for the provision of health 3447
care services for the purpose of fulfilling the terms of its 3448
contracts with the health insuring corporations and self-insured 3449
employers. 3450

(Q) "Intermediate care" means residential care above the 3451
level of room and board for patients who require personal 3452
assistance and health-related services, but who do not require 3453
skilled nursing care. 3454

(R) "Medical record" means the personal information that 3455
relates to an individual's physical or mental condition, medical 3456
history, or medical treatment. 3457

(S) (1) "Open panel plan" means a health care plan that 3458
provides incentives for enrollees to use participating providers 3459
and that also allows enrollees to use providers that are not 3460
participating providers. 3461

(2) No health insuring corporation may offer an open panel 3462
plan, unless the health insuring corporation is also licensed as 3463
an insurer under Title XXXIX of the Revised Code, the health 3464
insuring corporation, on June 4, 1997, holds a certificate of 3465
authority or license to operate under Chapter 1736. or 1740. of 3466
the Revised Code, or an insurer licensed under Title XXXIX of 3467
the Revised Code is responsible for the out-of-network risk as 3468
evidenced by both an evidence of coverage filing under section 3469
1751.11 of the Revised Code and a policy and certificate filing 3470
under section 3923.02 of the Revised Code. 3471

(T) "Osteopathic hospital" means a hospital registered 3472
under section 3701.07 of the Revised Code that advocates 3473

osteopathic principles and the practice and perpetuation of 3474
osteopathic medicine by doing any of the following: 3475

(1) Maintaining a department or service of osteopathic 3476
medicine or a committee on the utilization of osteopathic 3477
principles and methods, under the supervision of an osteopathic 3478
physician; 3479

(2) Maintaining an active medical staff, the majority of 3480
which is comprised of osteopathic physicians; 3481

(3) Maintaining a medical staff executive committee that 3482
has osteopathic physicians as a majority of its members. 3483

(U) "Panel" means a group of providers or health care 3484
facilities that have joined together to deliver health care 3485
services through a contractual arrangement with a health 3486
insuring corporation, employer group, or other payor. 3487

(V) "Person" has the same meaning as in section 1.59 of 3488
the Revised Code, and, unless the context otherwise requires, 3489
includes any insurance company holding a certificate of 3490
authority under Title XXXIX of the Revised Code, any subsidiary 3491
and affiliate of an insurance company, and any government 3492
agency. 3493

(W) "Premium rate" means any set fee regularly paid by a 3494
subscriber to a health insuring corporation. A "premium rate" 3495
does not include a one-time membership fee, an annual 3496
administrative fee, or a nominal access fee, paid to a managed 3497
health care system under which the recipient of health care 3498
services remains solely responsible for any charges accessed for 3499
those services by the provider or health care facility. 3500

(X) "Primary care provider" means a provider that is 3501
designated by a health insuring corporation to supervise, 3502

coordinate, or provide initial care or continuing care to an 3503
enrollee, and that may be required by the health insuring 3504
corporation to initiate a referral for specialty care and to 3505
maintain supervision of the health care services rendered to the 3506
enrollee. 3507

(Y) "Provider" means any natural person or partnership of 3508
natural persons who are licensed, certified, accredited, or 3509
otherwise authorized in this state to furnish health care 3510
services, or any professional association organized under 3511
Chapter 1785. of the Revised Code, provided that nothing in this 3512
chapter or other provisions of law shall be construed to 3513
preclude a health insuring corporation, health care 3514
practitioner, or organized health care group associated with a 3515
health insuring corporation from employing certified nurse 3516
practitioners, certified nurse anesthetists, clinical nurse 3517
specialists, certified nurse-midwives, dietitians, physician 3518
assistants, dental assistants, dental hygienists, optometric 3519
technicians, or other allied health personnel who are licensed, 3520
certified, accredited, or otherwise authorized in this state to 3521
furnish health care services. 3522

(Z) "Provider sponsored organization" means a corporation, 3523
as defined in division (H) of this section, that is at least 3524
eighty per cent owned or controlled by one or more hospitals, as 3525
defined in section 3727.01 of the Revised Code, or one or more 3526
physicians licensed to practice medicine or surgery or 3527
osteopathic medicine and surgery under Chapter 4731. of the 3528
Revised Code, or any combination of such physicians and 3529
hospitals. Such control is presumed to exist if at least eighty 3530
per cent of the voting rights or governance rights of a provider 3531
sponsored organization are directly or indirectly owned, 3532
controlled, or otherwise held by any combination of the 3533

physicians and hospitals described in this division. 3534

(AA) "Solicitation document" means the written materials 3535
provided to prospective subscribers or enrollees, or both, and 3536
used for advertising and marketing to induce enrollment in the 3537
health care plans of a health insuring corporation. 3538

(BB) "Subscriber" means a person who is responsible for 3539
making payments to a health insuring corporation for 3540
participation in a health care plan, or an enrollee whose 3541
employment or other status is the basis of eligibility for 3542
enrollment in a health insuring corporation. 3543

(CC) "Urgent care services" means those health care 3544
services that are appropriately provided for an unforeseen 3545
condition of a kind that usually requires medical attention 3546
without delay but that does not pose a threat to the life, limb, 3547
or permanent health of the injured or ill person, and may 3548
include such health care services provided out of the health 3549
insuring corporation's approved service area pursuant to 3550
indemnity payments or service agreements. 3551

Sec. 1751.14. (A) Notwithstanding section 3901.71 of the 3552
Revised Code, any policy, contract, or agreement for health care 3553
services authorized by this chapter that is issued, delivered, 3554
or renewed in this state and that provides that coverage of an 3555
unmarried dependent child will terminate upon attainment of the 3556
limiting age for dependent children specified in the policy, 3557
contract, or agreement, shall also provide in substance both of 3558
the following: 3559

(1) Once an unmarried child has attained the limiting age 3560
for dependent children, as provided in the policy, contract, or 3561
agreement, upon the request of the subscriber, the health 3562

insuring corporation shall offer to cover the unmarried child 3563
until the child attains twenty-six years of age if all of the 3564
following are true: 3565

(a) The child is the natural child, stepchild, or adopted 3566
child of the subscriber. 3567

(b) The child is a resident of this state or a full-time 3568
student at an accredited public or private institution of higher 3569
education. 3570

(c) The child is not employed by an employer that offers 3571
any health benefit plan under which the child is eligible for 3572
coverage. 3573

(d) The child is not eligible for coverage under the 3574
medicaid program or the medicare program. 3575

(2) That attainment of the limiting age for dependent 3576
children shall not operate to terminate the coverage of a 3577
dependent child if the child is and continues to be both of the 3578
following: 3579

(a) Incapable of self-sustaining employment by reason of 3580
~~mental retardation or physical handicap or intellectual~~ 3581
disability; 3582

(b) Primarily dependent upon the subscriber for support 3583
and maintenance. 3584

(B) Proof of incapacity and dependence for purposes of 3585
division (A) (2) of this section shall be furnished to the health 3586
insuring corporation within thirty-one days of the child's 3587
attainment of the limiting age. Upon request, but not more 3588
frequently than annually, the health insuring corporation may 3589
require proof satisfactory to it of the continuance of such 3590

incapacity and dependency.	3591
(C) Nothing in this section shall do any of the following:	3592
(1) Require that any policy, contract, or agreement offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy, contract, or agreement;	3593 3594 3595 3596
(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy, contract, or agreement;	3597 3598 3599 3600
(3) Require an employer to offer health insurance coverage to the dependents of any employee.	3601 3602
(D) This section does not apply to any health insuring corporation policy, contract, or agreement offering only supplemental health care services or specialty health care services.	3603 3604 3605 3606
(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:	3607 3608 3609
(1) A public employee benefit plan;	3610
(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.	3611 3612
Sec. 2101.17. The fees enumerated in this section shall be paid to the probate court from the county treasury upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings as follows:	3613 3614 3615 3616 3617
(A) For each hearing to determine if a person	3618

is a mentally ill individual subject to		3619
hospitalization when the person is committed		3620
to a state hospital or to relatives		3621
.....	\$ 12.00;	3622
(B) When the person is discharged		3623
.....	7.00;	3624
(C) For order of return of a mentally ill person		3625
to a state hospital or removal therefrom		3626
.....	2.00;	3627
(D) For proceedings for committing a person to an		3628
institution for the mentally retarded		3629
<u>persons with intellectual disabilities</u>		3630
.....	10.00;	3631
(E) For habeas corpus proceedings when a person		3632
is confined under color of proceedings in a		3633
criminal case and is discharged		3634
.....	10.00;	3635
(F) When acting as a juvenile judge, for each		3636
case filed against a delinquency <u>delinquent</u> ,		3637
dependent, unruly, or neglected child, or a		3638
juvenile traffic offender		3639
.....	5.00;	3640
(G) For proceedings to take a child from parents		3641
or other persons having control thereof		3642
.....	5.00.	3643
Sec. 2101.24. (A) (1) Except as otherwise provided by law,		3644
the probate court has exclusive jurisdiction:		3645
(a) To take the proof of wills and to admit to record		3646
authenticated copies of wills executed, proved, and allowed in		3647
the courts of any other state, territory, or country. If the		3648
probate judge is unavoidably absent, any judge of the court of		3649

common pleas may take proof of wills and approve bonds to be 3650
given, but the record of these acts shall be preserved in the 3651
usual records of the probate court. 3652

(b) To grant and revoke letters testamentary and of 3653
administration; 3654

(c) To direct and control the conduct and settle the 3655
accounts of executors and administrators and order the 3656
distribution of estates; 3657

(d) To appoint the attorney general to serve as the 3658
administrator of an estate pursuant to section 2113.06 of the 3659
Revised Code; 3660

(e) To appoint and remove guardians, conservators, and 3661
testamentary trustees, direct and control their conduct, and 3662
settle their accounts; 3663

(f) To grant marriage licenses; 3664

(g) To make inquests respecting persons who are so 3665
mentally impaired, as a result of a mental or physical illness 3666
or disability, ~~or mental retardation~~ as a result of intellectual 3667
disability, or as a result of chronic substance abuse, that they 3668
are unable to manage their property and affairs effectively, 3669
subject to guardianship; 3670

(h) To qualify assignees, appoint and qualify trustees and 3671
commissioners of insolvents, control their conduct, and settle 3672
their accounts; 3673

(i) To authorize the sale of lands, equitable estates, or 3674
interests in lands or equitable estates, and the assignments of 3675
inchoate dower in such cases of sale, on petition by executors, 3676
administrators, and guardians; 3677

(j) To authorize the completion of real property contracts	3678
on petition of executors and administrators;	3679
(k) To construe wills;	3680
(l) To render declaratory judgments, including, but not	3681
limited to, those rendered pursuant to section 2107.084 of the	3682
Revised Code;	3683
(m) To direct and control the conduct of fiduciaries and	3684
settle their accounts;	3685
(n) To authorize the sale or lease of any estate created	3686
by will if the estate is held in trust, on petition by the	3687
trustee;	3688
(o) To terminate a testamentary trust in any case in which	3689
a court of equity may do so;	3690
(p) To hear and determine actions to contest the validity	3691
of wills;	3692
(q) To make a determination of the presumption of death of	3693
missing persons and to adjudicate the property rights and	3694
obligations of all parties affected by the presumption;	3695
(r) To hear and determine an action commenced pursuant to	3696
section 3107.41 of the Revised Code to obtain the release of	3697
information pertaining to the birth name of the adopted person	3698
and the identity of the adopted person's biological parents and	3699
biological siblings;	3700
(s) To act for and issue orders regarding wards pursuant	3701
to section 2111.50 of the Revised Code;	3702
(t) To hear and determine actions against sureties on the	3703
bonds of fiduciaries appointed by the probate court;	3704

(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; 3705
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3707

(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; 3708
3709
3710

(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code; 3711
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3713

(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division; 3714
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(y) To hear and determine applications that pertain to the withholding or withdrawal of nutrition and hydration from certain patients allegedly in a permanently unconscious state pursuant to section 2133.09 of the Revised Code, in accordance with that section; 3720
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(z) To hear and determine applications of attending physicians in accordance with division (B) of section 2133.15 of the Revised Code; 3725
3726
3727

(aa) To hear and determine actions relative to the use or continuation of comfort care in connection with certain principals under durable powers of attorney for health care, declarants under declarations, or patients in accordance with division (E) of either section 1337.16 or 2133.12 of the Revised Code; 3728
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3733

(bb) To hear and determine applications for an order relieving an estate from administration under section 2113.03 of the Revised Code;	3734 3735 3736
(cc) To hear and determine applications for an order granting a summary release from administration under section 2113.031 of the Revised Code;	3737 3738 3739
(dd) To hear and determine actions relating to the exercise of the right of disposition, in accordance with section 2108.90 of the Revised Code;	3740 3741 3742
(ee) To hear and determine actions relating to the disinterment and reinterment of human remains under section 517.23 of the Revised Code;	3743 3744 3745
(ff) To hear and determine petitions for an order for treatment of a person suffering from alcohol and other drug abuse filed under section 5119.93 of the Revised Code and to order treatment of that nature in accordance with, and take other actions afforded to the court under, sections 5119.90 to 5119.98 of the Revised Code.	3746 3747 3748 3749 3750 3751
(2) In addition to the exclusive jurisdiction conferred upon the probate court by division (A) (1) of this section, the probate court shall have exclusive jurisdiction over a particular subject matter if both of the following apply:	3752 3753 3754 3755
(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court.	3756 3757
(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.	3758 3759 3760
(B) (1) The probate court has concurrent jurisdiction with,	3761

and the same powers at law and in equity as, the general 3762
division of the court of common pleas to issue writs and orders, 3763
and to hear and determine actions as follows: 3764

(a) If jurisdiction relative to a particular subject 3765
matter is stated to be concurrent in a section of the Revised 3766
Code or has been construed by judicial decision to be 3767
concurrent, any action that involves that subject matter; 3768

(b) Any action that involves an inter vivos trust; a trust 3769
created pursuant to section 5815.28 of the Revised Code; a 3770
charitable trust or foundation; subject to divisions (A) (1) (u) 3771
and (z) of this section, a power of attorney, including, but not 3772
limited to, a durable power of attorney; the medical treatment 3773
of a competent adult; or a writ of habeas corpus; 3774

(c) Subject to section 2101.31 of the Revised Code, any 3775
action with respect to a probate estate, guardianship, trust, or 3776
post-death dispute that involves any of the following: 3777

(i) A designation or removal of a beneficiary of a life 3778
insurance policy, annuity contract, retirement plan, brokerage 3779
account, security account, bank account, real property, or 3780
tangible personal property; 3781

(ii) A designation or removal of a payable-on-death 3782
beneficiary or transfer-on-death beneficiary; 3783

(iii) A change in the title to any asset involving a joint 3784
and survivorship interest; 3785

(iv) An alleged gift; 3786

(v) The passing of assets upon the death of an individual 3787
otherwise than by will, intestate succession, or trust. 3788

(2) Any action that involves a concurrent jurisdiction 3789

subject matter and that is before the probate court may be 3790
transferred by the probate court, on its order, to the general 3791
division of the court of common pleas. 3792

(C) The probate court has plenary power at law and in 3793
equity to dispose fully of any matter that is properly before 3794
the court, unless the power is expressly otherwise limited or 3795
denied by a section of the Revised Code. 3796

(D) The jurisdiction acquired by a probate court over a 3797
matter or proceeding is exclusive of that of any other probate 3798
court, except when otherwise provided by law. 3799

Sec. 2108.521. (A) If a ~~mentally retarded person or a~~ 3800
~~developmentally disabled person~~ with a developmental disability 3801
dies, if the department of developmental disabilities or a 3802
county board of developmental disabilities has a good faith 3803
reason to believe that the deceased person's death occurred 3804
under suspicious circumstances, if the coroner was apprised of 3805
the circumstances of the death, and if the coroner after being 3806
so apprised of the circumstances declines to conduct an autopsy, 3807
the department or the board may file a petition in a court of 3808
common pleas seeking an order authorizing an autopsy or post- 3809
mortem examination under this section. 3810

(B) Upon the filing of a petition under division (A) of 3811
this section, the court may conduct, but is not required to 3812
conduct, a hearing on the petition. The court may determine 3813
whether to grant the petition without a hearing. The department 3814
or board, and all other interested parties, may submit 3815
information and statements to the court that are relevant to the 3816
petition, and, if the court conducts a hearing, may present 3817
evidence and testimony at the hearing. The court shall order the 3818
requested autopsy or post-mortem examination if it finds that, 3819

under the circumstances, the department or board has 3820
demonstrated a need for the autopsy or post-mortem examination. 3821
The court shall order an autopsy or post-mortem examination in 3822
the circumstances specified in this division regardless of 3823
whether any consent has been given, or has been given and 3824
withdrawn, under section 2108.50 of the Revised Code, and 3825
regardless of whether any information was presented to the 3826
coroner pursuant to section 313.131 of the Revised Code or to 3827
the court under this section regarding an autopsy being contrary 3828
to the deceased person's religious beliefs. 3829

(C) An autopsy or post-mortem examination ordered under 3830
this section may be performed upon the body of the deceased 3831
person by a licensed physician or surgeon. The court may 3832
identify in the order the person who is to perform the autopsy 3833
or post-mortem examination. If an autopsy or post-mortem 3834
examination is ordered under this section, the department or 3835
board that requested the autopsy or examination shall pay the 3836
physician or surgeon who performs the autopsy or examination for 3837
costs and expenses incurred in performing the autopsy or 3838
examination. 3839

Sec. 2109.01. "Fiduciary," as used in Chapters 2101. to 3840
2131. of the Revised Code, means any person, other than an 3841
assignee or trustee for an insolvent debtor or a guardian under 3842
sections 5905.01 to 5905.19 of the Revised Code, appointed by 3843
and accountable to the probate court and acting in a fiduciary 3844
capacity for any person, or charged with duties in relation to 3845
any property, interest, trust, or estate for the benefit of 3846
another; and includes an agency under contract with the 3847
department of developmental disabilities for the provision of 3848
protective service under sections 5123.55 to 5123.59 of the 3849
Revised Code, appointed by and accountable to the probate court 3850

as guardian or trustee with respect to ~~mentally retarded or~~ 3851
~~developmentally disabled persons~~ with developmental 3852
disabilities. 3853

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 3854
Revised Code: 3855

(A) "Guardian," other than a guardian under sections 3856
5905.01 to 5905.19 of the Revised Code, means any person, 3857
association, or corporation appointed by the probate court to 3858
have the care and management of the person, the estate, or both 3859
of an incompetent or minor. When applicable, "guardian" 3860
includes, but is not limited to, a limited guardian, an interim 3861
guardian, a standby guardian, and an emergency guardian 3862
appointed pursuant to division (B) of section 2111.02 of the 3863
Revised Code. "Guardian" also includes an agency under contract 3864
with the department of developmental disabilities for the 3865
provision of protective service under sections 5123.55 to 3866
5123.59 of the Revised Code when appointed by the probate court 3867
to have the care and management of the person of an incompetent. 3868

(B) "Ward" means any person for whom a guardian is acting 3869
or for whom the probate court is acting pursuant to section 3870
2111.50 of the Revised Code. 3871

(C) "Resident guardian" means a guardian appointed by a 3872
probate court to have the care and management of property in 3873
this state that belongs to a nonresident ward. 3874

(D) "Incompetent" means ~~any~~ either of the following: 3875

(1) Any person who is so mentally impaired, as a result of 3876
a mental or physical illness or disability, ~~or mental~~ 3877
~~retardation~~ as a result of intellectual disability, or as a 3878
result of chronic substance abuse, that the person is incapable 3879

of taking proper care of the person's self or property or fails 3880
to provide for the person's family or other persons for whom the 3881
person is charged by law to provide, ~~or any~~ 3882

(2) Any person confined to a correctional institution 3883
within this state. 3884

(E) "Next of kin" means any person who would be entitled 3885
to inherit from a ward under Chapter 2105. of the Revised Code 3886
if the ward dies intestate. 3887

(F) "Conservator" means a conservator appointed by the 3888
probate court in an order of conservatorship issued pursuant to 3889
section 2111.021 of the Revised Code. 3890

(G) "Parent" means a natural parent or adoptive parent of 3891
a minor child whose parental rights and responsibilities have 3892
not been terminated by a juvenile court or another court. 3893

(H) "Financial harm" means impairment of an individual's 3894
financial assets by unlawfully obtaining or exerting control 3895
over the individual's real or personal property in any of the 3896
following ways: 3897

(1) Without the consent of the individual or the person 3898
authorized to give consent on the individual's behalf; 3899

(2) Beyond the scope of the express or implied consent of 3900
the individual or the person authorized to give consent on the 3901
individual's behalf; 3902

(3) By deception; 3903

(4) By threat; 3904

(5) By intimidation; 3905

(6) By fraud; 3906

(7) By undue influence. 3907

Sec. 2111.10. As used in this section, "~~mentally retarded~~ 3908
~~person~~" and "~~developmentally disabled person~~developmental 3909
disability" ~~have~~has the same ~~meanings~~meaning as in section 3910
5123.01 of the Revised Code. 3911

Any appointment of a corporation as guardian shall apply 3912
to the estate only and not to the person, except that a 3913
nonprofit corporation organized under the laws of this state and 3914
entitled to tax exempt status under section 501(a) of the 3915
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 3916
501, as amended, that has a contract with the department of 3917
developmental disabilities to provide protective services may be 3918
appointed as a guardian of ~~the person of a mentally retarded or~~ 3919
~~developmentally disabled~~ a person with a developmental 3920
disability and may serve as guardian pursuant to sections 3921
5123.55 to 5123.59 of the Revised Code. 3922

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 3923
section, the guardian of an incompetent person shall file a 3924
guardian's report with the court two years after the date of the 3925
issuance of the guardian's letters of appointment and biennially 3926
after that time, or at any other time upon the motion or a rule 3927
of the probate court. The report shall be in a form prescribed 3928
by the court and shall include all of the following. 3929

(a) The present address of the place of residence of the 3930
ward; 3931

(b) The present address of the guardian; 3932

(c) If the place of residence of the ward is not the 3933
ward's personal home, the name of the facility at which the ward 3934
resides and the name of the person responsible for the ward's 3935

care; 3936

(d) The approximate number of times during the period 3937
covered by the report that the guardian has had contact with the 3938
ward, the nature of those contacts, and the date that the ward 3939
was last seen by the guardian; 3940

(e) Any major changes in the physical or mental condition 3941
of the ward observed by the guardian; 3942

(f) The opinion of the guardian as to the necessity for 3943
the continuation of the guardianship; 3944

(g) The opinion of the guardian as to the adequacy of the 3945
present care of the ward; 3946

(h) The date that the ward was last examined or otherwise 3947
seen by a physician and the purpose of that visit; 3948

(i) A statement by a licensed physician, licensed clinical 3949
psychologist, licensed independent social worker, licensed 3950
professional clinical counselor, or ~~mental retardation~~ 3951
developmental disability team that has evaluated or examined the 3952
ward within three months prior to the date of the report as to 3953
the need for continuing the guardianship. 3954

(2) The court shall review a report filed pursuant to 3955
division (A)(1) of this section to determine if a continued 3956
necessity for the guardianship exists. The court may direct a 3957
probate court investigator to verify aspects of the report. 3958

(3) Division (A)(1) of this section applies to guardians 3959
appointed prior to, as well as on or after, the effective date 3960
of this section. A guardian appointed prior to that date shall 3961
file the first report in accordance with any applicable court 3962
rule or motion, or, in the absence of such a rule or motion, 3963

upon the next occurring date on which a report would have been 3964
due if division (A) (1) of this section had been in effect on the 3965
date of appointment as guardian, and shall file all subsequently 3966
due reports biennially after that time. 3967

(B) If, upon review of any report required by division (A) 3968
(1) of this section, the court finds that it is necessary to 3969
intervene in a guardianship, the court shall take any action 3970
that it determines is necessary, including, but not limited to, 3971
terminating or modifying the guardianship. 3972

(C) Except as provided in this division, for any 3973
guardianship, upon written request by the ward, the ward's 3974
attorney, or any other interested party made at any time after 3975
the expiration of one hundred twenty days from the date of the 3976
original appointment of the guardian, a hearing shall be held in 3977
accordance with section 2111.02 of the Revised Code to evaluate 3978
the continued necessity of the guardianship. Upon written 3979
request, the court shall conduct a minimum of one hearing under 3980
this division in the calendar year in which the guardian was 3981
appointed, and upon written request, shall conduct a minimum of 3982
one hearing in each of the following calendar years. Upon its 3983
own motion or upon written request, the court may, in its 3984
discretion, conduct a hearing within the first one hundred 3985
twenty days after appointment of the guardian or conduct more 3986
than one hearing in a calendar year. If the ward alleges 3987
competence, the burden of proving incompetence shall be upon the 3988
applicant for guardianship or the guardian, by clear and 3989
convincing evidence. 3990

Sec. 2151.011. (A) As used in the Revised Code: 3991

(1) "Juvenile court" means whichever of the following is 3992
applicable that has jurisdiction under this chapter and Chapter 3993

2152. of the Revised Code:	3994
(a) The division of the court of common pleas specified in	3995
section 2101.022 or 2301.03 of the Revised Code as having	3996
jurisdiction under this chapter and Chapter 2152. of the Revised	3997
Code or as being the juvenile division or the juvenile division	3998
combined with one or more other divisions;	3999
(b) The juvenile court of Cuyahoga county or Hamilton	4000
county that is separately and independently created by section	4001
2151.08 or Chapter 2153. of the Revised Code and that has	4002
jurisdiction under this chapter and Chapter 2152. of the Revised	4003
Code;	4004
(c) If division (A) (1) (a) or (b) of this section does not	4005
apply, the probate division of the court of common pleas.	4006
(2) "Juvenile judge" means a judge of a court having	4007
jurisdiction under this chapter.	4008
(3) "Private child placing agency" means any association,	4009
as defined in section 5103.02 of the Revised Code, that is	4010
certified under section 5103.03 of the Revised Code to accept	4011
temporary, permanent, or legal custody of children and place the	4012
children for either foster care or adoption.	4013
(4) "Private noncustodial agency" means any person,	4014
organization, association, or society certified by the	4015
department of job and family services that does not accept	4016
temporary or permanent legal custody of children, that is	4017
privately operated in this state, and that does one or more of	4018
the following:	4019
(a) Receives and cares for children for two or more	4020
consecutive weeks;	4021

(b) Participates in the placement of children in certified foster homes;	4022 4023
(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.	4024 4025
(B) As used in this chapter:	4026
(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.	4027 4028 4029 4030 4031 4032
(2) "Adult" means an individual who is eighteen years of age or older.	4033 4034
(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.	4035 4036 4037 4038
(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.	4039 4040 4041 4042 4043 4044
(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.	4045 4046 4047
(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any	4048 4049

person who is adjudicated an unruly child prior to attaining 4050
eighteen years of age until the person attains twenty-one years 4051
of age, and, for purposes of that jurisdiction related to that 4052
adjudication, a person who is so adjudicated an unruly child 4053
shall be deemed a "child" until the person attains twenty-one 4054
years of age. 4055

(7) "Child day camp," "child care," "child day-care 4056
center," "part-time child day-care center," "type A family day- 4057
care home," "licensed type B family day-care home," "type B 4058
family day-care home," "administrator of a child day-care 4059
center," "administrator of a type A family day-care home," and 4060
"in-home aide" have the same meanings as in section 5104.01 of 4061
the Revised Code. 4062

(8) "Child care provider" means an individual who is a 4063
child-care staff member or administrator of a child day-care 4064
center, a type A family day-care home, or a type B family day- 4065
care home, or an in-home aide or an individual who is licensed, 4066
is regulated, is approved, operates under the direction of, or 4067
otherwise is certified by the department of job and family 4068
services, department of developmental disabilities, or the early 4069
childhood programs of the department of education. 4070

(9) "Chronic truant" has the same meaning as in section 4071
2152.02 of the Revised Code. 4072

(10) "Commit" means to vest custody as ordered by the 4073
court. 4074

(11) "Counseling" includes both of the following: 4075

(a) General counseling services performed by a public 4076
children services agency or shelter for victims of domestic 4077
violence to assist a child, a child's parents, and a child's 4078

siblings in alleviating identified problems that may cause or 4079
have caused the child to be an abused, neglected, or dependent 4080
child. 4081

(b) Psychiatric or psychological therapeutic counseling 4082
services provided to correct or alleviate any mental or 4083
emotional illness or disorder and performed by a licensed 4084
psychiatrist, licensed psychologist, or a person licensed under 4085
Chapter 4757. of the Revised Code to engage in social work or 4086
professional counseling. 4087

(12) "Custodian" means a person who has legal custody of a 4088
child or a public children services agency or private child 4089
placing agency that has permanent, temporary, or legal custody 4090
of a child. 4091

(13) "Delinquent child" has the same meaning as in section 4092
2152.02 of the Revised Code. 4093

(14) "Detention" means the temporary care of children 4094
pending court adjudication or disposition, or execution of a 4095
court order, in a public or private facility designed to 4096
physically restrict the movement and activities of children. 4097

(15) "Developmental disability" has the same meaning as in 4098
section 5123.01 of the Revised Code. 4099

(16) "Differential response approach" means an approach 4100
that a public children services agency may use to respond to 4101
accepted reports of child abuse or neglect with either an 4102
alternative response or a traditional response. 4103

(17) "Foster caregiver" has the same meaning as in section 4104
5103.02 of the Revised Code. 4105

(18) "Guardian" means a person, association, or 4106

corporation that is granted authority by a probate court 4107
pursuant to Chapter 2111. of the Revised Code to exercise 4108
parental rights over a child to the extent provided in the 4109
court's order and subject to the residual parental rights of the 4110
child's parents. 4111

(19) "Habitual truant" means any child of compulsory 4112
school age who is absent without legitimate excuse for absence 4113
from the public school the child is supposed to attend for five 4114
or more consecutive school days, seven or more school days in 4115
one school month, or twelve or more school days in a school 4116
year. 4117

(20) "Intellectual disability" has the same meaning as in 4118
section 5123.01 of the Revised Code. 4119

(21) "Juvenile traffic offender" has the same meaning as 4120
in section 2152.02 of the Revised Code. 4121

~~(21)~~(22) "Legal custody" means a legal status that vests 4122
in the custodian the right to have physical care and control of 4123
the child and to determine where and with whom the child shall 4124
live, and the right and duty to protect, train, and discipline 4125
the child and to provide the child with food, shelter, 4126
education, and medical care, all subject to any residual 4127
parental rights, privileges, and responsibilities. An individual 4128
granted legal custody shall exercise the rights and 4129
responsibilities personally unless otherwise authorized by any 4130
section of the Revised Code or by the court. 4131

~~(22)~~(23) A "legitimate excuse for absence from the public 4132
school the child is supposed to attend" includes, but is not 4133
limited to, any of the following: 4134

(a) The fact that the child in question has enrolled in 4135

and is attending another public or nonpublic school in this or 4136
another state; 4137

(b) The fact that the child in question is excused from 4138
attendance at school for any of the reasons specified in section 4139
3321.04 of the Revised Code; 4140

(c) The fact that the child in question has received an 4141
age and schooling certificate in accordance with section 3331.01 4142
of the Revised Code. 4143

~~(23) (24) "Mental illness" and "mentally ill person-~~ 4144
~~subject to court order" have~~ has the same ~~meanings~~ meaning as in 4145
section 5122.01 of the Revised Code. 4146

~~(24) (25) "Mental injury" means any behavioral, cognitive,~~ 4147
emotional, or mental disorder in a child caused by an act or 4148
omission that is described in section 2919.22 of the Revised 4149
Code and is committed by the parent or other person responsible 4150
for the child's care. 4151

~~(25) "Mentally retarded person" has the same meaning as in~~ 4152
~~section 5123.01 of the Revised Code.~~ 4153

(26) "Nonsecure care, supervision, or training" means 4154
care, supervision, or training of a child in a facility that 4155
does not confine or prevent movement of the child within the 4156
facility or from the facility. 4157

(27) "Of compulsory school age" has the same meaning as in 4158
section 3321.01 of the Revised Code. 4159

(28) "Organization" means any institution, public, 4160
semipublic, or private, and any private association, society, or 4161
agency located or operating in the state, incorporated or 4162
unincorporated, having among its functions the furnishing of 4163

protective services or care for children, or the placement of 4164
children in certified foster homes or elsewhere. 4165

(29) "Out-of-home care" means detention facilities, 4166
shelter facilities, certified children's crisis care facilities, 4167
certified foster homes, placement in a prospective adoptive home 4168
prior to the issuance of a final decree of adoption, 4169
organizations, certified organizations, child day-care centers, 4170
type A family day-care homes, type B family day-care homes, 4171
child care provided by in-home aides, group home providers, 4172
group homes, institutions, state institutions, residential 4173
facilities, residential care facilities, residential camps, day 4174
camps, private, nonprofit therapeutic wilderness camps, public 4175
schools, chartered nonpublic schools, educational service 4176
centers, hospitals, and medical clinics that are responsible for 4177
the care, physical custody, or control of children. 4178

(30) "Out-of-home care child abuse" means any of the 4179
following when committed by a person responsible for the care of 4180
a child in out-of-home care: 4181

(a) Engaging in sexual activity with a child in the 4182
person's care; 4183

(b) Denial to a child, as a means of punishment, of proper 4184
or necessary subsistence, education, medical care, or other care 4185
necessary for a child's health; 4186

(c) Use of restraint procedures on a child that cause 4187
injury or pain; 4188

(d) Administration of prescription drugs or psychotropic 4189
medication to the child without the written approval and ongoing 4190
supervision of a licensed physician; 4191

(e) Commission of any act, other than by accidental means, 4192

that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

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

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

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

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

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

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

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

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

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

(f) Failure to provide ongoing security for all 4221
prescription and nonprescription medication; 4222

(g) Isolation of a child for a period of time when there 4223
is substantial risk that the isolation, if continued, will 4224
impair or retard the mental health or physical well-being of the 4225
child. 4226

(32) "Permanent custody" means a legal status that vests 4227
in a public children services agency or a private child placing 4228
agency, all parental rights, duties, and obligations, including 4229
the right to consent to adoption, and divests the natural 4230
parents or adoptive parents of all parental rights, privileges, 4231
and obligations, including all residual rights and obligations. 4232

(33) "Permanent surrender" means the act of the parents 4233
or, if a child has only one parent, of the parent of a child, by 4234
a voluntary agreement authorized by section 5103.15 of the 4235
Revised Code, to transfer the permanent custody of the child to 4236
a public children services agency or a private child placing 4237
agency. 4238

(34) "Person" means an individual, association, 4239
corporation, or partnership and the state or any of its 4240
political subdivisions, departments, or agencies. 4241

(35) "Person responsible for a child's care in out-of-home 4242
care" means any of the following: 4243

(a) Any foster caregiver, in-home aide, or provider; 4244

(b) Any administrator, employee, or agent of any of the 4245
following: a public or private detention facility; shelter 4246
facility; certified children's crisis care facility; 4247
organization; certified organization; child day-care center; 4248
type A family day-care home; licensed type B family day-care 4249

home; group home; institution; state institution; residential 4250
facility; residential care facility; residential camp; day camp; 4251
school district; community school; chartered nonpublic school; 4252
educational service center; hospital; or medical clinic; 4253

(c) Any person who supervises or coaches children as part 4254
of an extracurricular activity sponsored by a school district, 4255
public school, or chartered nonpublic school; 4256

(d) Any other person who performs a similar function with 4257
respect to, or has a similar relationship to, children. 4258

(36) "~~Physically impaired~~Physical impairment" means having 4259
one or more of the following conditions that substantially limit 4260
one or more of an individual's major life activities, including 4261
self-care, receptive and expressive language, learning, 4262
mobility, and self-direction: 4263

(a) A substantial impairment of vision, speech, or 4264
hearing; 4265

(b) A congenital orthopedic impairment; 4266

(c) An orthopedic impairment caused by disease, rheumatic 4267
fever or any other similar chronic or acute health problem, or 4268
amputation or another similar cause. 4269

(37) "Placement for adoption" means the arrangement by a 4270
public children services agency or a private child placing 4271
agency with a person for the care and adoption by that person of 4272
a child of whom the agency has permanent custody. 4273

(38) "Placement in foster care" means the arrangement by a 4274
public children services agency or a private child placing 4275
agency for the out-of-home care of a child of whom the agency 4276
has temporary custody or permanent custody. 4277

(39) "Planned permanent living arrangement" means an order 4278
of a juvenile court pursuant to which both of the following 4279
apply: 4280

(a) The court gives legal custody of a child to a public 4281
children services agency or a private child placing agency 4282
without the termination of parental rights. 4283

(b) The order permits the agency to make an appropriate 4284
placement of the child and to enter into a written agreement 4285
with a foster care provider or with another person or agency 4286
with whom the child is placed. 4287

(40) "Practice of social work" and "practice of 4288
professional counseling" have the same meanings as in section 4289
4757.01 of the Revised Code. 4290

(41) "Private, nonprofit therapeutic wilderness camp" has 4291
the same meaning as in section 5103.02 of the Revised Code. 4292

(42) "Sanction, service, or condition" means a sanction, 4293
service, or condition created by court order following an 4294
adjudication that a child is an unruly child that is described 4295
in division (A) (4) of section 2152.19 of the Revised Code. 4296

(43) "Protective supervision" means an order of 4297
disposition pursuant to which the court permits an abused, 4298
neglected, dependent, or unruly child to remain in the custody 4299
of the child's parents, guardian, or custodian and stay in the 4300
child's home, subject to any conditions and limitations upon the 4301
child, the child's parents, guardian, or custodian, or any other 4302
person that the court prescribes, including supervision as 4303
directed by the court for the protection of the child. 4304

(44) "Psychiatrist" has the same meaning as in section 4305
5122.01 of the Revised Code. 4306

- (45) "Psychologist" has the same meaning as in section 4307
4732.01 of the Revised Code. 4308
- (46) "Residential camp" means a program in which the care, 4309
physical custody, or control of children is accepted overnight 4310
for recreational or recreational and educational purposes. 4311
- (47) "Residential care facility" means an institution, 4312
residence, or facility that is licensed by the department of 4313
mental health and addiction services under section 5119.34 of 4314
the Revised Code and that provides care for a child. 4315
- (48) "Residential facility" means a home or facility that 4316
is licensed by the department of developmental disabilities 4317
under section 5123.19 of the Revised Code and in which a child 4318
with a developmental disability resides. 4319
- (49) "Residual parental rights, privileges, and 4320
responsibilities" means those rights, privileges, and 4321
responsibilities remaining with the natural parent after the 4322
transfer of legal custody of the child, including, but not 4323
necessarily limited to, the privilege of reasonable visitation, 4324
consent to adoption, the privilege to determine the child's 4325
religious affiliation, and the responsibility for support. 4326
- (50) "School day" means the school day established by the 4327
board of education of the applicable school district pursuant to 4328
section 3313.481 of the Revised Code. 4329
- (51) "School year" has the same meaning as in section 4330
3313.62 of the Revised Code. 4331
- (52) "Secure correctional facility" means a facility under 4332
the direction of the department of youth services that is 4333
designed to physically restrict the movement and activities of 4334
children and used for the placement of children after 4335

adjudication and disposition. 4336

(53) "Sexual activity" has the same meaning as in section 4337
2907.01 of the Revised Code. 4338

(54) "Shelter" means the temporary care of children in 4339
physically unrestricted facilities pending court adjudication or 4340
disposition. 4341

(55) "Shelter for victims of domestic violence" has the 4342
same meaning as in section 3113.33 of the Revised Code. 4343

(56) "Temporary custody" means legal custody of a child 4344
who is removed from the child's home, which custody may be 4345
terminated at any time at the discretion of the court or, if the 4346
legal custody is granted in an agreement for temporary custody, 4347
by the person who executed the agreement. 4348

(57) "Traditional response" means a public children 4349
services agency's response to a report of child abuse or neglect 4350
that encourages engagement of the family in a comprehensive 4351
evaluation of the child's current and future safety needs and a 4352
fact-finding process to determine whether child abuse or neglect 4353
occurred and the circumstances surrounding the alleged harm or 4354
risk of harm. 4355

(C) For the purposes of this chapter, a child shall be 4356
presumed abandoned when the parents of the child have failed to 4357
visit or maintain contact with the child for more than ninety 4358
days, regardless of whether the parents resume contact with the 4359
child after that period of ninety days. 4360

Sec. 2151.281. (A) The court shall appoint a guardian ad 4361
litem, subject to rules adopted by the supreme court, to protect 4362
the interest of a child in any proceeding concerning an alleged 4363
or adjudicated delinquent child or unruly child when either of 4364

the following applies: 4365

(1) The child has no parent, guardian, or legal custodian. 4366

(2) The court finds that there is a conflict of interest 4367
between the child and the child's parent, guardian, or legal 4368
custodian. 4369

(B) (1) Except as provided in division (K) of this section, 4370
the court shall appoint a guardian ad litem, subject to rules 4371
adopted by the supreme court, to protect the interest of a child 4372
in any proceeding concerning an alleged abused or neglected 4373
child and in any proceeding held pursuant to section 2151.414 of 4374
the Revised Code. The guardian ad litem so appointed shall not 4375
be the attorney responsible for presenting the evidence alleging 4376
that the child is an abused or neglected child and shall not be 4377
an employee of any party in the proceeding. 4378

(2) Except in any proceeding concerning a dependent child 4379
involving the permanent custody of an infant under the age of 4380
six months for the sole purpose of placement for adoption by a 4381
private child placing agency, the court shall appoint a guardian 4382
ad litem, subject to rules adopted by the supreme court, to 4383
protect the interest of a child in any proceeding concerning an 4384
alleged dependent child if any of the following applies: 4385

(a) The parent of the child appears to be mentally 4386
incompetent or is under eighteen years of age. 4387

(b) There is a conflict of interest between the child and 4388
the child's parents, guardian, or custodian. 4389

(c) The court believes that the parent of the child is not 4390
capable of representing the best interest of the child. 4391

(3) Except in any proceeding concerning a dependent child 4392

involving the permanent custody of an infant under the age of 4393
six months for the sole purpose of placement for adoption by a 4394
private child placing agency, the court may appoint a guardian 4395
ad litem, subject to rules adopted by the supreme court, to 4396
protect the interest of the child in any other proceeding 4397
concerning an alleged dependent child. 4398

(4) The guardian ad litem appointed for an alleged or 4399
adjudicated abused or neglected child may bring a civil action 4400
against any person who is required by division (A) (1) or (4) of 4401
section 2151.421 of the Revised Code to file a report of child 4402
abuse or child neglect that is known or reasonably suspected or 4403
believed to have occurred if that person knows, or has 4404
reasonable cause to suspect or believe based on facts that would 4405
cause a reasonable person in a similar position to suspect or 4406
believe, as applicable, that the child for whom the guardian ad 4407
litem is appointed is the subject of child abuse or child 4408
neglect and does not file the required report and if the child 4409
suffers any injury or harm as a result of the child abuse or 4410
child neglect that is known or reasonably suspected or believed 4411
to have occurred or suffers additional injury or harm after the 4412
failure to file the report. 4413

(C) In any proceeding concerning an alleged or adjudicated 4414
delinquent, unruly, abused, neglected, or dependent child in 4415
which the parent appears to be mentally incompetent or is under 4416
eighteen years of age, the court shall appoint a guardian ad 4417
litem to protect the interest of that parent. 4418

(D) The court shall require the guardian ad litem to 4419
faithfully discharge the guardian ad litem's duties and, upon 4420
the guardian ad litem's failure to faithfully discharge the 4421
guardian ad litem's duties, shall discharge the guardian ad 4422

litem and appoint another guardian ad litem. The court may fix 4423
the compensation for the service of the guardian ad litem, which 4424
compensation shall be paid from the treasury of the county, 4425
subject to rules adopted by the supreme court. 4426

(E) A parent who is eighteen years of age or older and not 4427
mentally incompetent shall be deemed sui juris for the purpose 4428
of any proceeding relative to a child of the parent who is 4429
alleged or adjudicated to be an abused, neglected, or dependent 4430
child. 4431

(F) In any case in which a parent of a child alleged or 4432
adjudicated to be an abused, neglected, or dependent child is 4433
under eighteen years of age, the parents of that parent shall be 4434
summoned to appear at any hearing respecting the child, who is 4435
alleged or adjudicated to be an abused, neglected, or dependent 4436
child. 4437

(G) Except as provided in division (K) of this section, in 4438
any case in which a guardian ad litem is to be appointed for an 4439
alleged or adjudicated abused, neglected, or dependent child or 4440
in any case involving an agreement for the voluntary surrender 4441
of temporary or permanent custody of a child that is made in 4442
accordance with section 5103.15 of the Revised Code, the court 4443
shall appoint the guardian ad litem in each case as soon as 4444
possible after the complaint is filed, the request for an 4445
extension of the temporary custody agreement is filed with the 4446
court, or the request for court approval of the permanent 4447
custody agreement is filed. The guardian ad litem or the 4448
guardian ad litem's replacement shall continue to serve until 4449
any of the following occur: 4450

(1) The complaint is dismissed or the request for an 4451
extension of a temporary custody agreement or for court approval 4452

of the permanent custody agreement is withdrawn or denied; 4453

(2) All dispositional orders relative to the child have 4454
terminated; 4455

(3) The legal custody of the child is granted to a 4456
relative of the child, or to another person; 4457

(4) The child is placed in an adoptive home or, at the 4458
court's discretion, a final decree of adoption is issued with 4459
respect to the child; 4460

(5) The child reaches the age of eighteen if the child ~~is~~ 4461
does not mentally retarded, developmentally disabled, have a 4462
developmental disability or physically impaired physical 4463
impairment or the child reaches the age of twenty-one if the 4464
child ~~is mentally retarded, developmentally disabled, has a~~ 4465
developmental disability or physically impaired physical 4466
impairment; 4467

(6) The guardian ad litem resigns or is removed by the 4468
court and a replacement is appointed by the court. 4469

If a guardian ad litem ceases to serve a child pursuant to 4470
division (G)(4) of this section and the petition for adoption 4471
with respect to the child is denied or withdrawn prior to the 4472
issuance of a final decree of adoption or prior to the date an 4473
interlocutory order of adoption becomes final, the juvenile 4474
court shall reappoint a guardian ad litem for that child. The 4475
public children services agency or private child placing agency 4476
with permanent custody of the child shall notify the juvenile 4477
court if the petition for adoption is denied or withdrawn. 4478

(H) If the guardian ad litem for an alleged or adjudicated 4479
abused, neglected, or dependent child is an attorney admitted to 4480
the practice of law in this state, the guardian ad litem also 4481

may serve as counsel to the ward. Until the supreme court adopts 4482
rules regarding service as a guardian ad litem that regulate 4483
conflicts between a person's role as guardian ad litem and as 4484
counsel, if a person is serving as guardian ad litem and counsel 4485
for a child and either that person or the court finds that a 4486
conflict may exist between the person's roles as guardian ad 4487
litem and as counsel, the court shall relieve the person of 4488
duties as guardian ad litem and appoint someone else as guardian 4489
ad litem for the child. If the court appoints a person who is 4490
not an attorney admitted to the practice of law in this state to 4491
be a guardian ad litem, the court also may appoint an attorney 4492
admitted to the practice of law in this state to serve as 4493
counsel for the guardian ad litem. 4494

(I) The guardian ad litem for an alleged or adjudicated 4495
abused, neglected, or dependent child shall perform whatever 4496
functions are necessary to protect the best interest of the 4497
child, including, but not limited to, investigation, mediation, 4498
monitoring court proceedings, and monitoring the services 4499
provided the child by the public children services agency or 4500
private child placing agency that has temporary or permanent 4501
custody of the child, and shall file any motions and other court 4502
papers that are in the best interest of the child in accordance 4503
with rules adopted by the supreme court. 4504

The guardian ad litem shall be given notice of all 4505
hearings, administrative reviews, and other proceedings in the 4506
same manner as notice is given to parties to the action. 4507

(J) (1) When the court appoints a guardian ad litem 4508
pursuant to this section, it shall appoint a qualified volunteer 4509
or court appointed special advocate whenever one is available 4510
and the appointment is appropriate. 4511

(2) Upon request, the department of job and family 4512
services shall provide for the training of volunteer guardians 4513
ad litem. 4514

(K) A guardian ad litem shall not be appointed for a child 4515
who is under six months of age in any proceeding in which a 4516
private child placing agency is seeking permanent custody of the 4517
child or seeking approval of a voluntary permanent custody 4518
surrender agreement for the sole purpose of the adoption of the 4519
child. 4520

Sec. 2151.353. (A) If a child is adjudicated an abused, 4521
neglected, or dependent child, the court may make any of the 4522
following orders of disposition: 4523

(1) Place the child in protective supervision; 4524

(2) Commit the child to the temporary custody of a public 4525
children services agency, a private child placing agency, either 4526
parent, a relative residing within or outside the state, or a 4527
probation officer for placement in a certified foster home, or 4528
in any other home approved by the court; 4529

(3) Award legal custody of the child to either parent or 4530
to any other person who, prior to the dispositional hearing, 4531
files a motion requesting legal custody of the child or is 4532
identified as a proposed legal custodian in a complaint or 4533
motion filed prior to the dispositional hearing by any party to 4534
the proceedings. A person identified in a complaint or motion 4535
filed by a party to the proceedings as a proposed legal 4536
custodian shall be awarded legal custody of the child only if 4537
the person identified signs a statement of understanding for 4538
legal custody that contains at least the following provisions: 4539

(a) That it is the intent of the person to become the 4540

legal custodian of the child and the person is able to assume 4541
legal responsibility for the care and supervision of the child; 4542

(b) That the person understands that legal custody of the 4543
child in question is intended to be permanent in nature and that 4544
the person will be responsible as the custodian for the child 4545
until the child reaches the age of majority. Responsibility as 4546
custodian for the child shall continue beyond the age of 4547
majority if, at the time the child reaches the age of majority, 4548
the child is pursuing a diploma granted by the board of 4549
education or other governing authority, successful completion of 4550
the curriculum of any high school, successful completion of an 4551
individualized education program developed for the student by 4552
any high school, or an age and schooling certificate. 4553
Responsibility beyond the age of majority shall terminate when 4554
the child ceases to continuously pursue such an education, 4555
completes such an education, or is excused from such an 4556
education under standards adopted by the state board of 4557
education, whichever occurs first. 4558

(c) That the parents of the child have residual parental 4559
rights, privileges, and responsibilities, including, but not 4560
limited to, the privilege of reasonable visitation, consent to 4561
adoption, the privilege to determine the child's religious 4562
affiliation, and the responsibility for support; 4563

(d) That the person understands that the person must be 4564
present in court for the dispositional hearing in order to 4565
affirm the person's intention to become legal custodian, to 4566
affirm that the person understands the effect of the 4567
custodianship before the court, and to answer any questions that 4568
the court or any parties to the case may have. 4569

(4) Commit the child to the permanent custody of a public 4570

children services agency or private child placing agency, if the 4571
court determines in accordance with division (E) of section 4572
2151.414 of the Revised Code that the child cannot be placed 4573
with one of the child's parents within a reasonable time or 4574
should not be placed with either parent and determines in 4575
accordance with division (D) (1) of section 2151.414 of the 4576
Revised Code that the permanent commitment is in the best 4577
interest of the child. If the court grants permanent custody 4578
under this division, the court, upon the request of any party, 4579
shall file a written opinion setting forth its findings of fact 4580
and conclusions of law in relation to the proceeding. 4581

(5) Place the child in a planned permanent living 4582
arrangement with a public children services agency or private 4583
child placing agency, if a public children services agency or 4584
private child placing agency requests the court to place the 4585
child in a planned permanent living arrangement and if the court 4586
finds, by clear and convincing evidence, that a planned 4587
permanent living arrangement is in the best interest of the 4588
child and that one of the following exists: 4589

(a) The child, because of physical, mental, or 4590
psychological problems or needs, is unable to function in a 4591
family-like setting and must remain in residential or 4592
institutional care now and for the foreseeable future beyond the 4593
date of the dispositional hearing held pursuant to section 4594
2151.35 of the Revised Code. 4595

(b) The child is sixteen years of age or older, the 4596
parents of the child have significant physical, mental, or 4597
psychological problems and are unable to care for the child 4598
because of those problems, adoption is not in the best interest 4599
of the child, as determined in accordance with division (D) (1) 4600

of section 2151.414 of the Revised Code, and the child retains a 4601
significant and positive relationship with a parent or relative. 4602

(c) The child is sixteen years of age or older, has been 4603
counseled on the permanent placement options available to the 4604
child, and is unwilling to accept or unable to adapt to a 4605
permanent placement. 4606

(6) Order the removal from the child's home until further 4607
order of the court of the person who committed abuse as 4608
described in section 2151.031 of the Revised Code against the 4609
child, who caused or allowed the child to suffer neglect as 4610
described in section 2151.03 of the Revised Code, or who is the 4611
parent, guardian, or custodian of a child who is adjudicated a 4612
dependent child and order any person not to have contact with 4613
the child or the child's siblings. 4614

(B) (1) When making a determination on whether to place a 4615
child in a planned permanent living arrangement pursuant to 4616
division (A) (5) (b) or (c) of this section, the court shall 4617
consider all relevant information that has been presented to the 4618
court, including information gathered from the child, the 4619
child's guardian ad litem, and the public children services 4620
agency or private child placing agency. 4621

(2) A child who is placed in a planned permanent living 4622
arrangement pursuant to division (A) (5) (b) or (c) of this 4623
section shall be placed in an independent living setting or in a 4624
family setting in which the caregiver has been provided by the 4625
agency that has custody of the child with a notice that 4626
addresses the following: 4627

(a) The caregiver understands that the planned permanent 4628
living arrangement is intended to be permanent in nature and 4629

that the caregiver will provide a stable placement for the child 4630
through the child's emancipation or until the court releases the 4631
child from the custody of the agency, whichever occurs first. 4632

(b) The caregiver is expected to actively participate in 4633
the youth's independent living case plan, attend agency team 4634
meetings and court hearings as appropriate, complete training, 4635
as provided in division (B) of section 5103.035 of the Revised 4636
Code, related to providing the child independent living 4637
services, and assist in the child's transition into adulthood. 4638

(3) The department of job and family services shall 4639
develop a model notice to be provided by an agency that has 4640
custody of a child to a caregiver under division (B)(2) of this 4641
section. The agency may modify the model notice to apply to the 4642
needs of the agency. 4643

(C) No order for permanent custody or temporary custody of 4644
a child or the placement of a child in a planned permanent 4645
living arrangement shall be made pursuant to this section unless 4646
the complaint alleging the abuse, neglect, or dependency 4647
contains a prayer requesting permanent custody, temporary 4648
custody, or the placement of the child in a planned permanent 4649
living arrangement as desired, the summons served on the parents 4650
of the child contains as is appropriate a full explanation that 4651
the granting of an order for permanent custody permanently 4652
divests them of their parental rights, a full explanation that 4653
an adjudication that the child is an abused, neglected, or 4654
dependent child may result in an order of temporary custody that 4655
will cause the removal of the child from their legal custody 4656
until the court terminates the order of temporary custody or 4657
permanently divests the parents of their parental rights, or a 4658
full explanation that the granting of an order for a planned 4659

permanent living arrangement will result in the removal of the 4660
child from their legal custody if any of the conditions listed 4661
in divisions (A) (5) (a) to (c) of this section are found to 4662
exist, and the summons served on the parents contains a full 4663
explanation of their right to be represented by counsel and to 4664
have counsel appointed pursuant to Chapter 120. of the Revised 4665
Code if they are indigent. 4666

If after making disposition as authorized by division (A) 4667
(2) of this section, a motion is filed that requests permanent 4668
custody of the child, the court may grant permanent custody of 4669
the child to the movant in accordance with section 2151.414 of 4670
the Revised Code. 4671

(D) If the court issues an order for protective 4672
supervision pursuant to division (A) (1) of this section, the 4673
court may place any reasonable restrictions upon the child, the 4674
child's parents, guardian, or custodian, or any other person, 4675
including, but not limited to, any of the following: 4676

(1) Order a party, within forty-eight hours after the 4677
issuance of the order, to vacate the child's home indefinitely 4678
or for a specified period of time; 4679

(2) Order a party, a parent of the child, or a physical 4680
custodian of the child to prevent any particular person from 4681
having contact with the child; 4682

(3) Issue an order restraining or otherwise controlling 4683
the conduct of any person which conduct would not be in the best 4684
interest of the child. 4685

(E) As part of its dispositional order, the court shall 4686
journalize a case plan for the child. The journalized case plan 4687
shall not be changed except as provided in section 2151.412 of 4688

the Revised Code. 4689

(F) (1) The court shall retain jurisdiction over any child 4690
for whom the court issues an order of disposition pursuant to 4691
division (A) of this section or pursuant to section 2151.414 or 4692
2151.415 of the Revised Code until the child attains the age of 4693
eighteen years if the child ~~is does not mentally retarded,~~ 4694
~~developmentally disabled,~~ have a developmental disability or 4695
~~physically impaired,~~ physical impairment, the child attains the 4696
age of twenty-one years if the child ~~is mentally retarded,~~ 4697
~~developmentally disabled,~~ has a developmental disability or 4698
~~physically impaired,~~ physical impairment, or the child is adopted 4699
and a final decree of adoption is issued, except that the court 4700
may retain jurisdiction over the child and continue any order of 4701
disposition under division (A) of this section or under section 4702
2151.414 or 2151.415 of the Revised Code for a specified period 4703
of time to enable the child to graduate from high school or 4704
vocational school. The court shall make an entry continuing its 4705
jurisdiction under this division in the journal. 4706

(2) Any public children services agency, any private child 4707
placing agency, the department of job and family services, or 4708
any party, other than any parent whose parental rights with 4709
respect to the child have been terminated pursuant to an order 4710
issued under division (A) (4) of this section, by filing a motion 4711
with the court, may at any time request the court to modify or 4712
terminate any order of disposition issued pursuant to division 4713
(A) of this section or section 2151.414 or 2151.415 of the 4714
Revised Code. The court shall hold a hearing upon the motion as 4715
if the hearing were the original dispositional hearing and shall 4716
give all parties to the action and the guardian ad litem notice 4717
of the hearing pursuant to the Juvenile Rules. If applicable, 4718
the court shall comply with section 2151.42 of the Revised Code. 4719

(G) Any temporary custody order issued pursuant to 4720
division (A) of this section shall terminate one year after the 4721
earlier of the date on which the complaint in the case was filed 4722
or the child was first placed into shelter care, except that, 4723
upon the filing of a motion pursuant to section 2151.415 of the 4724
Revised Code, the temporary custody order shall continue and not 4725
terminate until the court issues a dispositional order under 4726
that section. In resolving the motion, the court shall not order 4727
an existing temporary custody order to continue beyond two years 4728
after the date on which the complaint was filed or the child was 4729
first placed into shelter care, whichever date is earlier, 4730
regardless of whether any extensions have been previously 4731
ordered pursuant to division (D) of section 2151.415 of the 4732
Revised Code. 4733

(H) (1) No later than one year after the earlier of the 4734
date the complaint in the case was filed or the child was first 4735
placed in shelter care, a party may ask the court to extend an 4736
order for protective supervision for six months or to terminate 4737
the order. A party requesting extension or termination of the 4738
order shall file a written request for the extension or 4739
termination with the court and give notice of the proposed 4740
extension or termination in writing before the end of the day 4741
after the day of filing it to all parties and the child's 4742
guardian ad litem. If a public children services agency or 4743
private child placing agency requests termination of the order, 4744
the agency shall file a written status report setting out the 4745
facts supporting termination of the order at the time it files 4746
the request with the court. If no party requests extension or 4747
termination of the order, the court shall notify the parties 4748
that the court will extend the order for six months or terminate 4749
it and that it may do so without a hearing unless one of the 4750

parties requests a hearing. All parties and the guardian ad litem shall have seven days from the date a notice is sent pursuant to this division to object to and request a hearing on the proposed extension or termination.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to 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 (H) (2) of this section, the court shall terminate the order for protective supervision at the end of the extension.

(I) The court shall not issue a dispositional order pursuant to division (A) of this section that removes a child from the child's home unless the court complies with section 2151.419 of the Revised Code and includes in the dispositional order the findings of fact required by that section.

(J) If a motion or application for an order described in division (A) (6) of this section is made, the court shall not issue the order unless, prior to the issuance of the order, it provides to the person all of the following:

(1) Notice and a copy of the motion or application;

(2) The grounds for the motion or application;

(3) An opportunity to present evidence and witnesses at a hearing regarding the motion or application;

(4) An opportunity to be represented by counsel at the hearing.

(K) The jurisdiction of the court shall terminate one year after the date of the award or, if the court takes any further action in the matter subsequent to the award, the date of the

latest further action subsequent to the award, if the court 4810
awards legal custody of a child to either of the following: 4811

(1) A legal custodian who, at the time of the award of 4812
legal custody, resides in a county of this state other than the 4813
county in which the court is located; 4814

(2) A legal custodian who resides in the county in which 4815
the court is located at the time of the award of legal custody, 4816
but moves to a different county of this state prior to one year 4817
after the date of the award or, if the court takes any further 4818
action in the matter subsequent to the award, one year after the 4819
date of the latest further action subsequent to the award. 4820

The court in the county in which the legal custodian 4821
resides then shall have jurisdiction in the matter. 4822

Sec. 2151.414. (A) (1) Upon the filing of a motion pursuant 4823
to section 2151.413 of the Revised Code for permanent custody of 4824
a child, the court shall schedule a hearing and give notice of 4825
the filing of the motion and of the hearing, in accordance with 4826
section 2151.29 of the Revised Code, to all parties to the 4827
action and to the child's guardian ad litem. The notice also 4828
shall contain a full explanation that the granting of permanent 4829
custody permanently divests the parents of their parental 4830
rights, a full explanation of their right to be represented by 4831
counsel and to have counsel appointed pursuant to Chapter 120. 4832
of the Revised Code if they are indigent, and the name and 4833
telephone number of the court employee designated by the court 4834
pursuant to section 2151.314 of the Revised Code to arrange for 4835
the prompt appointment of counsel for indigent persons. 4836

The court shall conduct a hearing in accordance with 4837
section 2151.35 of the Revised Code to determine if it is in the 4838

best interest of the child to permanently terminate parental 4839
rights and grant permanent custody to the agency that filed the 4840
motion. The adjudication that the child is an abused, neglected, 4841
or dependent child and any dispositional order that has been 4842
issued in the case under section 2151.353 of the Revised Code 4843
pursuant to the adjudication shall not be readjudicated at the 4844
hearing and shall not be affected by a denial of the motion for 4845
permanent custody. 4846

(2) The court shall hold the hearing scheduled pursuant to 4847
division (A) (1) of this section not later than one hundred 4848
twenty days after the agency files the motion for permanent 4849
custody, except that, for good cause shown, the court may 4850
continue the hearing for a reasonable period of time beyond the 4851
one-hundred-twenty-day deadline. The court shall issue an order 4852
that grants, denies, or otherwise disposes of the motion for 4853
permanent custody, and journalize the order, not later than two 4854
hundred days after the agency files the motion. 4855

If a motion is made under division (D) (2) of section 4856
2151.413 of the Revised Code and no dispositional hearing has 4857
been held in the case, the court may hear the motion in the 4858
dispositional hearing required by division (B) of section 4859
2151.35 of the Revised Code. If the court issues an order 4860
pursuant to section 2151.353 of the Revised Code granting 4861
permanent custody of the child to the agency, the court shall 4862
immediately dismiss the motion made under division (D) (2) of 4863
section 2151.413 of the Revised Code. 4864

The failure of the court to comply with the time periods 4865
set forth in division (A) (2) of this section does not affect the 4866
authority of the court to issue any order under this chapter and 4867
does not provide any basis for attacking the jurisdiction of the 4868

court or the validity of any order of the court. 4869

(B) (1) Except as provided in division (B) (2) of this 4870
section, the court may grant permanent custody of a child to a 4871
movant if the court determines at the hearing held pursuant to 4872
division (A) of this section, by clear and convincing evidence, 4873
that it is in the best interest of the child to grant permanent 4874
custody of the child to the agency that filed the motion for 4875
permanent custody and that any of the following apply: 4876

(a) The child is not abandoned or orphaned, has not been 4877
in the temporary custody of one or more public children services 4878
agencies or private child placing agencies for twelve or more 4879
months of a consecutive twenty-two-month period, or has not been 4880
in the temporary custody of one or more public children services 4881
agencies or private child placing agencies for twelve or more 4882
months of a consecutive twenty-two-month period if, as described 4883
in division (D) (1) of section 2151.413 of the Revised Code, the 4884
child was previously in the temporary custody of an equivalent 4885
agency in another state, and the child cannot be placed with 4886
either of the child's parents within a reasonable time or should 4887
not be placed with the child's parents. 4888

(b) The child is abandoned. 4889

(c) The child is orphaned, and there are no relatives of 4890
the child who are able to take permanent custody. 4891

(d) The child has been in the temporary custody of one or 4892
more public children services agencies or private child placing 4893
agencies for twelve or more months of a consecutive twenty-two- 4894
month period, or the child has been in the temporary custody of 4895
one or more public children services agencies or private child 4896
placing agencies for twelve or more months of a consecutive 4897

twenty-two-month period and, as described in division (D)(1) of 4898
section 2151.413 of the Revised Code, the child was previously 4899
in the temporary custody of an equivalent agency in another 4900
state. 4901

(e) The child or another child in the custody of the 4902
parent or parents from whose custody the child has been removed 4903
has been adjudicated an abused, neglected, or dependent child on 4904
three separate occasions by any court in this state or another 4905
state. 4906

For the purposes of division (B)(1) of this section, a 4907
child shall be considered to have entered the temporary custody 4908
of an agency on the earlier of the date the child is adjudicated 4909
pursuant to section 2151.28 of the Revised Code or the date that 4910
is sixty days after the removal of the child from home. 4911

(2) With respect to a motion made pursuant to division (D) 4912
(2) of section 2151.413 of the Revised Code, the court shall 4913
grant permanent custody of the child to the movant if the court 4914
determines in accordance with division (E) of this section that 4915
the child cannot be placed with one of the child's parents 4916
within a reasonable time or should not be placed with either 4917
parent and determines in accordance with division (D) of this 4918
section that permanent custody is in the child's best interest. 4919

(C) In making the determinations required by this section 4920
or division (A)(4) of section 2151.353 of the Revised Code, a 4921
court shall not consider the effect the granting of permanent 4922
custody to the agency would have upon any parent of the child. A 4923
written report of the guardian ad litem of the child shall be 4924
submitted to the court prior to or at the time of the hearing 4925
held pursuant to division (A) of this section or section 2151.35 4926
of the Revised Code but shall not be submitted under oath. 4927

If the court grants permanent custody of a child to a movant under this division, the court, upon the request of any party, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding. The court shall not deny an agency's motion for permanent custody solely because the agency failed to implement any particular aspect of the child's case plan.

(D) (1) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A) (4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

(a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child;

(c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D) (1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another

state; 4958

(d) The child's need for a legally secure permanent 4959
placement and whether that type of placement can be achieved 4960
without a grant of permanent custody to the agency; 4961

(e) Whether any of the factors in divisions (E) (7) to (11) 4962
of this section apply in relation to the parents and child. 4963

For the purposes of division (D) (1) of this section, a 4964
child shall be considered to have entered the temporary custody 4965
of an agency on the earlier of the date the child is adjudicated 4966
pursuant to section 2151.28 of the Revised Code or the date that 4967
is sixty days after the removal of the child from home. 4968

(2) If all of the following apply, permanent custody is in 4969
the best interest of the child, and the court shall commit the 4970
child to the permanent custody of a public children services 4971
agency or private child placing agency: 4972

(a) The court determines by clear and convincing evidence 4973
that one or more of the factors in division (E) of this section 4974
exist and the child cannot be placed with one of the child's 4975
parents within a reasonable time or should not be placed with 4976
either parent. 4977

(b) The child has been in an agency's custody for two 4978
years or longer, and no longer qualifies for temporary custody 4979
pursuant to division (D) of section 2151.415 of the Revised 4980
Code. 4981

(c) The child does not meet the requirements for a planned 4982
permanent living arrangement pursuant to division (A) (5) of 4983
section 2151.353 of the Revised Code. 4984

(d) Prior to the dispositional hearing, no relative or 4985

other interested person has filed, or has been identified in, a motion for legal custody of the child.

(E) In determining at a hearing held pursuant to division (A) of this section or for the purposes of division (A) (4) of section 2151.353 of the Revised Code whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents, the court shall consider all relevant evidence. If the court determines, by clear and convincing evidence, at a hearing held pursuant to division (A) of this section or for the purposes of division (A) (4) of section 2151.353 of the Revised Code that one or more of the following exist as to each of the child's parents, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent:

(1) Following the placement of the child outside the child's home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home. In determining whether the parents have substantially remedied those conditions, the court shall consider parental utilization of medical, psychiatric, psychological, and other social and rehabilitative services and material resources that were made available to the parents for the purpose of changing parental conduct to allow them to resume and maintain parental duties.

(2) Chronic mental illness, chronic emotional illness, ~~mental retardation~~ intellectual disability, physical disability,

or chemical dependency of the parent that is so severe that it 5016
makes the parent unable to provide an adequate permanent home 5017
for the child at the present time and, as anticipated, within 5018
one year after the court holds the hearing pursuant to division 5019
(A) of this section or for the purposes of division (A) (4) of 5020
section 2151.353 of the Revised Code; 5021

(3) The parent committed any abuse as described in section 5022
2151.031 of the Revised Code against the child, caused the child 5023
to suffer any neglect as described in section 2151.03 of the 5024
Revised Code, or allowed the child to suffer any neglect as 5025
described in section 2151.03 of the Revised Code between the 5026
date that the original complaint alleging abuse or neglect was 5027
filed and the date of the filing of the motion for permanent 5028
custody; 5029

(4) The parent has demonstrated a lack of commitment 5030
toward the child by failing to regularly support, visit, or 5031
communicate with the child when able to do so, or by other 5032
actions showing an unwillingness to provide an adequate 5033
permanent home for the child; 5034

(5) The parent is incarcerated for an offense committed 5035
against the child or a sibling of the child; 5036

(6) The parent has been convicted of or pleaded guilty to 5037
an offense under division (A) or (C) of section 2919.22 or under 5038
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 5039
2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.23, 5040
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 5041
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 2919.25, 5042
2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the Revised 5043
Code, and the child or a sibling of the child was a victim of 5044
the offense, or the parent has been convicted of or pleaded 5045

guilty to an offense under section 2903.04 of the Revised Code, 5046
a sibling of the child was the victim of the offense, and the 5047
parent who committed the offense poses an ongoing danger to the 5048
child or a sibling of the child. 5049

(7) The parent has been convicted of or pleaded guilty to 5050
one of the following: 5051

(a) An offense under section 2903.01, 2903.02, or 2903.03 5052
of the Revised Code or under an existing or former law of this 5053
state, any other state, or the United States that is 5054
substantially equivalent to an offense described in those 5055
sections and the victim of the offense was a sibling of the 5056
child or the victim was another child who lived in the parent's 5057
household at the time of the offense; 5058

(b) An offense under section 2903.11, 2903.12, or 2903.13 5059
of the Revised Code or under an existing or former law of this 5060
state, any other state, or the United States that is 5061
substantially equivalent to an offense described in those 5062
sections and the victim of the offense is the child, a sibling 5063
of the child, or another child who lived in the parent's 5064
household at the time of the offense; 5065

(c) An offense under division (B)(2) of section 2919.22 of 5066
the Revised Code or under an existing or former law of this 5067
state, any other state, or the United States that is 5068
substantially equivalent to the offense described in that 5069
section and the child, a sibling of the child, or another child 5070
who lived in the parent's household at the time of the offense 5071
is the victim of the offense; 5072

(d) An offense under section 2907.02, 2907.03, 2907.04, 5073
2907.05, or 2907.06 of the Revised Code or under an existing or 5074

former law of this state, any other state, or the United States 5075
that is substantially equivalent to an offense described in 5076
those sections and the victim of the offense is the child, a 5077
sibling of the child, or another child who lived in the parent's 5078
household at the time of the offense; 5079

(e) An offense under section 2905.32, 2907.21, or 2907.22 5080
of the Revised Code or under an existing or former law of this 5081
state, any other state, or the United States that is 5082
substantially equivalent to the offense described in that 5083
section and the victim of the offense is the child, a sibling of 5084
the child, or another child who lived in the parent's household 5085
at the time of the offense; 5086

(f) A conspiracy or attempt to commit, or complicity in 5087
committing, an offense described in division (E) (7) (a), (d), or 5088
(e) of this section. 5089

(8) The parent has repeatedly withheld medical treatment 5090
or food from the child when the parent has the means to provide 5091
the treatment or food, and, in the case of withheld medical 5092
treatment, the parent withheld it for a purpose other than to 5093
treat the physical or mental illness or defect of the child by 5094
spiritual means through prayer alone in accordance with the 5095
tenets of a recognized religious body. 5096

(9) The parent has placed the child at substantial risk of 5097
harm two or more times due to alcohol or drug abuse and has 5098
rejected treatment two or more times or refused to participate 5099
in further treatment two or more times after a case plan issued 5100
pursuant to section 2151.412 of the Revised Code requiring 5101
treatment of the parent was journalized as part of a 5102
dispositional order issued with respect to the child or an order 5103
was issued by any other court requiring treatment of the parent. 5104

- (10) The parent has abandoned the child. 5105
- (11) The parent has had parental rights involuntarily 5106
terminated with respect to a sibling of the child pursuant to 5107
this section or section 2151.353 or 2151.415 of the Revised 5108
Code, or under an existing or former law of this state, any 5109
other state, or the United States that is substantially 5110
equivalent to those sections, and the parent has failed to 5111
provide clear and convincing evidence to prove that, 5112
notwithstanding the prior termination, the parent can provide a 5113
legally secure permanent placement and adequate care for the 5114
health, welfare, and safety of the child. 5115
- (12) The parent is incarcerated at the time of the filing 5116
of the motion for permanent custody or the dispositional hearing 5117
of the child and will not be available to care for the child for 5118
at least eighteen months after the filing of the motion for 5119
permanent custody or the dispositional hearing. 5120
- (13) The parent is repeatedly incarcerated, and the 5121
repeated incarceration prevents the parent from providing care 5122
for the child. 5123
- (14) The parent for any reason is unwilling to provide 5124
food, clothing, shelter, and other basic necessities for the 5125
child or to prevent the child from suffering physical, 5126
emotional, or sexual abuse or physical, emotional, or mental 5127
neglect. 5128
- (15) The parent has committed abuse as described in 5129
section 2151.031 of the Revised Code against the child or caused 5130
or allowed the child to suffer neglect as described in section 5131
2151.03 of the Revised Code, and the court determines that the 5132
seriousness, nature, or likelihood of recurrence of the abuse or 5133

neglect makes the child's placement with the child's parent a 5134
threat to the child's safety. 5135

(16) Any other factor the court considers relevant. 5136

(F) The parents of a child for whom the court has issued 5137
an order granting permanent custody pursuant to this section, 5138
upon the issuance of the order, cease to be parties to the 5139
action. This division is not intended to eliminate or restrict 5140
any right of the parents to appeal the granting of permanent 5141
custody of their child to a movant pursuant to this section. 5142

Sec. 2151.415. (A) Except for cases in which a motion for 5143
permanent custody described in division (D) (1) of section 5144
2151.413 of the Revised Code is required to be made, a public 5145
children services agency or private child placing agency that 5146
has been given temporary custody of a child pursuant to section 5147
2151.353 of the Revised Code, not later than thirty days prior 5148
to the earlier of the date for the termination of the custody 5149
order pursuant to division (H) of section 2151.353 of the 5150
Revised Code or the date set at the dispositional hearing for 5151
the hearing to be held pursuant to this section, shall file a 5152
motion with the court that issued the order of disposition 5153
requesting that any of the following orders of disposition of 5154
the child be issued by the court: 5155

(1) An order that the child be returned home and the 5156
custody of the child's parents, guardian, or custodian without 5157
any restrictions; 5158

(2) An order for protective supervision; 5159

(3) An order that the child be placed in the legal custody 5160
of a relative or other interested individual; 5161

(4) An order permanently terminating the parental rights 5162

of the child's parents; 5163

(5) An order that the child be placed in a planned 5164
permanent living arrangement; 5165

(6) In accordance with division (D) of this section, an 5166
order for the extension of temporary custody. 5167

(B) Upon the filing of a motion pursuant to division (A) 5168
of this section, the court shall hold a dispositional hearing on 5169
the date set at the dispositional hearing held pursuant to 5170
section 2151.35 of the Revised Code, with notice to all parties 5171
to the action in accordance with the Juvenile Rules. After the 5172
dispositional hearing or at a date after the dispositional 5173
hearing that is not later than one year after the earlier of the 5174
date on which the complaint in the case was filed or the child 5175
was first placed into shelter care, the court, in accordance 5176
with the best interest of the child as supported by the evidence 5177
presented at the dispositional hearing, shall issue an order of 5178
disposition as set forth in division (A) of this section, except 5179
that all orders for permanent custody shall be made in 5180
accordance with sections 2151.413 and 2151.414 of the Revised 5181
Code. In issuing an order of disposition under this section, the 5182
court shall comply with section 2151.42 of the Revised Code. 5183

(C) (1) If an agency pursuant to division (A) of this 5184
section requests the court to place a child into a planned 5185
permanent living arrangement, the agency shall present evidence 5186
to indicate why a planned permanent living arrangement is 5187
appropriate for the child, including, but not limited to, 5188
evidence that the agency has tried or considered all other 5189
possible dispositions for the child. A court shall not place a 5190
child in a planned permanent living arrangement, unless it 5191
finds, by clear and convincing evidence, that a planned 5192

permanent living arrangement is in the best interest of the 5193
child and that one of the following exists: 5194

(a) The child, because of physical, mental, or 5195
psychological problems or needs, is unable to function in a 5196
family-like setting and must remain in residential or 5197
institutional care. 5198

(b) The parents of the child have significant physical, 5199
mental, or psychological problems and are unable to care for the 5200
child because of those problems, adoption is not in the best 5201
interest of the child, as determined in accordance with division 5202
(D) (1) of section 2151.414 of the Revised Code, and the child 5203
retains a significant and positive relationship with a parent or 5204
relative; 5205

(c) The child is sixteen years of age or older, has been 5206
counseled on the permanent placement options available, is 5207
unwilling to accept or unable to adapt to a permanent placement, 5208
and is in an agency program preparing for independent living. 5209

(2) If the court issues an order placing a child in a 5210
planned permanent living arrangement, both of the following 5211
apply: 5212

(a) The court shall issue a finding of fact setting forth 5213
the reasons for its finding; 5214

(b) The agency may make any appropriate placement for the 5215
child and shall develop a case plan for the child that is 5216
designed to assist the child in finding a permanent home outside 5217
of the home of the parents. 5218

(D) (1) If an agency pursuant to division (A) of this 5219
section requests the court to grant an extension of temporary 5220
custody for a period of up to six months, the agency shall 5221

include in the motion an explanation of the progress on the case 5222
plan of the child and of its expectations of reunifying the 5223
child with the child's family, or placing the child in a 5224
permanent placement, within the extension period. The court 5225
shall schedule a hearing on the motion, give notice of its date, 5226
time, and location to all parties and the guardian ad litem of 5227
the child, and at the hearing consider the evidence presented by 5228
the parties and the guardian ad litem. The court may extend the 5229
temporary custody order of the child for a period of up to six 5230
months, if it determines at the hearing, by clear and convincing 5231
evidence, that the extension is in the best interest of the 5232
child, there has been significant progress on the case plan of 5233
the child, and there is reasonable cause to believe that the 5234
child will be reunified with one of the parents or otherwise 5235
permanently placed within the period of extension. In 5236
determining whether to extend the temporary custody of the child 5237
pursuant to this division, the court shall comply with section 5238
2151.42 of the Revised Code. If the court extends the temporary 5239
custody of the child pursuant to this division, upon request it 5240
shall issue findings of fact. 5241

(2) Prior to the end of the extension granted pursuant to 5242
division (D)(1) of this section, the agency that received the 5243
extension shall file a motion with the court requesting the 5244
issuance of one of the orders of disposition set forth in 5245
divisions (A)(1) to (5) of this section or requesting the court 5246
to extend the temporary custody order of the child for an 5247
additional period of up to six months. If the agency requests 5248
the issuance of an order of disposition under divisions (A)(1) 5249
to (5) of this section or does not file any motion prior to the 5250
expiration of the extension period, the court shall conduct a 5251
hearing in accordance with division (B) of this section and 5252

issue an appropriate order of disposition. In issuing an order 5253
of disposition, the court shall comply with section 2151.42 of 5254
the Revised Code. 5255

If the agency requests an additional extension of up to 5256
six months of the temporary custody order of the child, the 5257
court shall schedule and conduct a hearing in the manner set 5258
forth in division (D)(1) of this section. The court may extend 5259
the temporary custody order of the child for an additional 5260
period of up to six months if it determines at the hearing, by 5261
clear and convincing evidence, that the additional extension is 5262
in the best interest of the child, there has been substantial 5263
additional progress since the original extension of temporary 5264
custody in the case plan of the child, there has been 5265
substantial additional progress since the original extension of 5266
temporary custody toward reunifying the child with one of the 5267
parents or otherwise permanently placing the child, and there is 5268
reasonable cause to believe that the child will be reunified 5269
with one of the parents or otherwise placed in a permanent 5270
setting before the expiration of the additional extension 5271
period. In determining whether to grant an additional extension, 5272
the court shall comply with section 2151.42 of the Revised Code. 5273
If the court extends the temporary custody of the child for an 5274
additional period pursuant to this division, upon request it 5275
shall issue findings of fact. 5276

(3) Prior to the end of the extension of a temporary 5277
custody order granted pursuant to division (D)(2) of this 5278
section, the agency that received the extension shall file a 5279
motion with the court requesting the issuance of one of the 5280
orders of disposition set forth in divisions (A)(1) to (5) of 5281
this section. Upon the filing of the motion by the agency or, if 5282
the agency does not file the motion prior to the expiration of 5283

the extension period, upon its own motion, the court, prior to 5284
the expiration of the extension period, shall conduct a hearing 5285
in accordance with division (B) of this section and issue an 5286
appropriate order of disposition. In issuing an order of 5287
disposition, the court shall comply with section 2151.42 of the 5288
Revised Code. 5289

(4) No court shall grant an agency more than two 5290
extensions of temporary custody pursuant to division (D) of this 5291
section and the court shall not order an existing temporary 5292
custody order to continue beyond two years after the date on 5293
which the complaint was filed or the child was first placed into 5294
shelter care, whichever date is earlier, regardless of whether 5295
any extensions have been previously ordered pursuant to division 5296
(D) of this section. 5297

(E) After the issuance of an order pursuant to division 5298
(B) of this section, the court shall retain jurisdiction over 5299
the child until the child attains the age of eighteen if the 5300
child ~~is does not mentally retarded, developmentally disabled,~~ 5301
have a developmental disability or physically impaired physical 5302
impairment, the child attains the age of twenty-one if the child 5303
~~is mentally retarded, developmentally disabled, has a~~ 5304
developmental disability or physically impaired physical 5305
impairment, or the child is adopted and a final decree of 5306
adoption is issued, unless the court's jurisdiction over the 5307
child is extended pursuant to division (F) of section 2151.353 5308
of the Revised Code. 5309

(F) The court, on its own motion or the motion of the 5310
agency or person with legal custody of the child, the child's 5311
guardian ad litem, or any other party to the action, may conduct 5312
a hearing with notice to all parties to determine whether any 5313

order issued pursuant to this section should be modified or 5314
terminated or whether any other dispositional order set forth in 5315
divisions (A) (1) to (5) of this section should be issued. After 5316
the hearing and consideration of all the evidence presented, the 5317
court, in accordance with the best interest of the child, may 5318
modify or terminate any order issued pursuant to this section or 5319
issue any dispositional order set forth in divisions (A) (1) to 5320
(5) of this section. In rendering a decision under this 5321
division, the court shall comply with section 2151.42 of the 5322
Revised Code. 5323

(G) If the court places a child in a planned permanent 5324
living arrangement with a public children services agency or a 5325
private child placing agency pursuant to this section, the 5326
agency with which the child is placed in a planned permanent 5327
living arrangement shall not remove the child from the 5328
residential placement in which the child is originally placed 5329
pursuant to the case plan for the child or in which the child is 5330
placed with court approval pursuant to this division, unless the 5331
court and the guardian ad litem are given notice of the intended 5332
removal and the court issues an order approving the removal or 5333
unless the removal is necessary to protect the child from 5334
physical or emotional harm and the agency gives the court notice 5335
of the removal and of the reasons why the removal is necessary 5336
to protect the child from physical or emotional harm immediately 5337
after the removal of the child from the prior setting. 5338

(H) If the hearing held under this section takes the place 5339
of an administrative review that otherwise would have been held 5340
under section 2151.416 of the Revised Code, the court at the 5341
hearing held under this section shall do all of the following in 5342
addition to any other requirements of this section: 5343

- (1) Determine the continued necessity for and the appropriateness of the child's placement; 5344
5345
- (2) Determine the extent of compliance with the child's case plan; 5346
5347
- (3) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating the child's placement in foster care; 5348
5349
5350
- (4) Project a likely date by which the child may be returned to the child's home or placed for adoption or legal guardianship; 5351
5352
5353
- (5) Approve the permanency plan for the child consistent with section 2151.417 of the Revised Code. 5354
5355
- Sec. 2151.421.** (A) (1) (a) No person described in division 5356
(A) (1) (b) of this section who is acting in an official or 5357
professional capacity and knows, or has reasonable cause to 5358
suspect based on facts that would cause a reasonable person in a 5359
similar position to suspect, that a child under eighteen years 5360
of age, ~~or a mentally retarded, developmentally disabled, or~~ 5361
~~physically impaired child person~~ under twenty-one years of age 5362
with a developmental disability or physical impairment, has 5363
suffered or faces a threat of suffering any physical or mental 5364
wound, injury, disability, or condition of a nature that 5365
reasonably indicates abuse or neglect of the child shall fail to 5366
immediately report that knowledge or reasonable cause to suspect 5367
to the entity or persons specified in this division. Except as 5368
provided in section 5120.173 of the Revised Code, the person 5369
making the report shall make it to the public children services 5370
agency or a municipal or county peace officer in the county in 5371
which the child resides or in which the abuse or neglect is 5372

occurring or has occurred. In the circumstances described in 5373
section 5120.173 of the Revised Code, the person making the 5374
report shall make it to the entity specified in that section. 5375

(b) Division (A)(1)(a) of this section applies to any 5376
person who is an attorney; physician, including a hospital 5377
intern or resident; dentist; podiatrist; practitioner of a 5378
limited branch of medicine as specified in section 4731.15 of 5379
the Revised Code; registered nurse; licensed practical nurse; 5380
visiting nurse; other health care professional; licensed 5381
psychologist; licensed school psychologist; independent marriage 5382
and family therapist or marriage and family therapist; speech 5383
pathologist or audiologist; coroner; administrator or employee 5384
of a child day-care center; administrator or employee of a 5385
residential camp, child day camp, or private, nonprofit 5386
therapeutic wilderness camp; administrator or employee of a 5387
certified child care agency or other public or private children 5388
services agency; school teacher; school employee; school 5389
authority; person engaged in social work or the practice of 5390
professional counseling; agent of a county humane society; 5391
person, other than a cleric, rendering spiritual treatment 5392
through prayer in accordance with the tenets of a well- 5393
recognized religion; employee of a county department of job and 5394
family services who is a professional and who works with 5395
children and families; superintendent or regional administrator 5396
employed by the department of youth services; superintendent, 5397
board member, or employee of a county board of developmental 5398
disabilities; investigative agent contracted with by a county 5399
board of developmental disabilities; employee of the department 5400
of developmental disabilities; employee of a facility or home 5401
that provides respite care in accordance with section 5123.171 5402
of the Revised Code; employee of a home health agency; employee 5403

of an entity that provides homemaker services; a person 5404
performing the duties of an assessor pursuant to Chapter 3107. 5405
or 5103. of the Revised Code; third party employed by a public 5406
children services agency to assist in providing child or family 5407
related services; court appointed special advocate; or guardian 5408
ad litem. 5409

(2) Except as provided in division (A) (3) of this section, 5410
an attorney or a physician is not required to make a report 5411
pursuant to division (A) (1) of this section concerning any 5412
communication the attorney or physician receives from a client 5413
or patient in an attorney-client or physician-patient 5414
relationship, if, in accordance with division (A) or (B) of 5415
section 2317.02 of the Revised Code, the attorney or physician 5416
could not testify with respect to that communication in a civil 5417
or criminal proceeding. 5418

(3) The client or patient in an attorney-client or 5419
physician-patient relationship described in division (A) (2) of 5420
this section is deemed to have waived any testimonial privilege 5421
under division (A) or (B) of section 2317.02 of the Revised Code 5422
with respect to any communication the attorney or physician 5423
receives from the client or patient in that attorney-client or 5424
physician-patient relationship, and the attorney or physician 5425
shall make a report pursuant to division (A) (1) of this section 5426
with respect to that communication, if all of the following 5427
apply: 5428

(a) The client or patient, at the time of the 5429
communication, is ~~either~~ a child under eighteen years of age or 5430
~~is a mentally retarded, developmentally disabled, or physically~~ 5431
~~impaired~~ person under twenty-one years of age with a 5432
developmental disability or physical impairment. 5433

(b) The attorney or physician knows, or has reasonable
cause to suspect based on facts that would cause a reasonable
person in similar position to suspect, as a result of the
communication or any observations made during that
communication, that the client or patient 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 client or patient.

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

(4) (a) No cleric and no person, other than a volunteer,
designated by any church, religious society, or faith acting as
a leader, official, or delegate on behalf of the church,
religious society, or faith who is acting in an official or
professional capacity, who knows, or has reasonable cause to
believe based on facts that would cause a reasonable person in a
similar position to believe, that a child under eighteen years
of age, ~~or a mentally retarded, developmentally disabled, or
physically impaired child person~~ under twenty-one years of age
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, and who
knows, or has reasonable cause to believe based on facts that
would cause a reasonable person in a similar position to
believe, that another cleric or another person, other than a
volunteer, designated by a church, religious society, or faith
acting as a leader, official, or delegate on behalf of the
church, religious society, or faith caused, or poses the threat

of causing, the wound, injury, disability, or condition that 5465
reasonably indicates abuse or neglect shall fail to immediately 5466
report that knowledge or reasonable cause to believe to the 5467
entity or persons specified in this division. Except as provided 5468
in section 5120.173 of the Revised Code, the person making the 5469
report shall make it to the public children services agency or a 5470
municipal or county peace officer in the county in which the 5471
child resides or in which the abuse or neglect is occurring or 5472
has occurred. In the circumstances described in section 5120.173 5473
of the Revised Code, the person making the report shall make it 5474
to the entity specified in that section. 5475

(b) Except as provided in division (A) (4) (c) of this 5476
section, a cleric is not required to make a report pursuant to 5477
division (A) (4) (a) of this section concerning any communication 5478
the cleric receives from a penitent in a cleric-penitent 5479
relationship, if, in accordance with division (C) of section 5480
2317.02 of the Revised Code, the cleric could not testify with 5481
respect to that communication in a civil or criminal proceeding. 5482

(c) The penitent in a cleric-penitent relationship 5483
described in division (A) (4) (b) of this section is deemed to 5484
have waived any testimonial privilege under division (C) of 5485
section 2317.02 of the Revised Code with respect to any 5486
communication the cleric receives from the penitent in that 5487
cleric-penitent relationship, and the cleric shall make a report 5488
pursuant to division (A) (4) (a) of this section with respect to 5489
that communication, if all of the following apply: 5490

(i) The penitent, at the time of the communication, is 5491
~~either a child under eighteen years of age or is a mentally~~ 5492
~~retarded, developmentally disabled, or physically impaired~~ 5493
person under twenty-one years of age with a developmental 5494

disability or physical impairment. 5495

(ii) The cleric knows, or has reasonable cause to believe 5496
based on facts that would cause a reasonable person in a similar 5497
position to believe, as a result of the communication or any 5498
observations made during that communication, the penitent has 5499
suffered or faces a threat of suffering any physical or mental 5500
wound, injury, disability, or condition of a nature that 5501
reasonably indicates abuse or neglect of the penitent. 5502

(iii) The abuse or neglect does not arise out of the 5503
penitent's attempt to have an abortion performed upon a child 5504
under eighteen years of age or upon a ~~mentally retarded,~~ 5505
~~developmentally disabled, or physically impaired~~ person under 5506
twenty-one years of age with a developmental disability or 5507
physical impairment without the notification of her parents, 5508
guardian, or custodian in accordance with section 2151.85 of the 5509
Revised Code. 5510

(d) Divisions (A) (4) (a) and (c) of this section do not 5511
apply in a cleric-penitent relationship when the disclosure of 5512
any communication the cleric receives from the penitent is in 5513
violation of the sacred trust. 5514

(e) As used in divisions (A) (1) and (4) of this section, 5515
"cleric" and "sacred trust" have the same meanings as in section 5516
2317.02 of the Revised Code. 5517

(B) Anyone who knows, or has reasonable cause to suspect 5518
based on facts that would cause a reasonable person in similar 5519
circumstances to suspect, that a child under eighteen years of 5520
age, or a ~~mentally retarded, developmentally disabled, or~~ 5521
~~physically impaired~~ person under twenty-one years of age with a 5522
developmental disability or physical impairment, has suffered or 5523

faces a threat of suffering any physical or mental wound, 5524
injury, disability, or other condition of a nature that 5525
reasonably indicates abuse or neglect of the child may report or 5526
cause reports to be made of that knowledge or reasonable cause 5527
to suspect to the entity or persons specified in this division. 5528
Except as provided in section 5120.173 of the Revised Code, a 5529
person making a report or causing a report to be made under this 5530
division shall make it or cause it to be made to the public 5531
children services agency or to a municipal or county peace 5532
officer. In the circumstances described in section 5120.173 of 5533
the Revised Code, a person making a report or causing a report 5534
to be made under this division shall make it or cause it to be 5535
made to the entity specified in that section. 5536

(C) Any report made pursuant to division (A) or (B) of 5537
this section shall be made forthwith either by telephone or in 5538
person and shall be followed by a written report, if requested 5539
by the receiving agency or officer. The written report shall 5540
contain: 5541

(1) The names and addresses of the child and the child's 5542
parents or the person or persons having custody of the child, if 5543
known; 5544

(2) The child's age and the nature and extent of the 5545
child's injuries, abuse, or neglect that is known or reasonably 5546
suspected or believed, as applicable, to have occurred or of the 5547
threat of injury, abuse, or neglect that is known or reasonably 5548
suspected or believed, as applicable, to exist, including any 5549
evidence of previous injuries, abuse, or neglect; 5550

(3) Any other information that might be helpful in 5551
establishing the cause of the injury, abuse, or neglect that is 5552
known or reasonably suspected or believed, as applicable, to 5553

have occurred or of the threat of injury, abuse, or neglect that 5554
is known or reasonably suspected or believed, as applicable, to 5555
exist. 5556

Any person, who is required by division (A) of this 5557
section to report child abuse or child neglect that is known or 5558
reasonably suspected or believed to have occurred, may take or 5559
cause to be taken color photographs of areas of trauma visible 5560
on a child and, if medically indicated, cause to be performed 5561
radiological examinations of the child. 5562

(D) As used in this division, "children's advocacy center" 5563
and "sexual abuse of a child" have the same meanings as in 5564
section 2151.425 of the Revised Code. 5565

(1) When a municipal or county peace officer receives a 5566
report concerning the possible abuse or neglect of a child or 5567
the possible threat of abuse or neglect of a child, upon receipt 5568
of the report, the municipal or county peace officer who 5569
receives the report shall refer the report to the appropriate 5570
public children services agency. 5571

(2) When a public children services agency receives a 5572
report pursuant to this division or division (A) or (B) of this 5573
section, upon receipt of the report, the public children 5574
services agency shall do both of the following: 5575

(a) Comply with section 2151.422 of the Revised Code; 5576

(b) If the county served by the agency is also served by a 5577
children's advocacy center and the report alleges sexual abuse 5578
of a child or another type of abuse of a child that is specified 5579
in the memorandum of understanding that creates the center as 5580
being within the center's jurisdiction, comply regarding the 5581
report with the protocol and procedures for referrals and 5582

investigations, with the coordinating activities, and with the 5583
authority or responsibility for performing or providing 5584
functions, activities, and services stipulated in the 5585
interagency agreement entered into under section 2151.428 of the 5586
Revised Code relative to that center. 5587

(E) No township, municipal, or county peace officer shall 5588
remove a child about whom a report is made pursuant to this 5589
section from the child's parents, stepparents, or guardian or 5590
any other persons having custody of the child without 5591
consultation with the public children services agency, unless, 5592
in the judgment of the officer, and, if the report was made by 5593
physician, the physician, immediate removal is considered 5594
essential to protect the child from further abuse or neglect. 5595
The agency that must be consulted shall be the agency conducting 5596
the investigation of the report as determined pursuant to 5597
section 2151.422 of the Revised Code. 5598

(F) (1) Except as provided in section 2151.422 of the 5599
Revised Code or in an interagency agreement entered into under 5600
section 2151.428 of the Revised Code that applies to the 5601
particular report, the public children services agency shall 5602
investigate, within twenty-four hours, each report of child 5603
abuse or child neglect that is known or reasonably suspected or 5604
believed to have occurred and of a threat of child abuse or 5605
child neglect that is known or reasonably suspected or believed 5606
to exist that is referred to it under this section to determine 5607
the circumstances surrounding the injuries, abuse, or neglect or 5608
the threat of injury, abuse, or neglect, the cause of the 5609
injuries, abuse, neglect, or threat, and the person or persons 5610
responsible. The investigation shall be made in cooperation with 5611
the law enforcement agency and in accordance with the memorandum 5612
of understanding prepared under division (J) of this section. A 5613

representative of the public children services agency shall, at 5614
the time of initial contact with the person subject to the 5615
investigation, inform the person of the specific complaints or 5616
allegations made against the person. The information shall be 5617
given in a manner that is consistent with division (H)(1) of 5618
this section and protects the rights of the person making the 5619
report under this section. 5620

A failure to make the investigation in accordance with the 5621
memorandum is not grounds for, and shall not result in, the 5622
dismissal of any charges or complaint arising from the report or 5623
the suppression of any evidence obtained as a result of the 5624
report and does not give, and shall not be construed as giving, 5625
any rights or any grounds for appeal or post-conviction relief 5626
to any person. The public children services agency shall report 5627
each case to the uniform statewide automated child welfare 5628
information system that the department of job and family 5629
services shall maintain in accordance with section 5101.13 of 5630
the Revised Code. The public children services agency shall 5631
submit a report of its investigation, in writing, to the law 5632
enforcement agency. 5633

(2) The public children services agency shall make any 5634
recommendations to the county prosecuting attorney or city 5635
director of law that it considers necessary to protect any 5636
children that are brought to its attention. 5637

(G)(1)(a) Except as provided in division (H)(3) of this 5638
section, anyone or any hospital, institution, school, health 5639
department, or agency participating in the making of reports 5640
under division (A) of this section, anyone or any hospital, 5641
institution, school, health department, or agency participating 5642
in good faith in the making of reports under division (B) of 5643

this section, and anyone participating in good faith in a 5644
judicial proceeding resulting from the reports, shall be immune 5645
from any civil or criminal liability for injury, death, or loss 5646
to person or property that otherwise might be incurred or 5647
imposed as a result of the making of the reports or the 5648
participation in the judicial proceeding. 5649

(b) Notwithstanding section 4731.22 of the Revised Code, 5650
the physician-patient privilege shall not be a ground for 5651
excluding evidence regarding a child's injuries, abuse, or 5652
neglect, or the cause of the injuries, abuse, or neglect in any 5653
judicial proceeding resulting from a report submitted pursuant 5654
to this section. 5655

(2) In any civil or criminal action or proceeding in which 5656
it is alleged and proved that participation in the making of a 5657
report under this section was not in good faith or participation 5658
in a judicial proceeding resulting from a report made under this 5659
section was not in good faith, the court shall award the 5660
prevailing party reasonable attorney's fees and costs and, if a 5661
civil action or proceeding is voluntarily dismissed, may award 5662
reasonable attorney's fees and costs to the party against whom 5663
the civil action or proceeding is brought. 5664

(H) (1) Except as provided in divisions (H) (4) and (N) of 5665
this section, a report made under this section is confidential. 5666
The information provided in a report made pursuant to this 5667
section and the name of the person who made the report shall not 5668
be released for use, and shall not be used, as evidence in any 5669
civil action or proceeding brought against the person who made 5670
the report. Nothing in this division shall preclude the use of 5671
reports of other incidents of known or suspected abuse or 5672
neglect in a civil action or proceeding brought pursuant to 5673

division (M) of this section against a person who is alleged to 5674
have violated division (A) (1) of this section, provided that any 5675
information in a report that would identify the child who is the 5676
subject of the report or the maker of the report, if the maker 5677
of the report is not the defendant or an agent or employee of 5678
the defendant, has been redacted. In a criminal proceeding, the 5679
report is admissible in evidence in accordance with the Rules of 5680
Evidence and is subject to discovery in accordance with the 5681
Rules of Criminal Procedure. 5682

(2) No person shall permit or encourage the unauthorized 5683
dissemination of the contents of any report made under this 5684
section. 5685

(3) A person who knowingly makes or causes another person 5686
to make a false report under division (B) of this section that 5687
alleges that any person has committed an act or omission that 5688
resulted in a child being an abused child or a neglected child 5689
is guilty of a violation of section 2921.14 of the Revised Code. 5690

(4) If a report is made pursuant to division (A) or (B) of 5691
this section and the child who is the subject of the report dies 5692
for any reason at any time after the report is made, but before 5693
the child attains eighteen years of age, the public children 5694
services agency or municipal or county peace officer to which 5695
the report was made or referred, on the request of the child 5696
fatality review board or the director of health pursuant to 5697
guidelines established under section 3701.70 of the Revised 5698
Code, shall submit a summary sheet of information providing a 5699
summary of the report to the review board of the county in which 5700
the deceased child resided at the time of death or to the 5701
director. On the request of the review board or director, the 5702
agency or peace officer may, at its discretion, make the report 5703

available to the review board or director. If the county served 5704
by the public children services agency is also served by a 5705
children's advocacy center and the report of alleged sexual 5706
abuse of a child or another type of abuse of a child is 5707
specified in the memorandum of understanding that creates the 5708
center as being within the center's jurisdiction, the agency or 5709
center shall perform the duties and functions specified in this 5710
division in accordance with the interagency agreement entered 5711
into under section 2151.428 of the Revised Code relative to that 5712
advocacy center. 5713

(5) A public children services agency shall advise a 5714
person alleged to have inflicted abuse or neglect on a child who 5715
is the subject of a report made pursuant to this section, 5716
including a report alleging sexual abuse of a child or another 5717
type of abuse of a child referred to a children's advocacy 5718
center pursuant to an interagency agreement entered into under 5719
section 2151.428 of the Revised Code, in writing of the 5720
disposition of the investigation. The agency shall not provide 5721
to the person any information that identifies the person who 5722
made the report, statements of witnesses, or police or other 5723
investigative reports. 5724

(I) Any report that is required by this section, other 5725
than a report that is made to the state highway patrol as 5726
described in section 5120.173 of the Revised Code, shall result 5727
in protective services and emergency supportive services being 5728
made available by the public children services agency on behalf 5729
of the children about whom the report is made, in an effort to 5730
prevent further neglect or abuse, to enhance their welfare, and, 5731
whenever possible, to preserve the family unit intact. The 5732
agency required to provide the services shall be the agency 5733
conducting the investigation of the report pursuant to section 5734

2151.422 of the Revised Code. 5735

(J) (1) Each public children services agency shall prepare 5736
a memorandum of understanding that is signed by all of the 5737
following: 5738

(a) If there is only one juvenile judge in the county, the 5739
juvenile judge of the county or the juvenile judge's 5740
representative; 5741

(b) If there is more than one juvenile judge in the 5742
county, a juvenile judge or the juvenile judges' representative 5743
selected by the juvenile judges or, if they are unable to do so 5744
for any reason, the juvenile judge who is senior in point of 5745
service or the senior juvenile judge's representative; 5746

(c) The county peace officer; 5747

(d) All chief municipal peace officers within the county; 5748

(e) Other law enforcement officers handling child abuse 5749
and neglect cases in the county; 5750

(f) The prosecuting attorney of the county; 5751

(g) If the public children services agency is not the 5752
county department of job and family services, the county 5753
department of job and family services; 5754

(h) The county humane society; 5755

(i) If the public children services agency participated in 5756
the execution of a memorandum of understanding under section 5757
2151.426 of the Revised Code establishing a children's advocacy 5758
center, each participating member of the children's advocacy 5759
center established by the memorandum. 5760

(2) A memorandum of understanding shall set forth the 5761

normal operating procedure to be employed by all concerned 5762
officials in the execution of their respective responsibilities 5763
under this section and division (C) of section 2919.21, division 5764
(B) (1) of section 2919.22, division (B) of section 2919.23, and 5765
section 2919.24 of the Revised Code and shall have as two of its 5766
primary goals the elimination of all unnecessary interviews of 5767
children who are the subject of reports made pursuant to 5768
division (A) or (B) of this section and, when feasible, 5769
providing for only one interview of a child who is the subject 5770
of any report made pursuant to division (A) or (B) of this 5771
section. A failure to follow the procedure set forth in the 5772
memorandum by the concerned officials is not grounds for, and 5773
shall not result in, the dismissal of any charges or complaint 5774
arising from any reported case of abuse or neglect or the 5775
suppression of any evidence obtained as a result of any reported 5776
child abuse or child neglect and does not give, and shall not be 5777
construed as giving, any rights or any grounds for appeal or 5778
post-conviction relief to any person. 5779

(3) A memorandum of understanding shall include all of the 5780
following: 5781

(a) The roles and responsibilities for handling emergency 5782
and nonemergency cases of abuse and neglect; 5783

(b) Standards and procedures to be used in handling and 5784
coordinating investigations of reported cases of child abuse and 5785
reported cases of child neglect, methods to be used in 5786
interviewing the child who is the subject of the report and who 5787
allegedly was abused or neglected, and standards and procedures 5788
addressing the categories of persons who may interview the child 5789
who is the subject of the report and who allegedly was abused or 5790
neglected. 5791

(4) If a public children services agency participated in 5792
the execution of a memorandum of understanding under section 5793
2151.426 of the Revised Code establishing a children's advocacy 5794
center, the agency shall incorporate the contents of that 5795
memorandum in the memorandum prepared pursuant to this section. 5796

(5) The clerk of the court of common pleas in the county 5797
may sign the memorandum of understanding prepared under division 5798
(J) (1) of this section. If the clerk signs the memorandum of 5799
understanding, the clerk shall execute all relevant 5800
responsibilities as required of officials specified in the 5801
memorandum. 5802

(K) (1) Except as provided in division (K) (4) of this 5803
section, a person who is required to make a report pursuant to 5804
division (A) of this section may make a reasonable number of 5805
requests of the public children services agency that receives or 5806
is referred the report, or of the children's advocacy center 5807
that is referred the report if the report is referred to a 5808
children's advocacy center pursuant to an interagency agreement 5809
entered into under section 2151.428 of the Revised Code, to be 5810
provided with the following information: 5811

(a) Whether the agency or center has initiated an 5812
investigation of the report; 5813

(b) Whether the agency or center is continuing to 5814
investigate the report; 5815

(c) Whether the agency or center is otherwise involved 5816
with the child who is the subject of the report; 5817

(d) The general status of the health and safety of the 5818
child who is the subject of the report; 5819

(e) Whether the report has resulted in the filing of a 5820

complaint in juvenile court or of criminal charges in another 5821
court. 5822

(2) A person may request the information specified in 5823
division (K)(1) of this section only if, at the time the report 5824
is made, the person's name, address, and telephone number are 5825
provided to the person who receives the report. 5826

When a municipal or county peace officer or employee of a 5827
public children services agency receives a report pursuant to 5828
division (A) or (B) of this section the recipient of the report 5829
shall inform the person of the right to request the information 5830
described in division (K)(1) of this section. The recipient of 5831
the report shall include in the initial child abuse or child 5832
neglect report that the person making the report was so informed 5833
and, if provided at the time of the making of the report, shall 5834
include the person's name, address, and telephone number in the 5835
report. 5836

Each request is subject to verification of the identity of 5837
the person making the report. If that person's identity is 5838
verified, the agency shall provide the person with the 5839
information described in division (K)(1) of this section a 5840
reasonable number of times, except that the agency shall not 5841
disclose any confidential information regarding the child who is 5842
the subject of the report other than the information described 5843
in those divisions. 5844

(3) A request made pursuant to division (K)(1) of this 5845
section is not a substitute for any report required to be made 5846
pursuant to division (A) of this section. 5847

(4) If an agency other than the agency that received or 5848
was referred the report is conducting the investigation of the 5849

report pursuant to section 2151.422 of the Revised Code, the 5850
agency conducting the investigation shall comply with the 5851
requirements of division (K) of this section. 5852

(L) The director of job and family services shall adopt 5853
rules in accordance with Chapter 119. of the Revised Code to 5854
implement this section. The department of job and family 5855
services may enter into a plan of cooperation with any other 5856
governmental entity to aid in ensuring that children are 5857
protected from abuse and neglect. The department shall make 5858
recommendations to the attorney general that the department 5859
determines are necessary to protect children from child abuse 5860
and child neglect. 5861

(M) Whoever violates division (A) of this section is 5862
liable for compensatory and exemplary damages to the child who 5863
would have been the subject of the report that was not made. A 5864
person who brings a civil action or proceeding pursuant to this 5865
division against a person who is alleged to have violated 5866
division (A) (1) of this section may use in the action or 5867
proceeding reports of other incidents of known or suspected 5868
abuse or neglect, provided that any information in a report that 5869
would identify the child who is the subject of the report or the 5870
maker of the report, if the maker is not the defendant or an 5871
agent or employee of the defendant, has been redacted. 5872

(N) (1) As used in this division: 5873

(a) "Out-of-home care" includes a nonchartered nonpublic 5874
school if the alleged child abuse or child neglect, or alleged 5875
threat of child abuse or child neglect, described in a report 5876
received by a public children services agency allegedly occurred 5877
in or involved the nonchartered nonpublic school and the alleged 5878
perpetrator named in the report holds a certificate, permit, or 5879

license issued by the state board of education under section 5880
3301.071 or Chapter 3319. of the Revised Code. 5881

(b) "Administrator, director, or other chief 5882
administrative officer" means the superintendent of the school 5883
district if the out-of-home care entity subject to a report made 5884
pursuant to this section is a school operated by the district. 5885

(2) No later than the end of the day following the day on 5886
which a public children services agency receives a report of 5887
alleged child abuse or child neglect, or a report of an alleged 5888
threat of child abuse or child neglect, that allegedly occurred 5889
in or involved an out-of-home care entity, the agency shall 5890
provide written notice of the allegations contained in and the 5891
person named as the alleged perpetrator in the report to the 5892
administrator, director, or other chief administrative officer 5893
of the out-of-home care entity that is the subject of the report 5894
unless the administrator, director, or other chief 5895
administrative officer is named as an alleged perpetrator in the 5896
report. If the administrator, director, or other chief 5897
administrative officer of an out-of-home care entity is named as 5898
an alleged perpetrator in a report of alleged child abuse or 5899
child neglect, or a report of an alleged threat of child abuse 5900
or child neglect, that allegedly occurred in or involved the 5901
out-of-home care entity, the agency shall provide the written 5902
notice to the owner or governing board of the out-of-home care 5903
entity that is the subject of the report. The agency shall not 5904
provide witness statements or police or other investigative 5905
reports. 5906

(3) No later than three days after the day on which a 5907
public children services agency that conducted the investigation 5908
as determined pursuant to section 2151.422 of the Revised Code 5909

makes a disposition of an investigation involving a report of 5910
alleged child abuse or child neglect, or a report of an alleged 5911
threat of child abuse or child neglect, that allegedly occurred 5912
in or involved an out-of-home care entity, the agency shall send 5913
written notice of the disposition of the investigation to the 5914
administrator, director, or other chief administrative officer 5915
and the owner or governing board of the out-of-home care entity. 5916
The agency shall not provide witness statements or police or 5917
other investigative reports. 5918

(O) As used in this section, "investigation" means the 5919
public children services agency's response to an accepted report 5920
of child abuse or neglect through either an alternative response 5921
or a traditional response. 5922

Sec. 2151.425. As used in sections 2151.426 to 2151.428 of 5923
the Revised Code: 5924

(A) "Children's advocacy center" means a center operated 5925
by participating entities within a county or two or more 5926
contiguous counties to perform functions and activities and 5927
provide services, in accordance with the interagency agreement 5928
entered into under section 2151.428 of the Revised Code, 5929
regarding reports received under section 2151.421 of the Revised 5930
Code of alleged sexual abuse of a child or another type of abuse 5931
of a child that is specified in the memorandum of understanding 5932
that creates the center as being within the center's 5933
jurisdiction and regarding the children who are the subjects of 5934
the report. 5935

(B) "Sexual abuse of a child" means unlawful sexual 5936
conduct or sexual contact, as those terms are defined in section 5937
2907.01 of the Revised Code, with a person under eighteen years 5938
of age or a ~~mentally retarded, developmentally disabled, or~~ 5939

~~physically impaired~~ person under twenty-one years of age with a 5940
developmental disability or physical impairment. 5941

Sec. 2151.651. The board of county commissioners of a 5942
county which, either separately or as part of a district, is 5943
planning to establish a school, forestry camp, or other facility 5944
under section 2151.65 of the Revised Code, to be used 5945
exclusively for the rehabilitation of children between the ages 5946
of twelve to eighteen years, other than psychotic children or 5947
~~mentally retarded~~ children with intellectual disabilities, who 5948
are designated delinquent children, as defined in section 5949
2152.02 of the Revised Code, or unruly children, as defined in 5950
section 2151.022 of the Revised Code, by order of a juvenile 5951
court, may make application to the department of youth services, 5952
created under section 5139.01 of the Revised Code, for financial 5953
assistance in defraying the county's share of the cost of 5954
acquisition or construction of such school, camp, or other 5955
facility, as provided in section 5139.27 of the Revised Code. 5956
Such application shall be made on forms prescribed and furnished 5957
by the department. 5958

Sec. 2152.02. As used in this chapter: 5959

(A) "Act charged" means the act that is identified in a 5960
complaint, indictment, or information alleging that a child is a 5961
delinquent child. 5962

(B) "Admitted to a department of youth services facility" 5963
includes admission to a facility operated, or contracted for, by 5964
the department and admission to a comparable facility outside 5965
this state by another state or the United States. 5966

(C) (1) "Child" means a person who is under eighteen years 5967
of age, except as otherwise provided in divisions (C) (2) to (8) 5968

of this section. 5969

(2) Subject to division (C) (3) of this section, any person 5970
who violates a federal or state law or a municipal ordinance 5971
prior to attaining eighteen years of age shall be deemed a 5972
"child" irrespective of that person's age at the time the 5973
complaint with respect to that violation is filed or the hearing 5974
on the complaint is held. 5975

(3) Any person who, while under eighteen years of age, 5976
commits an act that would be a felony if committed by an adult 5977
and who is not taken into custody or apprehended for that act 5978
until after the person attains twenty-one years of age is not a 5979
child in relation to that act. 5980

(4) Except as otherwise provided in divisions (C) (5) and 5981
(7) of this section, any person whose case is transferred for 5982
criminal prosecution pursuant to section 2152.12 of the Revised 5983
Code shall be deemed after the transfer not to be a child in the 5984
transferred case. 5985

(5) Any person whose case is transferred for criminal 5986
prosecution pursuant to section 2152.12 of the Revised Code and 5987
who subsequently is convicted of or pleads guilty to a felony in 5988
that case, unless a serious youthful offender dispositional 5989
sentence is imposed on the child for that offense under division 5990
(B) (2) or (3) of section 2152.121 of the Revised Code and the 5991
adult portion of that sentence is not invoked pursuant to 5992
section 2152.14 of the Revised Code, and any person who is 5993
adjudicated a delinquent child for the commission of an act, who 5994
has a serious youthful offender dispositional sentence imposed 5995
for the act pursuant to section 2152.13 of the Revised Code, and 5996
whose adult portion of the dispositional sentence is invoked 5997
pursuant to section 2152.14 of the Revised Code, shall be deemed 5998

after the conviction, plea, or invocation not to be a child in 5999
any case in which a complaint is filed against the person. 6000

(6) The juvenile court has jurisdiction over a person who 6001
is adjudicated a delinquent child or juvenile traffic offender 6002
prior to attaining eighteen years of age until the person 6003
attains twenty-one years of age, and, for purposes of that 6004
jurisdiction related to that adjudication, except as otherwise 6005
provided in this division, a person who is so adjudicated a 6006
delinquent child or juvenile traffic offender shall be deemed a 6007
"child" until the person attains twenty-one years of age. If a 6008
person is so adjudicated a delinquent child or juvenile traffic 6009
offender and the court makes a disposition of the person under 6010
this chapter, at any time after the person attains twenty-one 6011
years of age, the places at which the person may be held under 6012
that disposition are not limited to places authorized under this 6013
chapter solely for confinement of children, and the person may 6014
be confined under that disposition, in accordance with division 6015
(F) (2) of section 2152.26 of the Revised Code, in places other 6016
than those authorized under this chapter solely for confinement 6017
of children. 6018

(7) The juvenile court has jurisdiction over any person 6019
whose case is transferred for criminal prosecution solely for 6020
the purpose of detaining the person as authorized in division 6021
(F) (1) or (4) of section 2152.26 of the Revised Code unless the 6022
person is convicted of or pleads guilty to a felony in the adult 6023
court. 6024

(8) Any person who, while eighteen years of age, violates 6025
division (A) (1) or (2) of section 2919.27 of the Revised Code by 6026
violating a protection order issued or consent agreement 6027
approved under section 2151.34 or 3113.31 of the Revised Code 6028

shall be considered a child for the purposes of that violation 6029
of section 2919.27 of the Revised Code. 6030

(D) "Chronic truant" means any child of compulsory school 6031
age who is absent without legitimate excuse for absence from the 6032
public school the child is supposed to attend for seven or more 6033
consecutive school days, ten or more school days in one school 6034
month, or fifteen or more school days in a school year. 6035

(E) "Community corrections facility," "public safety 6036
beds," "release authority," and "supervised release" have the 6037
same meanings as in section 5139.01 of the Revised Code. 6038

(F) "Delinquent child" includes any of the following: 6039

(1) Any child, except a juvenile traffic offender, who 6040
violates any law of this state or the United States, or any 6041
ordinance of a political subdivision of the state, that would be 6042
an offense if committed by an adult; 6043

(2) Any child who violates any lawful order of the court 6044
made under this chapter or under Chapter 2151. of the Revised 6045
Code other than an order issued under section 2151.87 of the 6046
Revised Code; 6047

(3) Any child who violates division (C) of section 6048
2907.39, division (A) of section 2923.211, or division (C) (1) or 6049
(D) of section 2925.55 of the Revised Code; 6050

(4) Any child who is a habitual truant and who previously 6051
has been adjudicated an unruly child for being a habitual 6052
truant; 6053

(5) Any child who is a chronic truant. 6054

(G) "Discretionary serious youthful offender" means a 6055
person who is eligible for a discretionary SYO and who is not 6056

transferred to adult court under a mandatory or discretionary transfer. 6057
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(H) "Discretionary SYO" means a case in which the juvenile court, in the juvenile court's discretion, may impose a serious youthful offender disposition under section 2152.13 of the Revised Code. 6059
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(I) "Discretionary transfer" means that the juvenile court has discretion to transfer a case for criminal prosecution under division (B) of section 2152.12 of the Revised Code. 6063
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(J) "Drug abuse offense," "felony drug abuse offense," and "minor drug possession offense" have the same meanings as in section 2925.01 of the Revised Code. 6066
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(K) "Electronic monitoring" and "electronic monitoring device" have the same meanings as in section 2929.01 of the Revised Code. 6069
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(L) "Economic loss" means any economic detriment suffered by a victim of a delinquent act or juvenile traffic offense as a direct and proximate result of the delinquent act or juvenile traffic offense and includes any loss of income due to lost time at work because of any injury caused to the victim and any property loss, medical cost, or funeral expense incurred as a result of the delinquent act or juvenile traffic offense. 6072
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"Economic loss" does not include non-economic loss or any punitive or exemplary damages. 6079
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(M) "Firearm" has the same meaning as in section 2923.11 of the Revised Code. 6081
6082

(N) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code. 6083
6084

(O) "Juvenile traffic offender" means any child who 6085
violates any traffic law, traffic ordinance, or traffic 6086
regulation of this state, the United States, or any political 6087
subdivision of this state, other than a resolution, ordinance, 6088
or regulation of a political subdivision of this state the 6089
violation of which is required to be handled by a parking 6090
violations bureau or a joint parking violations bureau pursuant 6091
to Chapter 4521. of the Revised Code. 6092

~~(O)~~(P) A "legitimate excuse for absence from the public 6093
school the child is supposed to attend" has the same meaning as 6094
in section 2151.011 of the Revised Code. 6095

~~(P)~~(Q) "Mandatory serious youthful offender" means a 6096
person who is eligible for a mandatory SYO and who is not 6097
transferred to adult court under a mandatory or discretionary 6098
transfer and also includes, for purposes of imposition of a 6099
mandatory serious youthful dispositional sentence under section 6100
2152.13 of the Revised Code, a person upon whom a juvenile court 6101
is required to impose such a sentence under division (B) (3) of 6102
section 2152.121 of the Revised Code. 6103

~~(Q)~~(R) "Mandatory SYO" means a case in which the juvenile 6104
court is required to impose a mandatory serious youthful 6105
offender disposition under section 2152.13 of the Revised Code. 6106

~~(R)~~(S) "Mandatory transfer" means that a case is required 6107
to be transferred for criminal prosecution under division (A) of 6108
section 2152.12 of the Revised Code. 6109

~~(S)~~(T) "Mental illness" has the same meaning as in 6110
section 5122.01 of the Revised Code. 6111

~~(T)~~ "Mentally retarded person" has the same meaning as in 6112
section 5123.01 of the Revised Code. 6113

(U) "Monitored time" and "repeat violent offender" have 6114
the same meanings as in section 2929.01 of the Revised Code. 6115

(V) "Of compulsory school age" has the same meaning as in 6116
section 3321.01 of the Revised Code. 6117

(W) "Public record" has the same meaning as in section 6118
149.43 of the Revised Code. 6119

(X) "Serious youthful offender" means a person who is 6120
eligible for a mandatory SYO or discretionary SYO but who is not 6121
transferred to adult court under a mandatory or discretionary 6122
transfer and also includes, for purposes of imposition of a 6123
mandatory serious youthful dispositional sentence under section 6124
2152.13 of the Revised Code, a person upon whom a juvenile court 6125
is required to impose such a sentence under division (B) (3) of 6126
section 2152.121 of the Revised Code. 6127

(Y) "Sexually oriented offense," "juvenile offender 6128
registrant," "child-victim oriented offense," "tier I sex 6129
offender/child-victim offender," "tier II sex offender/child- 6130
victim offender," "tier III sex offender/child-victim offender," 6131
and "public registry-qualified juvenile offender registrant" 6132
have the same meanings as in section 2950.01 of the Revised 6133
Code. 6134

(Z) "Traditional juvenile" means a case that is not 6135
transferred to adult court under a mandatory or discretionary 6136
transfer, that is eligible for a disposition under sections 6137
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 6138
that is not eligible for a disposition under section 2152.13 of 6139
the Revised Code. 6140

(AA) "Transfer" means the transfer for criminal 6141
prosecution of a case involving the alleged commission by a 6142

child of an act that would be an offense if committed by an 6143
adult from the juvenile court to the appropriate court that has 6144
jurisdiction of the offense. 6145

(BB) "Category one offense" means any of the following: 6146

(1) A violation of section 2903.01 or 2903.02 of the 6147
Revised Code; 6148

(2) A violation of section 2923.02 of the Revised Code 6149
involving an attempt to commit aggravated murder or murder. 6150

(CC) "Category two offense" means any of the following: 6151

(1) A violation of section 2903.03, 2905.01, 2907.02, 6152
2909.02, 2911.01, or 2911.11 of the Revised Code; 6153

(2) A violation of section 2903.04 of the Revised Code 6154
that is a felony of the first degree; 6155

(3) A violation of section 2907.12 of the Revised Code as 6156
it existed prior to September 3, 1996. 6157

(DD) "Non-economic loss" means nonpecuniary harm suffered 6158
by a victim of a delinquent act or juvenile traffic offense as a 6159
result of or related to the delinquent act or juvenile traffic 6160
offense, including, but not limited to, pain and suffering; loss 6161
of society, consortium, companionship, care, assistance, 6162
attention, protection, advice, guidance, counsel, instruction, 6163
training, or education; mental anguish; and any other intangible 6164
loss. 6165

Sec. 2152.12. (A) (1) (a) After a complaint has been filed 6166
alleging that a child is a delinquent child for committing an 6167
act that would be aggravated murder, murder, attempted 6168
aggravated murder, or attempted murder if committed by an adult, 6169
the juvenile court at a hearing shall transfer the case if 6170

either of the following applies: 6171

(i) The child was sixteen or seventeen years of age at the 6172
time of the act charged and there is probable cause to believe 6173
that the child committed the act charged. 6174

(ii) The child was fourteen or fifteen years of age at the 6175
time of the act charged, section 2152.10 of the Revised Code 6176
provides that the child is eligible for mandatory transfer, and 6177
there is probable cause to believe that the child committed the 6178
act charged. 6179

(b) After a complaint has been filed alleging that a child 6180
is a delinquent child by reason of committing a category two 6181
offense, the juvenile court at a hearing shall transfer the case 6182
if the child was sixteen or seventeen years of age at the time 6183
of the act charged and either of the following applies: 6184

(i) Division (A) (2) (a) of section 2152.10 of the Revised 6185
Code requires the mandatory transfer of the case, and there is 6186
probable cause to believe that the child committed the act 6187
charged. 6188

(ii) Division (A) (2) (b) of section 2152.10 of the Revised 6189
Code requires the mandatory transfer of the case, and there is 6190
probable cause to believe that the child committed the act 6191
charged. 6192

(2) The juvenile court also shall transfer a case in the 6193
circumstances described in division (C) (5) of section 2152.02 of 6194
the Revised Code or if either of the following applies: 6195

(a) A complaint is filed against a child who is eligible 6196
for a discretionary transfer under section 2152.10 of the 6197
Revised Code and who previously was convicted of or pleaded 6198
guilty to a felony in a case that was transferred to a criminal 6199

court. 6200

(b) A complaint is filed against a child who is domiciled 6201
in another state alleging that the child is a delinquent child 6202
for committing an act that would be a felony if committed by an 6203
adult, and, if the act charged had been committed in that other 6204
state, the child would be subject to criminal prosecution as an 6205
adult under the law of that other state without the need for a 6206
transfer of jurisdiction from a juvenile, family, or similar 6207
noncriminal court to a criminal court. 6208

(3) If a complaint is filed against a child alleging that 6209
the child is a delinquent child and the case is transferred 6210
pursuant to division (A) (1) (a) (i) or (A) (1) (b) (ii) of this 6211
section and if the child subsequently is convicted of or pleads 6212
guilty to an offense in that case, the sentence to be imposed or 6213
disposition to be made of the child shall be determined in 6214
accordance with section 2152.121 of the Revised Code. 6215

(B) Except as provided in division (A) of this section, 6216
after a complaint has been filed alleging that a child is a 6217
delinquent child for committing an act that would be a felony if 6218
committed by an adult, the juvenile court at a hearing may 6219
transfer the case if the court finds all of the following: 6220

(1) The child was fourteen years of age or older at the 6221
time of the act charged. 6222

(2) There is probable cause to believe that the child 6223
committed the act charged. 6224

(3) The child is not amenable to care or rehabilitation 6225
within the juvenile system, and the safety of the community may 6226
require that the child be subject to adult sanctions. In making 6227
its decision under this division, the court shall consider 6228

whether the applicable factors under division (D) of this 6229
section indicating that the case should be transferred outweigh 6230
the applicable factors under division (E) of this section 6231
indicating that the case should not be transferred. The record 6232
shall indicate the specific factors that were applicable and 6233
that the court weighed. 6234

(C) Before considering a transfer under division (B) of 6235
this section, the juvenile court shall order an investigation 6236
into the child's social history, education, family situation, 6237
and any other factor bearing on whether the child is amenable to 6238
juvenile rehabilitation, including a mental examination of the 6239
child by a public or private agency or a person qualified to 6240
make the examination. The investigation shall be completed and a 6241
report on the investigation shall be submitted to the court as 6242
soon as possible but not more than forty-five calendar days 6243
after the court orders the investigation. The court may grant 6244
one or more extensions for a reasonable length of time. The 6245
child may waive the examination required by this division if the 6246
court finds that the waiver is competently and intelligently 6247
made. Refusal to submit to a mental examination by the child 6248
constitutes a waiver of the examination. 6249

(D) In considering whether to transfer a child under 6250
division (B) of this section, the juvenile court shall consider 6251
the following relevant factors, and any other relevant factors, 6252
in favor of a transfer under that division: 6253

(1) The victim of the act charged suffered physical or 6254
psychological harm, or serious economic harm, as a result of the 6255
alleged act. 6256

(2) The physical or psychological harm suffered by the 6257
victim due to the alleged act of the child was exacerbated 6258

because of the physical or psychological vulnerability or the 6259
age of the victim. 6260

(3) The child's relationship with the victim facilitated 6261
the act charged. 6262

(4) The child allegedly committed the act charged for hire 6263
or as a part of a gang or other organized criminal activity. 6264

(5) The child had a firearm on or about the child's person 6265
or under the child's control at the time of the act charged, the 6266
act charged is not a violation of section 2923.12 of the Revised 6267
Code, and the child, during the commission of the act charged, 6268
allegedly used or displayed the firearm, brandished the firearm, 6269
or indicated that the child possessed a firearm. 6270

(6) At the time of the act charged, the child was awaiting 6271
adjudication or disposition as a delinquent child, was under a 6272
community control sanction, or was on parole for a prior 6273
delinquent child adjudication or conviction. 6274

(7) The results of any previous juvenile sanctions and 6275
programs indicate that rehabilitation of the child will not 6276
occur in the juvenile system. 6277

(8) The child is emotionally, physically, or 6278
psychologically mature enough for the transfer. 6279

(9) There is not sufficient time to rehabilitate the child 6280
within the juvenile system. 6281

(E) In considering whether to transfer a child under 6282
division (B) of this section, the juvenile court shall consider 6283
the following relevant factors, and any other relevant factors, 6284
against a transfer under that division: 6285

(1) The victim induced or facilitated the act charged. 6286

- (2) The child acted under provocation in allegedly committing the act charged. 6287
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- (3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person. 6289
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- (4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged. 6292
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- (5) The child previously has not been adjudicated a delinquent child. 6295
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- (6) The child is not emotionally, physically, or psychologically mature enough for the transfer. 6297
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- (7) The child has a mental illness or ~~is a mentally-retarded person~~ intellectual disability. 6299
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- (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. 6301
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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: 6305
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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.

(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 court shall decide, in accordance with division (B) of this section, whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division. Notwithstanding division (B) of this section, prior to transferring a case pursuant to division (A) of this section, the court is not required to consider any factor specified in division (D) or (E) of this section or to conduct an investigation under division (C) of this section.

(3) If the court determines that division (A) of this section does not require that the case or cases involving one or more of the acts charged be transferred, the court shall decide in accordance with division (B) of this section whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division.

(4) No report on an investigation conducted pursuant to division (C) of this section shall include details of the alleged offense as reported by the child.

(G) The court shall give notice in writing of the time, place, and purpose of any hearing held pursuant to division (A) or (B) of this section to the child's parents, guardian, or

other custodian and to the child's counsel at least three days 6345
prior to the hearing. 6346

(H) No person, either before or after reaching eighteen 6347
years of age, shall be prosecuted as an adult for an offense 6348
committed prior to becoming eighteen years of age, unless the 6349
person has been transferred as provided in division (A) or (B) 6350
of this section or unless division (J) of this section applies. 6351
Any prosecution that is had in a criminal court on the mistaken 6352
belief that the person who is the subject of the case was 6353
eighteen years of age or older at the time of the commission of 6354
the offense shall be deemed a nullity, and the person shall not 6355
be considered to have been in jeopardy on the offense. 6356

(I) Upon the transfer of a case under division (A) or (B) 6357
of this section, the juvenile court shall state the reasons for 6358
the transfer on the record, and shall order the child to enter 6359
into a recognizance with good and sufficient surety for the 6360
child's appearance before the appropriate court for any 6361
disposition that the court is authorized to make for a similar 6362
act committed by an adult. The transfer abates the jurisdiction 6363
of the juvenile court with respect to the delinquent acts 6364
alleged in the complaint, and, upon the transfer, all further 6365
proceedings pertaining to the act charged shall be discontinued 6366
in the juvenile court, and the case then shall be within the 6367
jurisdiction of the court to which it is transferred as 6368
described in division (H) of section 2151.23 of the Revised 6369
Code. 6370

(J) If a person under eighteen years of age allegedly 6371
commits an act that would be a felony if committed by an adult 6372
and if the person is not taken into custody or apprehended for 6373
that act until after the person attains twenty-one years of age, 6374

the juvenile court does not have jurisdiction to hear or 6375
determine any portion of the case charging the person with 6376
committing that act. In those circumstances, divisions (A) and 6377
(B) of this section do not apply regarding the act, and the case 6378
charging the person with committing the act shall be a criminal 6379
prosecution commenced and heard in the appropriate court having 6380
jurisdiction of the offense as if the person had been eighteen 6381
years of age or older when the person committed the act. All 6382
proceedings pertaining to the act shall be within the 6383
jurisdiction of the court having jurisdiction of the offense, 6384
and that court has all the authority and duties in the case as 6385
it has in other criminal cases in that court. 6386

Sec. 2152.14. (A) (1) The director of youth services may 6387
request the prosecuting attorney of the county in which is 6388
located the juvenile court that imposed a serious youthful 6389
offender dispositional sentence upon a person under section 6390
2152.121 or 2152.13 of the Revised Code to file a motion with 6391
that juvenile court to invoke the adult portion of the 6392
dispositional sentence if all of the following apply to the 6393
person: 6394

(a) The person is at least fourteen years of age. 6395

(b) The person is in the institutional custody, or an 6396
escapee from the custody, of the department of youth services. 6397

(c) The person is serving the juvenile portion of the 6398
serious youthful offender dispositional sentence. 6399

(2) The motion shall state that there is reasonable cause 6400
to believe that either of the following misconduct has occurred 6401
and shall state that at least one incident of misconduct of that 6402
nature occurred after the person reached fourteen years of age: 6403

(a) The person committed an act that is a violation of the 6404
rules of the institution and that could be charged as any felony 6405
or as a first degree misdemeanor offense of violence if 6406
committed by an adult. 6407

(b) The person has engaged in conduct that creates a 6408
substantial risk to the safety or security of the institution, 6409
the community, or the victim. 6410

(B) If a person is at least fourteen years of age, is 6411
serving the juvenile portion of a serious youthful offender 6412
dispositional sentence imposed under section 2152.121 or 2152.13 6413
of the Revised Code, and is on parole or aftercare from a 6414
department of youth services facility, or on community control, 6415
the director of youth services, the juvenile court that imposed 6416
the serious youthful offender dispositional sentence on the 6417
person, or the probation department supervising the person may 6418
request the prosecuting attorney of the county in which is 6419
located the juvenile court to file a motion with the juvenile 6420
court to invoke the adult portion of the dispositional sentence. 6421
The prosecuting attorney may file a motion to invoke the adult 6422
portion of the dispositional sentence even if no request is 6423
made. The motion shall state that there is reasonable cause to 6424
believe that either of the following occurred and shall state 6425
that at least one incident of misconduct of that nature occurred 6426
after the person reached fourteen years of age: 6427

(1) The person committed an act that is a violation of the 6428
conditions of supervision and that could be charged as any 6429
felony or as a first degree misdemeanor offense of violence if 6430
committed by an adult. 6431

(2) The person has engaged in conduct that creates a 6432
substantial risk to the safety or security of the community or 6433

of the victim. 6434

(C) If the prosecuting attorney declines a request to file 6435
a motion that was made by the department of youth services or 6436
the supervising probation department under division (A) or (B) 6437
of this section or fails to act on a request made under either 6438
division by the department within a reasonable time, the 6439
department of youth services or the supervising probation 6440
department may file a motion of the type described in division 6441
(A) or (B) of this section with the juvenile court to invoke the 6442
adult portion of the serious youthful offender dispositional 6443
sentence. If the prosecuting attorney declines a request to file 6444
a motion that was made by the juvenile court under division (B) 6445
of this section or fails to act on a request from the court 6446
under that division within a reasonable time, the juvenile court 6447
may hold the hearing described in division (D) of this section 6448
on its own motion. 6449

(D) Upon the filing of a motion described in division (A), 6450
(B), or (C) of this section, the juvenile court may hold a 6451
hearing to determine whether to invoke the adult portion of a 6452
person's serious juvenile offender dispositional sentence. The 6453
juvenile court shall not invoke the adult portion of the 6454
dispositional sentence without a hearing. At the hearing the 6455
person who is the subject of the serious youthful offender 6456
disposition has the right to be present, to receive notice of 6457
the grounds upon which the adult sentence portion is sought to 6458
be invoked, to be represented by counsel including counsel 6459
appointed under Juvenile Rule 4(A), to be advised on the 6460
procedures and protections set forth in the Juvenile Rules, and 6461
to present evidence on the person's own behalf, including 6462
evidence that the person has a mental illness or ~~is a mentally~~ 6463
~~retarded person~~ intellectual disability. The person may not waive 6464

the right to counsel. The hearing shall be open to the public. 6465
If the person presents evidence that the person has a mental 6466
illness or ~~is a mentally retarded person~~ intellectual 6467
disability, the juvenile court shall consider that evidence in 6468
determining whether to invoke the adult portion of the serious 6469
youthful offender dispositional sentence. 6470

(E) (1) The juvenile court may invoke the adult portion of 6471
a person's serious youthful offender dispositional sentence if 6472
the juvenile court finds all of the following on the record by 6473
clear and convincing evidence: 6474

(a) The person is serving the juvenile portion of a 6475
serious youthful offender dispositional sentence. 6476

(b) The person is at least fourteen years of age and has 6477
been admitted to a department of youth services facility, or 6478
criminal charges are pending against the person. 6479

(c) The person engaged in the conduct or acts charged 6480
under division (A), (B), or (C) of this section, and the 6481
person's conduct demonstrates that the person is unlikely to be 6482
rehabilitated during the remaining period of juvenile 6483
jurisdiction. 6484

(2) The court may modify the adult sentence the court 6485
invokes to consist of any lesser prison term that could be 6486
imposed for the offense and, in addition to the prison term or 6487
in lieu of the prison term if the prison term was not mandatory, 6488
any community control sanction that the offender was eligible to 6489
receive at sentencing. 6490

(F) If a juvenile court issues an order invoking the adult 6491
portion of a serious youthful offender dispositional sentence 6492
under division (E) of this section, the juvenile portion of the 6493

dispositional sentence shall terminate, and the department of 6494
youth services shall transfer the person to the department of 6495
rehabilitation and correction or place the person under another 6496
sanction imposed as part of the sentence. The juvenile court 6497
shall state in its order the total number of days that the 6498
person has been held in detention or in a facility operated by, 6499
or under contract with, the department of youth services under 6500
the juvenile portion of the dispositional sentence. The time the 6501
person must serve on a prison term imposed under the adult 6502
portion of the dispositional sentence shall be reduced by the 6503
total number of days specified in the order plus any additional 6504
days the person is held in a juvenile facility or in detention 6505
after the order is issued and before the person is transferred 6506
to the custody of the department of rehabilitation and 6507
correction. In no case shall the total prison term as calculated 6508
under this division exceed the maximum prison term available for 6509
an adult who is convicted of violating the same sections of the 6510
Revised Code. 6511

Any community control imposed as part of the adult 6512
sentence or as a condition of a judicial release from prison 6513
shall be under the supervision of the entity that provides adult 6514
probation services in the county. Any post-release control 6515
imposed after the offender otherwise is released from prison 6516
shall be supervised by the adult parole authority. 6517

Sec. 2152.51. (A) As used in sections 2152.51 to 2152.59 6518
of the Revised Code: 6519

(1) "Competent" and "competency" refer to a child's 6520
ability to understand the nature and objectives of a proceeding 6521
against the child and to assist in the child's defense. A child 6522
is incompetent if, due to mental illness, ~~intellectual~~ 6523

~~disability, or due to~~ developmental disability, or otherwise due 6524
to a lack of mental capacity, the child is presently incapable 6525
of understanding the nature and objective of proceedings against 6526
the child or of assisting in the child's defense. 6527

(2) "Delinquent child proceeding" means any proceeding 6528
under this chapter. 6529

(3) ~~"A person who is at least moderately intellectually-~~ 6530
~~disabled" means "a person who is at least moderately mentally-~~ 6531
~~retarded," as defined in section 5123.01 of the Revised Code.~~ 6532

~~(4) "Person with intellectual disability" has the same-~~ 6533
~~meaning as in section 2951.041-Developmental disability,"~~ 6534
~~"intellectual disability," and "moderate level of intellectual~~ 6535
~~disability" have the same meanings as in section 5123.01 of the~~ 6536
Revised Code. 6537

(B) Each juvenile court shall adopt rules to expedite 6538
proceedings under sections 2152.51 to 2152.59 of the Revised 6539
Code. The rules shall include provisions for giving notice of 6540
any hearings held under those sections and for staying any 6541
proceedings on the underlying complaint pending the 6542
determinations under those sections. 6543

(C) At a competency-related hearing held under section 6544
2152.53 or 2152.58 of the Revised Code, the child shall be 6545
represented by an attorney. If the child is indigent and cannot 6546
obtain counsel, the court shall appoint an attorney under 6547
Chapter 120. of the Revised Code or the Rules of Juvenile 6548
Procedure. 6549

Sec. 2152.52. (A) (1) In any proceeding under this chapter 6550
other than a proceeding alleging that a child is an unruly child 6551
or a juvenile traffic offender, any party or the court may move 6552

for a determination regarding the child's competency to 6553
participate in the proceeding. 6554

(2) In any proceeding under this chapter other than a 6555
proceeding alleging that a child is an unruly child or a 6556
juvenile traffic offender, if the child who is the subject of 6557
the proceeding is fourteen years of age or older and if the 6558
child is not otherwise found to ~~be mentally ill, intellectually~~ 6559
~~disabled, or developmentally disabled~~ have a mental illness or 6560
developmental disability, it is rebuttably presumed that the 6561
child does not have a lack of mental capacity. This presumption 6562
applies only in making a determination as to whether the child 6563
has a lack of mental capacity and shall not be used or 6564
applicable for any other purpose. 6565

(B) The court may find a child incompetent to proceed 6566
without ordering an evaluation of the child's competency or 6567
holding a hearing to determine the child's competency if either 6568
of the following applies: 6569

(1) The prosecuting attorney, the child's attorney, and at 6570
least one of the child's parents, guardians, or custodians agree 6571
to the determination. 6572

(2) The court relies on a prior court determination that 6573
the child was incompetent and could not attain competency even 6574
if the child were to participate in competency attainment 6575
services. 6576

Sec. 2152.54. (A) An evaluation of a child who does not 6577
appear to the court to ~~be a person who is~~ have at least 6578
~~moderately intellectually disabled~~ a moderate level of 6579
intellectual disability shall be made by an evaluator who is one 6580
of the following: 6581

(1) A professional employed by a psychiatric facility or center certified by the department of mental health and addiction services to provide forensic services and appointed by the director of the facility or center to conduct the evaluation;

(2) A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I) of section 5122.01 of the Revised Code and has specialized education, training, or experience in forensic evaluations of children or adolescents.

(B) An evaluation of a child who appears to the court to ~~be a person who is have~~ at least ~~moderately intellectually disabled a moderate level of intellectual disability~~ shall be made by a psychiatrist or licensed clinical psychologist who satisfies the criteria of division (I) of section 5122.01 of the Revised Code and has specialized education, training, or experience in forensic evaluations of children or adolescents ~~who have with intellectual disability disabilities~~.

(C) If an evaluation is conducted by an evaluator of the type described in division (A) (1) or (2) of this section and the evaluator concludes that the child ~~is a person who is has~~ at least ~~moderately intellectually disabled a moderate level of intellectual disability~~, the evaluator shall discontinue the evaluation and notify the court within one business day after reaching the conclusion. Within two business days after receiving notification, the court shall order the child to undergo an evaluation by an evaluator of the type described in division (B) of this section. Within two business days after the appointment of the new evaluator, the original evaluator shall deliver to the new evaluator all information relating to the child obtained during the original evaluation.

Sec. 2152.56. (A) Upon completing an evaluation ordered 6612
pursuant to section 2152.53 of the Revised Code, an evaluator 6613
shall submit to the court a written competency assessment 6614
report. The report shall include the evaluator's opinion as to 6615
whether the child, due to mental illness, ~~intellectual~~ 6616
~~disability, or due to~~ developmental disability, or otherwise due 6617
to a lack of mental capacity, is currently incapable of 6618
understanding the nature and objective of the proceedings 6619
against the child or of assisting in the child's defense. The 6620
report shall not include any opinion as to the child's sanity at 6621
the time of the alleged offense, details of the alleged offense 6622
as reported by the child, or an opinion as to whether the child 6623
actually committed the offense or could have been culpable for 6624
committing the offense. 6625

(B) A competency assessment report shall address the 6626
child's capacity to do all of the following: 6627

(1) Comprehend and appreciate the charges or allegations 6628
against the child; 6629

(2) Understand the adversarial nature of the proceedings, 6630
including the role of the judge, defense counsel, prosecuting 6631
attorney, guardian ad litem or court-appointed special 6632
assistant, and witnesses; 6633

(3) Assist in the child's defense and communicate with 6634
counsel; 6635

(4) Comprehend and appreciate the consequences that may be 6636
imposed or result from the proceedings. 6637

(C) A competency assessment report shall include the 6638
evaluator's opinion regarding the extent to which the child's 6639
competency may be impaired by the child's failure to meet one or 6640

more of the criteria listed in division (B) of this section. If 6641
the evaluator concludes that the child's competency is impaired 6642
but that the child may be enabled to understand the nature and 6643
objectives of the proceeding against the child and to assist in 6644
the child's defense with reasonable accommodations, the report 6645
shall include recommendations for those reasonable 6646
accommodations that the court might make. If the evaluator 6647
concludes that the child's competency is so impaired that the 6648
child would not be able to understand the nature and objectives 6649
of the proceeding against the child or to assist in the child's 6650
defense, the report shall include an opinion as to the 6651
likelihood that the child could attain competency within the 6652
periods set forth in division (D) (2) of section 2152.59 of the 6653
Revised Code. 6654

(D) If the evaluator concludes that the child could likely 6655
attain competency within the periods set forth in division (D) 6656
(2) of section 2152.59 of the Revised Code, the competency 6657
assessment report shall include both of the following: 6658

(1) A recommendation as to the least restrictive setting 6659
for child competency attainment services that is consistent with 6660
the child's ability to attain competency and the safety of both 6661
the child and the community; 6662

(2) A list of the providers of child competency attainment 6663
services known to the evaluator that are located most closely to 6664
the child's current residence. 6665

(E) If the evaluator is unable, within the maximum 6666
allowable time for submission of a competency assessment report 6667
under division (A) of section 2152.57 of the Revised Code, to 6668
form an opinion regarding the extent to which the child's 6669
competency may be impaired by the child's failure to meet one or 6670

more of the criteria listed in division (B) of this section, the 6671
evaluator shall so state in the report. The evaluator shall also 6672
include recommendations for services to support the safety of 6673
the child or the community. 6674

Sec. 2152.811. (A) As used in this section: 6675

(1) ~~"Mentally retarded person" and "developmentally-~~ 6676
~~disabled person~~Developmental disability ~~have~~has the same 6677
~~meanings~~meaning as in section 5123.01 of the Revised Code. 6678

(2) ~~"Mentally retarded or developmentally disabled-~~ 6679
~~victim~~Victim with a developmental disability includes any of 6680
the following persons: 6681

(a) ~~A mentally retarded person or developmentally disabled-~~ 6682
~~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

(b) ~~A mentally retarded person or developmentally disabled-~~ 6687
~~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

(B)(1) In any proceeding in juvenile court involving a 6693
complaint, indictment, or information in which a child is 6694
charged with a violation of section 2903.16, 2903.34, 2903.341, 6695
2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 6696
2907.321, 2907.322, or 2907.323 of the Revised Code or an act 6697
that would be an offense of violence if committed by an adult 6698
and in which an alleged victim of the violation or act was a 6699

~~mentally retarded person or developmentally disabled person with~~ 6700
a developmental disability, the juvenile judge, upon motion of 6701
the prosecution, shall order that the testimony of the ~~mentally~~ 6702
~~retarded or developmentally disabled~~ victim with a developmental 6703
disability be taken by deposition. The prosecution also may 6704
request that the deposition be videotaped in accordance with 6705
division (B) (2) of this section. The judge shall notify the 6706
~~mentally retarded or developmentally disabled~~ victim with a 6707
developmental disability whose deposition is to be taken, the 6708
prosecution, and the attorney for the child who is charged with 6709
the violation or act of the date, time, and place for taking the 6710
deposition. The notice shall identify the ~~mentally retarded or~~ 6711
~~developmentally disabled~~ victim with a developmental disability 6712
who is to be examined and shall indicate whether a request that 6713
the deposition be videotaped has been made. The child who is 6714
charged with the violation or act shall have the right to attend 6715
the deposition and the right to be represented by counsel. 6716
Depositions shall be taken in the manner provided in civil 6717
cases, except that the judge in the proceeding shall preside at 6718
the taking of the deposition and shall rule at that time on any 6719
objections of the prosecution or the attorney for the child 6720
charged with the violation or act. The prosecution and the 6721
attorney for the child charged with the violation or act shall 6722
have the right, as at an adjudication hearing, to full 6723
examination and cross-examination of the ~~mentally retarded or~~ 6724
~~developmentally disabled~~ victim with a developmental disability 6725
whose deposition is to be taken. 6726

If a deposition taken under this division is intended to 6727
be offered as evidence in the proceeding, it shall be filed in 6728
the juvenile court in which the action is pending and is 6729
admissible in the manner described in division (C) of this 6730

section. If a deposition of a ~~mentally retarded or~~ 6731
~~developmentally disabled~~ victim with a developmental disability 6732
taken under this division is admitted as evidence at the 6733
proceeding under division (C) of this section, the ~~mentally-~~ 6734
~~retarded or developmentally disabled~~ victim with a developmental 6735
disability shall not be required to testify in person at the 6736
proceeding. 6737

At any time before the conclusion of the proceeding, the 6738
attorney for the child charged with the violation or act may 6739
file a motion with the judge requesting that another deposition 6740
of the ~~mentally retarded or developmentally disabled~~ victim with 6741
a developmental disability be taken because new evidence 6742
material to the defense of the child charged has been discovered 6743
that the attorney for the child charged could not with 6744
reasonable diligence have discovered prior to the taking of the 6745
admitted deposition. Any motion requesting another deposition 6746
shall be accompanied by supporting affidavits. Upon the filing 6747
of the motion and affidavits, the court may order that 6748
additional testimony of the ~~mentally retarded or developmentally-~~ 6749
~~disabled~~ victim with a developmental disability relative to the 6750
new evidence be taken by another deposition. If the court orders 6751
the taking of another deposition under this provision, the 6752
deposition shall be taken in accordance with this division. If 6753
the admitted deposition was a videotaped deposition taken in 6754
accordance with division (B) (2) of this section, the new 6755
deposition also shall be videotaped in accordance with that 6756
division. In other cases, the new deposition may be videotaped 6757
in accordance with that division. 6758

(2) If the prosecution requests that a deposition to be 6759
taken under division (B) (1) of this section be videotaped, the 6760
juvenile judge shall order that the deposition be videotaped in 6761

accordance with this division. If a juvenile judge issues an 6762
order to video tape the deposition, the judge shall exclude from 6763
the room in which the deposition is to be taken every person 6764
except the ~~mentally retarded or developmentally disabled~~ victim 6765
with a developmental disability giving the testimony, the judge, 6766
one or more interpreters if needed, the attorneys for the 6767
prosecution and the child who is charged with the violation or 6768
act, any person needed to operate the equipment to be used, one 6769
person chosen by the ~~mentally retarded or developmentally~~ 6770
~~disabled~~ victim with a developmental disability giving the 6771
deposition, and any person whose presence the judge determines 6772
would contribute to the welfare and well-being of the ~~mentally~~ 6773
~~retarded or developmentally disabled~~ victim with a developmental 6774
disability giving the deposition. The person chosen by the 6775
~~mentally retarded or developmentally disabled~~ victim with a 6776
developmental disability shall not be a witness in the 6777
proceeding and, both before and during the deposition, shall not 6778
discuss the testimony of the victim with any other witness in 6779
the proceeding. To the extent feasible, any person operating the 6780
recording equipment shall be restricted to a room adjacent to 6781
the room in which the deposition is being taken, or to a 6782
location in the room in which the deposition is being taken that 6783
is behind a screen or mirror so that the person operating the 6784
recording equipment can see and hear, but cannot be seen or 6785
heard by, the ~~mentally retarded or developmentally disabled~~ 6786
victim with a developmental disability giving the deposition 6787
during the deposition. 6788

The child who is charged with the violation or act shall 6789
be permitted to observe and hear the testimony of the ~~mentally~~ 6790
~~retarded or developmentally disabled~~ victim with a developmental 6791
disability giving the deposition on a monitor, shall be provided 6792

with an electronic means of immediate communication with the 6793
attorney of the child who is charged with the violation or act 6794
during the testimony, and shall be restricted to a location from 6795
which the child who is charged with the violation or act cannot 6796
be seen or heard by the ~~mentally retarded or developmentally~~ 6797
~~disabled~~ victim with a developmental disability giving the 6798
deposition, except on a monitor provided for that purpose. The 6799
~~mentally retarded or developmentally disabled~~ victim with a 6800
developmental disability giving the deposition shall be provided 6801
with a monitor on which the ~~mentally retarded or developmentally~~ 6802
~~disabled~~ victim with a developmental disability can observe, 6803
while giving testimony, the child who is charged with the 6804
violation or act. The judge, at the judge's discretion, may 6805
preside at the deposition by electronic means from outside the 6806
room in which the deposition is to be taken; if the judge 6807
presides by electronic means, the judge shall be provided with 6808
monitors on which the judge can see each person in the room in 6809
which the deposition is to be taken and with an electronic means 6810
of communication with each person in that room, and each person 6811
in the room shall be provided with a monitor on which that 6812
person can see the judge and with an electronic means of 6813
communication with the judge. A deposition that is videotaped 6814
under this division shall be taken and filed in the manner 6815
described in division (B)(1) of this section and is admissible 6816
in the manner described in this division and division (C) of 6817
this section. If a deposition that is videotaped under this 6818
division is admitted as evidence at the proceeding, the ~~mentally~~ 6819
~~retarded or developmentally disabled~~ victim with a developmental 6820
disability shall not be required to testify in person at the 6821
proceeding. No deposition videotaped under this division shall 6822
be admitted as evidence at any proceeding unless division (C) of 6823
this section is satisfied relative to the deposition and all of 6824

the following apply relative to the recording: 6825

(a) The recording is both aural and visual and is recorded 6826
on film or videotape, or by other electronic means. 6827

(b) The recording is authenticated under the Rules of 6828
Evidence and the Rules of Criminal Procedure as a fair and 6829
accurate representation of what occurred, and the recording is 6830
not altered other than at the direction and under the 6831
supervision of the judge in the proceeding. 6832

(c) Each voice on the recording that is material to the 6833
testimony on the recording or the making of the recording, as 6834
determined by the judge, is identified. 6835

(d) Both the prosecution and the child who is charged with 6836
the violation or act are afforded an opportunity to view the 6837
recording before it is shown in the proceeding. 6838

(C) (1) At any proceeding in relation to which a deposition 6839
was taken under division (B) of this section, the deposition or 6840
a part of it is admissible in evidence upon motion of the 6841
prosecution if the testimony in the deposition or the part to be 6842
admitted is not excluded by the hearsay rule and if the 6843
deposition or the part to be admitted otherwise is admissible 6844
under the Rules of Evidence. For purposes of this division, 6845
testimony is not excluded by the hearsay rule if the testimony 6846
is not hearsay under Evidence Rule 801; the testimony is within 6847
an exception to the hearsay rule set forth in Evidence Rule 803; 6848
the ~~mentally retarded or developmentally disabled~~ victim with a 6849
developmental disability who gave the testimony is unavailable 6850
as a witness, as defined in Evidence Rule 804, and the testimony 6851
is admissible under that rule; or both of the following apply: 6852

(a) The child who is charged with the violation or act had 6853

an opportunity and similar motive at the time of the taking of 6854
the deposition to develop the testimony by direct, cross, or 6855
redirect examination. 6856

(b) The judge determines that there is reasonable cause to 6857
believe that, if the ~~mentally retarded or developmentally~~ 6858
~~disabled~~ victim with a developmental disability who gave the 6859
testimony in the deposition were to testify in person at the 6860
proceeding, the ~~mentally retarded or developmentally disabled~~ 6861
victim with a developmental disability would experience serious 6862
emotional trauma as a result of the ~~mentally retarded or~~ 6863
~~developmentally disabled victim's~~ participation of the victim 6864
with a developmental disability at the proceeding. 6865

(2) Objections to receiving in evidence a deposition or a 6866
part of it under division (C) of this section shall be made as 6867
provided in civil actions. 6868

(3) The provisions of divisions (B) and (C) of this 6869
section are in addition to any other provisions of the Revised 6870
Code, the Rules of Juvenile Procedure, the Rules of Criminal 6871
Procedure, or the Rules of Evidence that pertain to the taking 6872
or admission of depositions in a juvenile court proceeding and 6873
do not limit the admissibility under any of those other 6874
provisions of any deposition taken under division (B) of this 6875
section or otherwise taken. 6876

(D) In any proceeding in juvenile court involving a 6877
complaint, indictment, or information in which a child is 6878
charged with a violation listed in division (B)(1) of this 6879
section or an act that would be an offense of violence if 6880
committed by an adult and in which an alleged victim of the 6881
violation or offense was a ~~mentally retarded or developmentally~~ 6882
~~disabled~~ person with a developmental disability, the prosecution 6883

may file a motion with the juvenile judge requesting the judge 6884
to order the testimony of the ~~mentally retarded or~~ 6885
~~developmentally disabled~~ victim with a developmental disability 6886
to be taken in a room other than the room in which the 6887
proceeding is being conducted and be televised, by closed 6888
circuit equipment, into the room in which the proceeding is 6889
being conducted to be viewed by the child who is charged with 6890
the violation or act and any other persons who are not permitted 6891
in the room in which the testimony is to be taken but who would 6892
have been present during the testimony of the ~~mentally retarded or~~ 6893
~~or developmentally disabled~~ victim with a developmental 6894
disability had it been given in the room in which the proceeding 6895
is being conducted. Except for good cause shown, the prosecution 6896
shall file a motion under this division at least seven days 6897
before the date of the proceeding. The juvenile judge may issue 6898
the order upon the motion of the prosecution filed under this 6899
division, if the judge determines that the ~~mentally retarded or~~ 6900
~~developmentally disabled~~ victim with a developmental disability 6901
is unavailable to testify in the room in which the proceeding is 6902
being conducted in the physical presence of the child charged 6903
with the violation or act for one or more of the reasons set 6904
forth in division (F) of this section. If a juvenile judge 6905
issues an order of that nature, the judge shall exclude from the 6906
room in which the testimony is to be taken every person except a 6907
person described in division (B) (2) of this section. The judge, 6908
at the judge's discretion, may preside during the giving of the 6909
testimony by electronic means from outside the room in which it 6910
is being given, subject to the limitations set forth in division 6911
(B) (2) of this section. To the extent feasible, any person 6912
operating the televising equipment shall be hidden from the 6913
sight and hearing of the ~~mentally retarded or developmentally~~ 6914
~~disabled~~ victim with a developmental disability giving the 6915

testimony, in a manner similar to that described in division (B) 6916
(2) of this section. The child who is charged with the violation 6917
or act shall be permitted to observe and hear the testimony of 6918
the ~~mentally retarded or developmentally disabled~~ victim with a 6919
developmental disability giving the testimony on a monitor, 6920
shall be provided with an electronic means of immediate 6921
communication with the attorney of the child who is charged with 6922
the violation or act during the testimony, and shall be 6923
restricted to a location from which the child who is charged 6924
with the violation or act cannot be seen or heard by the 6925
~~mentally retarded or developmentally disabled~~ victim with a 6926
developmental disability giving the testimony, except on a 6927
monitor provided for that purpose. The ~~mentally retarded or~~ 6928
~~developmentally disabled~~ victim with a developmental disability 6929
giving the testimony shall be provided with a monitor on which 6930
the ~~mentally retarded or developmentally disabled~~ victim with a 6931
developmental disability can observe, while giving testimony, 6932
the child who is charged with the violation or act. 6933

(E) In any proceeding in juvenile court involving a 6934
complaint, indictment, or information in which a child is 6935
charged with a violation listed in division (B)(1) of this 6936
section or an act that would be an offense of violence if 6937
committed by an adult and in which an alleged victim of the 6938
violation or offense was a ~~mentally retarded or developmentally~~ 6939
~~disabled~~ person with a developmental disability, the prosecution 6940
may file a motion with the juvenile judge requesting the judge 6941
to order the testimony of the ~~mentally retarded or~~ 6942
~~developmentally disabled~~ victim with a developmental disability 6943
to be taken outside of the room in which the proceeding is being 6944
conducted and be recorded for showing in the room in which the 6945
proceeding is being conducted before the judge, the child who is 6946

charged with the violation or act, and any other persons who 6947
would have been present during the testimony of the ~~mentally-~~ 6948
~~retarded or developmentally disabled~~ victim with a developmental 6949
disability had it been given in the room in which the proceeding 6950
is being conducted. Except for good cause shown, the prosecution 6951
shall file a motion under this division at least seven days 6952
before the date of the proceeding. The juvenile judge may issue 6953
the order upon the motion of the prosecution filed under this 6954
division, if the judge determines that the ~~mentally retarded or-~~ 6955
~~developmentally disabled~~ victim with a developmental disability 6956
is unavailable to testify in the room in which the proceeding is 6957
being conducted in the physical presence of the child charged 6958
with the violation or act, due to one or more of the reasons set 6959
forth in division (F) of this section. If a juvenile judge 6960
issues an order of that nature, the judge shall exclude from the 6961
room in which the testimony is to be taken every person except a 6962
person described in division (B) (2) of this section. To the 6963
extent feasible, any person operating the recording equipment 6964
shall be hidden from the sight and hearing of the ~~mentally-~~ 6965
~~retarded or developmentally disabled~~ victim with a developmental 6966
disability giving the testimony, in a manner similar to that 6967
described in division (B) (2) of this section. The child who is 6968
charged with the violation or act shall be permitted to observe 6969
and hear the testimony of the ~~mentally retarded or-~~ 6970
~~developmentally disabled~~ victim with a developmental disability 6971
giving the testimony on a monitor, shall be provided with an 6972
electronic means of immediate communication with the attorney of 6973
the child who is charged with the violation or act during the 6974
testimony, and shall be restricted to a location from which the 6975
child who is charged with the violation or act cannot be seen or 6976
heard by the ~~mentally retarded or developmentally disabled-~~ 6977
victim with a developmental disability giving the testimony, 6978

except on a monitor provided for that purpose. The ~~mentally-~~ 6979
~~retarded or developmentally disabled-victim~~ with a developmental 6980
disability giving the testimony shall be provided with a monitor 6981
on which the ~~mentally retarded or developmentally disabled-~~ 6982
~~victim~~ with a developmental disability can observe, while giving 6983
testimony, the child who is charged with the violation or act. 6984
No order for the taking of testimony by recording shall be 6985
issued under this division unless the provisions set forth in 6986
divisions (B) (2) (a), (b), (c), and (d) of this section apply to 6987
the recording of the testimony. 6988

(F) For purposes of divisions (D) and (E) of this section, 6989
a juvenile judge may order the testimony of a ~~mentally retarded-~~ 6990
~~or developmentally disabled-victim~~ with a developmental 6991
disability to be taken outside of the room in which a proceeding 6992
is being conducted if the judge determines that the ~~mentally-~~ 6993
~~retarded or developmentally disabled-victim~~ with a developmental 6994
disability is unavailable to testify in the room in the physical 6995
presence of the child charged with the violation or act due to 6996
one or more of the following circumstances: 6997

(1) The persistent refusal of the ~~mentally retarded or-~~ 6998
~~developmentally disabled-victim~~ with a developmental disability 6999
to testify despite judicial requests to do so; 7000

(2) The inability of the ~~mentally retarded or-~~ 7001
~~developmentally disabled-victim~~ with a developmental disability 7002
to communicate about the alleged violation or offense because of 7003
extreme fear, failure of memory, or another similar reason; 7004

(3) The substantial likelihood that the ~~mentally retarded-~~ 7005
~~or developmentally disabled-victim~~ with a developmental 7006
disability will suffer serious emotional trauma from so 7007
testifying. 7008

(G) (1) If a juvenile judge issues an order pursuant to 7009
division (D) or (E) of this section that requires the testimony 7010
of a ~~mentally retarded or developmentally disabled~~ victim with a 7011
developmental disability in a juvenile court proceeding to be 7012
taken outside of the room in which the proceeding is being 7013
conducted, the order shall specifically identify the ~~mentally-~~ 7014
~~retarded or developmentally disabled~~ victim with a developmental 7015
disability to whose testimony it applies, the order applies only 7016
during the testimony of the specified ~~mentally retarded or-~~ 7017
~~developmentally disabled~~ victim with a developmental disability, 7018
and the ~~mentally retarded or developmentally disabled~~ victim 7019
with a developmental disability giving the testimony shall not 7020
be required to testify at the proceeding other than in 7021
accordance with the order. The authority of a judge to close the 7022
taking of a deposition under division (B) (2) of this section or 7023
a proceeding under division (D) or (E) of this section is in 7024
addition to the authority of a judge to close a hearing pursuant 7025
to section 2151.35 of the Revised Code. 7026

(2) A juvenile judge who makes any determination regarding 7027
the admissibility of a deposition under divisions (B) and (C) of 7028
this section, the videotaping of a deposition under division (B) 7029
(2) of this section, or the taking of testimony outside of the 7030
room in which a proceeding is being conducted under division (D) 7031
or (E) of this section shall enter the determination and 7032
findings on the record in the proceeding. 7033

Sec. 2305.111. (A) As used in this section: 7034

(1) "Childhood sexual abuse" means any conduct that 7035
constitutes any of the violations identified in division (A) (1) 7036
(a) or (b) of this section and would constitute a criminal 7037
offense under the specified section or division of the Revised 7038

Code, if the victim of the violation is at the time of the 7039
violation a child under eighteen years of age or a ~~mentally-~~ 7040
~~retarded, developmentally disabled, or physically impaired~~ child 7041
with a developmental disability or physical impairment under 7042
twenty-one years of age. The court need not find that any person 7043
has been convicted of or pleaded guilty to the offense under the 7044
specified section or division of the Revised Code in order for 7045
the conduct that is the violation constituting the offense to be 7046
childhood sexual abuse for purposes of this division. This 7047
division applies to any of the following violations committed in 7048
the following specified circumstances: 7049

(a) A violation of section 2907.02 or of division (A) (1), 7050
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 7051
of the Revised Code; 7052

(b) A violation of section 2907.05 or 2907.06 of the 7053
Revised Code if, at the time of the violation, any of the 7054
following apply: 7055

(i) The actor is the victim's natural parent, adoptive 7056
parent, or stepparent or the guardian, custodian, or person in 7057
loco parentis of the victim. 7058

(ii) The victim is in custody of law or a patient in a 7059
hospital or other institution, and the actor has supervisory or 7060
disciplinary authority over the victim. 7061

(iii) The actor is a teacher, administrator, coach, or 7062
other person in authority employed by or serving in a school for 7063
which the state board of education prescribes minimum standards 7064
pursuant to division (D) of section 3301.07 of the Revised Code, 7065
the victim is enrolled in or attends that school, and the actor 7066
is not enrolled in and does not attend that school. 7067

(iv) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution.

(v) The actor is the victim's athletic or other type of coach, is the victim's instructor, is the leader of a scouting troop of which the victim is a member, or is a person with temporary or occasional disciplinary control over the victim.

(vi) The actor is a mental health professional, the victim is a mental health client or patient of the actor, and the actor induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes.

(vii) The victim is confined in a detention facility, and the actor is an employee of that detention facility.

(viii) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric.

(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(3) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

(4) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

(5) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code.

(6) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse.

(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following:

(1) The date on which the alleged assault or battery occurred;

(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:

(a) The date on which the plaintiff learns the identity of that person;

(b) The date on which, by the exercise of reasonable diligence, the plaintiff should have learned the identity of that person.

(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 7124
form the basis of the claim, the running of the limitations 7125
period with regard to that claim is tolled until the time when 7126
the plaintiff discovers or in the exercise of due diligence 7127
should have discovered those facts. 7128

Sec. 2311.14. (A) (1) Whenever because of a hearing, 7129
speech, or other impairment a party to or witness in a legal 7130
proceeding cannot readily understand or communicate, the court 7131
shall appoint a qualified interpreter to assist such person. 7132

(2) This section is not limited to a person who speaks a 7133
language other than English. It also applies to the language and 7134
descriptions of any ~~mentally retarded person or developmentally-~~ 7135
~~disabled person~~ with a developmental disability who cannot be 7136
reasonably understood, or who cannot understand questioning, 7137
without the aid of an interpreter. The interpreter may aid the 7138
parties in formulating methods of questioning the person with 7139
~~mental retardation or a developmental disability~~ and in 7140
interpreting the answers of the person. 7141

(B) Before entering upon official duties, the interpreter 7142
shall take an oath that the interpreter will make a true 7143
interpretation of the proceedings to the party or witness, and 7144
that the interpreter will truly repeat the statements made by 7145
such party or witness to the court, to the best of the 7146
interpreter's ability. If the interpreter is appointed to assist 7147
a ~~mentally retarded person or developmentally disabled person~~ 7148
with a developmental disability as described in division (A) (2) 7149
of this section, the oath also shall include an oath that the 7150
interpreter will not prompt, lead, suggest, or otherwise 7151
improperly influence the testimony of the witness or party. 7152

(C) The court shall determine a reasonable fee for all 7153

such interpreter service which shall be paid out of the same 7154
funds as witness fees. If the party taxed with costs is 7155
indigent, the court shall not tax the interpreter's fees as 7156
costs, and the county or, if the court is a municipal court that 7157
is not a county-operated municipal court, the municipal 7158
corporation in which the court is located shall pay the 7159
interpreter's fees. 7160

(D) As used in this section, "~~mentally retarded person~~" 7161
and "~~developmentally disabled person~~developmental disability" 7162
~~have~~has the same ~~meanings~~meaning as in section 5123.01 of the 7163
Revised Code. 7164

Sec. 2317.021. (A) As used in division (A) of section 7165
2317.02 of the Revised Code: 7166

"Client" means a person, firm, partnership, corporation, 7167
or other association that, directly or through any 7168
representative, consults an attorney for the purpose of 7169
retaining the attorney or securing legal service or advice from 7170
the attorney in the attorney's professional capacity, or 7171
consults an attorney employee for legal service or advice, and 7172
who communicates, either directly or through an agent, employee, 7173
or other representative, with such attorney; and includes an 7174
incompetent person whose guardian so consults the attorney in 7175
behalf of the incompetent person. 7176

Where a corporation or association is a client having the 7177
privilege and it has been dissolved, the privilege shall extend 7178
to the last board of directors, their successors or assigns, or 7179
to the trustees, their successors or assigns. 7180

This section shall be construed as in addition to, and not 7181
in limitation of, other laws affording protection to 7182

communications under the attorney-client privilege. 7183

(B) As used in this section and in sections 2317.02 and 7184
2317.03 of the Revised Code, "incompetent" or "incompetent 7185
person" means a person who is so mentally impaired, as a result 7186
of a mental or physical illness or disability, ~~or mental~~ 7187
retardation as a result of an intellectual disability, or as a 7188
result of chronic substance abuse, that the person is incapable 7189
of taking proper care of the person's self or property or fails 7190
to provide for the person's family or other persons for whom the 7191
person is charged by law to provide. 7192

Sec. 2503.37. Cases commenced in or taken to the supreme 7193
court shall be entered on the docket in the order in which they 7194
are commenced, received, or filed. They shall be disposed of in 7195
the same order, except that the court may dispose of the 7196
following classes of cases in advance of their order on the 7197
docket: 7198

(A) Proceedings in quo warranto, mandamus, procedendo, 7199
prohibition, or habeas corpus; 7200

(B) Cases in which the person seeking relief has been 7201
convicted of felony; 7202

(C) Cases involving the validity of a tax levy or 7203
assessment; 7204

(D) Cases involving the construction or constitutionality 7205
of a statute, or a question of practice, in which the questions 7206
arising are of general public interest; 7207

(E) Cases of general interest to the public, if two or 7208
more of the courts of appeals have held the law directly 7209
opposite upon like facts; 7210

(F) Cases in which the relief sought is damages for 7211
personal injury, or for death caused by negligence, and in which 7212
the person injured makes affidavit that the person's livelihood 7213
is dependent upon daily labor, or, in case of death, in which 7214
the surviving spouse or any of the next of kin of the deceased 7215
makes an affidavit that the surviving spouse or next of kin was 7216
dependent for livelihood upon the person's or the decedent's 7217
daily labor; 7218

(G) Cases in which a trust fund for the care, support, or 7219
education of a minor, or care or support of a ~~mentally retarded~~ 7220
person with an intellectual disability, is in question; 7221

(H) Cases involving controversies or questions arising in 7222
the administration of the estate of a deceased person under the 7223
laws of this state; 7224

(I) Cases involving the construction of a statute for the 7225
annexation of territory to a municipal corporation. 7226

Sec. 2721.05. As used in this section, "incompetent 7227
person" means a person who is so mentally impaired, as a result 7228
of a mental or physical illness or disability, ~~or mental~~ 7229
~~retardation~~ as a result of an intellectual disability, or as a 7230
result of chronic substance abuse, that the person is incapable 7231
of taking proper care of the person's self or property or fails 7232
to provide for the person's family or other persons for whom the 7233
person is charged by law to provide. 7234

Any person interested as or through an executor, 7235
administrator, trustee, guardian, or other fiduciary, creditor, 7236
devisee, legatee, heir, next of kin, or cestui que trust, in the 7237
administration of a trust, or of the estate of a decedent, an 7238
infant, an incompetent person, or an insolvent person, may have 7239

a declaration of rights or legal relations in respect thereto in	7240
any of the following cases:	7241
(A) To ascertain any class of creditors, devisees,	7242
legatees, heirs, next of kin, or others;	7243
(B) To direct the executors, administrators, trustees, or	7244
other fiduciaries to do or abstain from doing any particular act	7245
in their fiduciary capacity;	7246
(C) To determine any question arising in the	7247
administration of the estate or trust, including questions of	7248
construction of wills and other writings.	7249
Sec. 2744.01. As used in this chapter:	7250
(A) "Emergency call" means a call to duty, including, but	7251
not limited to, communications from citizens, police dispatches,	7252
and personal observations by peace officers of inherently	7253
dangerous situations that demand an immediate response on the	7254
part of a peace officer.	7255
(B) "Employee" means an officer, agent, employee, or	7256
servant, whether or not compensated or full-time or part-time,	7257
who is authorized to act and is acting within the scope of the	7258
officer's, agent's, employee's, or servant's employment for a	7259
political subdivision. "Employee" does not include an	7260
independent contractor and does not include any individual	7261
engaged by a school district pursuant to section 3319.301 of the	7262
Revised Code. "Employee" includes any elected or appointed	7263
official of a political subdivision. "Employee" also includes a	7264
person who has been convicted of or pleaded guilty to a criminal	7265
offense and who has been sentenced to perform community service	7266
work in a political subdivision whether pursuant to section	7267
2951.02 of the Revised Code or otherwise, and a child who is	7268

found to be a delinquent child and who is ordered by a juvenile 7269
court pursuant to section 2152.19 or 2152.20 of the Revised Code 7270
to perform community service or community work in a political 7271
subdivision. 7272

(C) (1) "Governmental function" means a function of a 7273
political subdivision that is specified in division (C) (2) of 7274
this section or that satisfies any of the following: 7275

(a) A function that is imposed upon the state as an 7276
obligation of sovereignty and that is performed by a political 7277
subdivision voluntarily or pursuant to legislative requirement; 7278

(b) A function that is for the common good of all citizens 7279
of the state; 7280

(c) A function that promotes or preserves the public 7281
peace, health, safety, or welfare; that involves activities that 7282
are not engaged in or not customarily engaged in by 7283
nongovernmental persons; and that is not specified in division 7284
(G) (2) of this section as a proprietary function. 7285

(2) A "governmental function" includes, but is not limited 7286
to, the following: 7287

(a) The provision or nonprovision of police, fire, 7288
emergency medical, ambulance, and rescue services or protection; 7289

(b) The power to preserve the peace; to prevent and 7290
suppress riots, disturbances, and disorderly assemblages; to 7291
prevent, mitigate, and clean up releases of oil and hazardous 7292
and extremely hazardous substances as defined in section 3750.01 7293
of the Revised Code; and to protect persons and property; 7294

(c) The provision of a system of public education; 7295

(d) The provision of a free public library system; 7296

(e) The regulation of the use of, and the maintenance and	7297
repair of, roads, highways, streets, avenues, alleys, sidewalks,	7298
bridges, aqueducts, viaducts, and public grounds;	7299
(f) Judicial, quasi-judicial, prosecutorial, legislative,	7300
and quasi-legislative functions;	7301
(g) The construction, reconstruction, repair, renovation,	7302
maintenance, and operation of buildings that are used in	7303
connection with the performance of a governmental function,	7304
including, but not limited to, office buildings and courthouses;	7305
(h) The design, construction, reconstruction, renovation,	7306
repair, maintenance, and operation of jails, places of juvenile	7307
detention, workhouses, or any other detention facility, as	7308
defined in section 2921.01 of the Revised Code;	7309
(i) The enforcement or nonperformance of any law;	7310
(j) The regulation of traffic, and the erection or	7311
nonerection of traffic signs, signals, or control devices;	7312
(k) The collection and disposal of solid wastes, as	7313
defined in section 3734.01 of the Revised Code, including, but	7314
not limited to, the operation of solid waste disposal	7315
facilities, as "facilities" is defined in that section, and the	7316
collection and management of hazardous waste generated by	7317
households. As used in division (C) (2) (k) of this section,	7318
"hazardous waste generated by households" means solid waste	7319
originally generated by individual households that is listed	7320
specifically as hazardous waste in or exhibits one or more	7321
characteristics of hazardous waste as defined by rules adopted	7322
under section 3734.12 of the Revised Code, but that is excluded	7323
from regulation as a hazardous waste by those rules.	7324
(l) The provision or nonprovision, planning or design,	7325

construction, or reconstruction of a public improvement, 7326
including, but not limited to, a sewer system; 7327

(m) The operation of a job and family services department 7328
or agency, including, but not limited to, the provision of 7329
assistance to aged and infirm persons and to persons who are 7330
indigent; 7331

(n) The operation of a health board, department, or 7332
agency, including, but not limited to, any statutorily required 7333
or permissive program for the provision of immunizations or 7334
other inoculations to all or some members of the public, 7335
provided that a "governmental function" does not include the 7336
supply, manufacture, distribution, or development of any drug or 7337
vaccine employed in any such immunization or inoculation program 7338
by any supplier, manufacturer, distributor, or developer of the 7339
drug or vaccine; 7340

(o) The operation of mental health facilities, ~~mental-~~ 7341
~~retardation or developmental disabilities~~ facilities, alcohol 7342
treatment and control centers, and children's homes or agencies; 7343

(p) The provision or nonprovision of inspection services 7344
of all types, including, but not limited to, inspections in 7345
connection with building, zoning, sanitation, fire, plumbing, 7346
and electrical codes, and the taking of actions in connection 7347
with those types of codes, including, but not limited to, the 7348
approval of plans for the construction of buildings or 7349
structures and the issuance or revocation of building permits or 7350
stop work orders in connection with buildings or structures; 7351

(q) Urban renewal projects and the elimination of slum 7352
conditions, including the performance of any activity that a 7353
county land reutilization corporation is authorized to perform 7354

under Chapter 1724. or 5722. of the Revised Code;	7355
(r) Flood control measures;	7356
(s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;	7357 7358
(t) The issuance of revenue obligations under section 140.06 of the Revised Code;	7359 7360
(u) The design, construction, reconstruction, renovation, repair, maintenance, and operation of any school athletic facility, school auditorium, or gymnasium or any recreational area or facility, including, but not limited to, any of the following:	7361 7362 7363 7364 7365
(i) A park, playground, or playfield;	7366
(ii) An indoor recreational facility;	7367
(iii) A zoo or zoological park;	7368
(iv) A bath, swimming pool, pond, water park, wading pool, wave pool, water slide, or other type of aquatic facility;	7369 7370
(v) A golf course;	7371
(vi) A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged;	7372 7373 7374
(vii) A rope course or climbing walls;	7375
(viii) An all-purpose vehicle facility in which all- purpose vehicles, as defined in section 4519.01 of the Revised Code, are contained, maintained, or operated for recreational activities.	7376 7377 7378 7379
(v) The provision of public defender services by a county	7380

or joint county public defender's office pursuant to Chapter 7381
120. of the Revised Code; 7382

(w) (i) At any time before regulations prescribed pursuant 7383
to 49 U.S.C.A 20153 become effective, the designation, 7384
establishment, design, construction, implementation, operation, 7385
repair, or maintenance of a public road rail crossing in a zone 7386
within a municipal corporation in which, by ordinance, the 7387
legislative authority of the municipal corporation regulates the 7388
sounding of locomotive horns, whistles, or bells; 7389

(ii) On and after the effective date of regulations 7390
prescribed pursuant to 49 U.S.C.A. 20153, the designation, 7391
establishment, design, construction, implementation, operation, 7392
repair, or maintenance of a public road rail crossing in such a 7393
zone or of a supplementary safety measure, as defined in 49 7394
U.S.C.A 20153, at or for a public road rail crossing, if and to 7395
the extent that the public road rail crossing is excepted, 7396
pursuant to subsection (c) of that section, from the requirement 7397
of the regulations prescribed under subsection (b) of that 7398
section. 7399

(x) A function that the general assembly mandates a 7400
political subdivision to perform. 7401

(D) "Law" means any provision of the constitution, 7402
statutes, or rules of the United States or of this state; 7403
provisions of charters, ordinances, resolutions, and rules of 7404
political subdivisions; and written policies adopted by boards 7405
of education. When used in connection with the "common law," 7406
this definition does not apply. 7407

(E) "Motor vehicle" has the same meaning as in section 7408
4511.01 of the Revised Code. 7409

(F) "Political subdivision" or "subdivision" means a 7410
municipal corporation, township, county, school district, or 7411
other body corporate and politic responsible for governmental 7412
activities in a geographic area smaller than that of the state. 7413
"Political subdivision" includes, but is not limited to, a 7414
county hospital commission appointed under section 339.14 of the 7415
Revised Code, board of hospital commissioners appointed for a 7416
municipal hospital under section 749.04 of the Revised Code, 7417
board of hospital trustees appointed for a municipal hospital 7418
under section 749.22 of the Revised Code, regional planning 7419
commission created pursuant to section 713.21 of the Revised 7420
Code, county planning commission created pursuant to section 7421
713.22 of the Revised Code, joint planning council created 7422
pursuant to section 713.231 of the Revised Code, interstate 7423
regional planning commission created pursuant to section 713.30 7424
of the Revised Code, port authority created pursuant to section 7425
4582.02 or 4582.26 of the Revised Code or in existence on 7426
December 16, 1964, regional council established by political 7427
subdivisions pursuant to Chapter 167. of the Revised Code, 7428
emergency planning district and joint emergency planning 7429
district designated under section 3750.03 of the Revised Code, 7430
joint emergency medical services district created pursuant to 7431
section 307.052 of the Revised Code, fire and ambulance district 7432
created pursuant to section 505.375 of the Revised Code, joint 7433
interstate emergency planning district established by an 7434
agreement entered into under that section, county solid waste 7435
management district and joint solid waste management district 7436
established under section 343.01 or 343.012 of the Revised Code, 7437
community school established under Chapter 3314. of the Revised 7438
Code, county land reutilization corporation organized under 7439
Chapter 1724. of the Revised Code, the county or counties served 7440
by a community-based correctional facility and program or 7441

district community-based correctional facility and program 7442
established and operated under sections 2301.51 to 2301.58 of 7443
the Revised Code, a community-based correctional facility and 7444
program or district community-based correctional facility and 7445
program that is so established and operated, and the facility 7446
governing board of a community-based correctional facility and 7447
program or district community-based correctional facility and 7448
program that is so established and operated. 7449

(G) (1) "Proprietary function" means a function of a 7450
political subdivision that is specified in division (G) (2) of 7451
this section or that satisfies both of the following: 7452

(a) The function is not one described in division (C) (1) 7453
(a) or (b) of this section and is not one specified in division 7454
(C) (2) of this section; 7455

(b) The function is one that promotes or preserves the 7456
public peace, health, safety, or welfare and that involves 7457
activities that are customarily engaged in by nongovernmental 7458
persons. 7459

(2) A "proprietary function" includes, but is not limited 7460
to, the following: 7461

(a) The operation of a hospital by one or more political 7462
subdivisions; 7463

(b) The design, construction, reconstruction, renovation, 7464
repair, maintenance, and operation of a public cemetery other 7465
than a township cemetery; 7466

(c) The establishment, maintenance, and operation of a 7467
utility, including, but not limited to, a light, gas, power, or 7468
heat plant, a railroad, a busline or other transit company, an 7469
airport, and a municipal corporation water supply system; 7470

(d) The maintenance, destruction, operation, and upkeep of a sewer system; 7471
7472

(e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra, or off-street parking facility. 7473
7474
7475
7476

(H) "Public roads" means public roads, highways, streets, avenues, alleys, and bridges within a political subdivision. 7477
7478
"Public roads" does not include berms, shoulders, rights-of-way, or traffic control devices unless the traffic control devices are mandated by the Ohio manual of uniform traffic control devices. 7479
7480
7481
7482

(I) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. 7483
7484
7485
7486
7487
"State" does not include political subdivisions. 7488

Sec. 2901.13. (A) (1) Except as provided in division (A) (2), (3), or (4) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed: 7489
7490
7491
7492
7493

(a) For a felony, six years; 7494

(b) For a misdemeanor other than a minor misdemeanor, two years; 7495
7496

(c) For a minor misdemeanor, six months. 7497

(2) There is no period of limitation for the prosecution 7498

of a violation of section 2903.01 or 2903.02 of the Revised Code. 7499
7500

(3) Except as otherwise provided in divisions (B) to (J) 7501
of this section, a prosecution of any of the following offenses 7502
shall be barred unless it is commenced within twenty years after 7503
the offense is committed: 7504

(a) A violation of section 2903.03, 2903.04, 2905.01, 7505
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 7506
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 7507
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 7508
section 2903.11 or 2903.12 of the Revised Code if the victim is 7509
a peace officer, a violation of section 2903.13 of the Revised 7510
Code that is a felony, or a violation of former section 2907.12 7511
of the Revised Code; 7512

(b) A conspiracy to commit, attempt to commit, or 7513
complicity in committing a violation set forth in division (A) 7514
(3) (a) of this section. 7515

(4) Except as otherwise provided in divisions (D) to (L) 7516
of this section, a prosecution of a violation of section 2907.02 7517
or 2907.03 of the Revised Code or a conspiracy to commit, 7518
attempt to commit, or complicity in committing a violation of 7519
either section shall be barred unless it is commenced within 7520
twenty-five years after the offense is committed. 7521

(B) (1) Except as otherwise provided in division (B) (2) of 7522
this section, if the period of limitation provided in division 7523
(A) (1) or (3) of this section has expired, prosecution shall be 7524
commenced for an offense of which an element is fraud or breach 7525
of a fiduciary duty, within one year after discovery of the 7526
offense either by an aggrieved person, or by the aggrieved 7527

person's legal representative who is not a party to the offense. 7528

(2) If the period of limitation provided in division (A) 7529
(1) or (3) of this section has expired, prosecution for a 7530
violation of section 2913.49 of the Revised Code shall be 7531
commenced within five years after discovery of the offense 7532
either by an aggrieved person or the aggrieved person's legal 7533
representative who is not a party to the offense. 7534

(C)(1) If the period of limitation provided in division 7535
(A)(1) or (3) of this section has expired, prosecution shall be 7536
commenced for the following offenses during the following 7537
specified periods of time: 7538

(a) For an offense involving misconduct in office by a 7539
public servant, at any time while the accused remains a public 7540
servant, or within two years thereafter; 7541

(b) For an offense by a person who is not a public servant 7542
but whose offense is directly related to the misconduct in 7543
office of a public servant, at any time while that public 7544
servant remains a public servant, or within two years 7545
thereafter. 7546

(2) As used in this division: 7547

(a) An "offense is directly related to the misconduct in 7548
office of a public servant" includes, but is not limited to, a 7549
violation of section 101.71, 101.91, 121.61 or 2921.13, division 7550
(F) or (H) of section 102.03, division (A) of section 2921.02, 7551
division (A) or (B) of section 2921.43, or division (F) or (G) 7552
of section 3517.13 of the Revised Code, that is directly related 7553
to an offense involving misconduct in office of a public 7554
servant. 7555

(b) "Public servant" has the same meaning as in section 7556

2921.01 of the Revised Code. 7557

(D) (1) If a DNA record made in connection with the 7558
criminal investigation of the commission of a violation of 7559
section 2907.02 or 2907.03 of the Revised Code is determined to 7560
match another DNA record that is of an identifiable person and 7561
if the time of the determination is later than twenty-five years 7562
after the offense is committed, prosecution of that person for a 7563
violation of the section may be commenced within five years 7564
after the determination is complete. 7565

(2) If a DNA record made in connection with the criminal 7566
investigation of the commission of a violation of section 7567
2907.02 or 2907.03 of the Revised Code is determined to match 7568
another DNA record that is of an identifiable person and if the 7569
time of the determination is within twenty-five years after the 7570
offense is committed, prosecution of that person for a violation 7571
of the section may be commenced within the longer of twenty-five 7572
years after the offense is committed or five years after the 7573
determination is complete. 7574

(3) As used in this division, "DNA record" has the same 7575
meaning as in section 109.573 of the Revised Code. 7576

(E) An offense is committed when every element of the 7577
offense occurs. In the case of an offense of which an element is 7578
a continuing course of conduct, the period of limitation does 7579
not begin to run until such course of conduct or the accused's 7580
accountability for it terminates, whichever occurs first. 7581

(F) A prosecution is commenced on the date an indictment 7582
is returned or an information filed, or on the date a lawful 7583
arrest without a warrant is made, or on the date a warrant, 7584
summons, citation, or other process is issued, whichever occurs 7585

first. A prosecution is not commenced by the return of an 7586
indictment or the filing of an information unless reasonable 7587
diligence is exercised to issue and execute process on the same. 7588
A prosecution is not commenced upon issuance of a warrant, 7589
summons, citation, or other process, unless reasonable diligence 7590
is exercised to execute the same. 7591

(G) The period of limitation shall not run during any time 7592
when the corpus delicti remains undiscovered. 7593

(H) The period of limitation shall not run during any time 7594
when the accused purposely avoids prosecution. Proof that the 7595
accused departed this state or concealed the accused's identity 7596
or whereabouts is prima-facie evidence of the accused's purpose 7597
to avoid prosecution. 7598

(I) The period of limitation shall not run during any time 7599
a prosecution against the accused based on the same conduct is 7600
pending in this state, even though the indictment, information, 7601
or process that commenced the prosecution is quashed or the 7602
proceedings on the indictment, information, or process are set 7603
aside or reversed on appeal. 7604

(J) The period of limitation for a violation of any 7605
provision of Title XXIX of the Revised Code that involves a 7606
physical or mental wound, injury, disability, or condition of a 7607
nature that reasonably indicates abuse or neglect of a child 7608
under eighteen years of age or of a ~~mentally retarded,~~ 7609
~~developmentally disabled, or physically impaired child with a~~ 7610
developmental disability or physical impairment under twenty-one 7611
years of age shall not begin to run until either of the 7612
following occurs: 7613

(1) The victim of the offense reaches the age of majority. 7614

(2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.

(K) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(L) The amendments to divisions (A) and (D) of this section apply to a violation of section 2907.02 or 2907.03 of the Revised Code committed on and after ~~the effective date of those amendments~~ July 16, 2015, and apply to a violation of either of those sections committed prior to ~~the effective date of the amendments~~ July 16, 2015, if prosecution for that violation was not barred under this section as it existed on the day prior to ~~the effective date of the amendments~~ July 16, 2015.

Sec. 2903.341. (A) As used in this section:

(1) ~~"MR/DD-Developmental disabilities caretaker"~~ means any ~~MR/DD-developmental disabilities~~ employee or any person who assumes the duty to provide for the care and protection of a ~~mentally retarded person or a developmentally disabled person~~ with a developmental disability on a voluntary basis, by contract, through receipt of payment for care and protection, as a result of a family relationship, or by order of a court of competent jurisdiction. ~~"MR/DD-Developmental disabilities caretaker"~~ includes a person who is an employee of a care facility and a person who is an employee of an entity under contract with a provider. ~~"MR/DD-Developmental disabilities caretaker"~~ does not include a person who owns, operates, or administers a care facility or who is an agent of a care

facility unless that person also personally provides care to 7645
~~persons~~ a person with mental retardation or a developmental 7646
disability. 7647

(2) ~~"Mentally retarded person" and "developmentally-~~ 7648
~~disabled person"~~ have the same meanings as in section 5123.01 of 7649
the Revised Code. 7650

~~(3) "MR/DD-Developmental disabilities employee"~~ has the 7651
same meaning as in section 5123.50 of the Revised Code. 7652

(3) "Developmental disability" has the same meaning as in 7653
section 5123.01 of the Revised Code. 7654

(B) No ~~MR/DD-developmental disabilities~~ caretaker shall 7655
create a substantial risk to the health or safety of a ~~mentally-~~ 7656
~~retarded person or a developmentally disabled person with a~~ 7657
developmental disability. An ~~MR/DD-A developmental disabilities~~ 7658
caretaker does not create a substantial risk to the health or 7659
safety of a ~~mentally retarded person or a developmentally-~~ 7660
~~disabled person with a developmental disability~~ under this 7661
division when the ~~MR/DD-developmental disabilities~~ caretaker 7662
treats a physical or mental illness or defect of the ~~mentally-~~ 7663
~~retarded person or developmentally disabled person with a~~ 7664
developmental disability by spiritual means through prayer 7665
alone, in accordance with the tenets of a recognized religious 7666
body. 7667

(C) No person who owns, operates, or administers a care 7668
facility or who is an agent of a care facility shall condone, or 7669
knowingly permit, any conduct by an ~~MR/DD-a developmental~~ 7670
disabilities caretaker who is employed by or under the control 7671
of the owner, operator, administrator, or agent that is in 7672
violation of division (B) of this section and that involves a 7673

~~mentally retarded person or a developmentally disabled person~~ 7674
with a developmental disability who is under the care of the 7675
owner, operator, administrator, or agent. A person who relies 7676
upon treatment by spiritual means through prayer alone, in 7677
accordance with the tenets of a recognized religious 7678
denomination, shall not be considered endangered under this 7679
division for that reason alone. 7680

(D) (1) It is an affirmative defense to a charge of a 7681
violation of division (B) or (C) of this section that the 7682
actor's conduct was committed in good faith solely because the 7683
actor was ordered to commit the conduct by a person to whom one 7684
of the following applies: 7685

(a) The person has supervisory authority over the actor. 7686

(b) The person has authority over the actor's conduct 7687
pursuant to a contract for the provision of services. 7688

(2) It is an affirmative defense to a charge of a 7689
violation of division (C) of this section that the person who 7690
owns, operates, or administers a care facility or who is an 7691
agent of a care facility and who is charged with the violation 7692
is following the individual service plan for the involved 7693
~~mentally retarded person or a developmentally disabled person~~ 7694
with a developmental disability or that the admission, 7695
discharge, and transfer rule set forth in the Administrative 7696
Code is being followed. 7697

(3) It is an affirmative defense to a charge of a 7698
violation of division (C) of this section that the actor did not 7699
have readily available a means to prevent either the harm to the 7700
person with ~~mental retardation~~ ~~or~~ a developmental disability or 7701
the death of such a person and the actor took reasonable steps 7702

to summon aid. 7703

(E) (1) Except as provided in division (E) (2) or (E) (3) of 7704
this section, whoever violates division (B) or (C) of this 7705
section is guilty of patient endangerment, a misdemeanor of the 7706
first degree. 7707

(2) If the offender previously has been convicted of, or 7708
pleaded guilty to, a violation of this section, patient 7709
endangerment is a felony of the fourth degree. 7710

(3) If the violation results in serious physical harm to 7711
the person with ~~mental retardation or~~ a developmental 7712
disability, patient endangerment is a felony of the third 7713
degree. 7714

Sec. 2905.32. (A) No person shall knowingly recruit, lure, 7715
entice, isolate, harbor, transport, provide, obtain, or 7716
maintain, or knowingly attempt to recruit, lure, entice, 7717
isolate, harbor, transport, provide, obtain, or maintain, 7718
another person if any of the following applies: 7719

(1) The offender knows that the other person will be 7720
subjected to involuntary servitude or be compelled to engage in 7721
sexual activity for hire, engage in a performance that is 7722
obscene, sexually oriented, or nudity oriented, or be a model or 7723
participant in the production of material that is obscene, 7724
sexually oriented, or nudity oriented. 7725

(2) The other person is less than sixteen years of age or 7726
is a ~~developmentally disabled person~~ with a developmental 7727
disability whom the offender knows or has reasonable cause to 7728
believe is a ~~developmentally disabled person~~ with a 7729
developmental disability, and either the offender knows that the 7730
other person will be subjected to involuntary servitude or the 7731

offender's knowing recruitment, luring, enticement, isolation, 7732
harboring, transportation, provision, obtaining, or maintenance 7733
of the other person or knowing attempt to recruit, lure, entice, 7734
isolate, harbor, transport, provide, obtain, or maintain the 7735
other person is for any of the following purposes: 7736

(a) To engage in sexual activity for hire; 7737

(b) To engage in a performance for hire that is obscene, 7738
sexually oriented, or nudity oriented; 7739

(c) To be a model or participant for hire in the 7740
production of material that is obscene, sexually oriented, or 7741
nudity oriented. 7742

(3) The other person is sixteen or seventeen years of age, 7743
either the offender knows that the other person will be 7744
subjected to involuntary servitude or the offender's knowing 7745
recruitment, luring, enticement, isolation, harboring, 7746
transportation, provision, obtaining, or maintenance of the 7747
other person or knowing attempt to recruit, lure, entice, 7748
isolate, harbor, transport, provide, obtain, or maintain the 7749
other person is for any purpose described in divisions (A) (2) (a) 7750
to (c) of this section, and the circumstances described in 7751
division (A) (5), (6), (7), (8), (9), (10), (11), (12), or (13) 7752
of section 2907.03 of the Revised Code apply with respect to the 7753
offender and the other person. 7754

(B) For a prosecution under division (A) (1) of this 7755
section, the element "compelled" does not require that the 7756
compulsion be openly displayed or physically exerted. The 7757
element "compelled" has been established if the state proves 7758
that the victim's will was overcome by force, fear, duress, 7759
intimidation, or fraud. 7760

(C) In a prosecution under this section, proof that the defendant engaged in sexual activity with any person, or solicited sexual activity with any person, whether or not for hire, without more, does not constitute a violation of this section.

(D) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of section 2907.21 of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, or is convicted of or pleads guilty to any other violation of Chapter 2907. of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

(E) Whoever violates this section is guilty of trafficking in persons, a felony of the first degree. Notwithstanding division (A)(1) of section 2929.14 of the Revised Code, the court shall sentence the offender to a definite prison term of ten, eleven, twelve, thirteen, fourteen, or fifteen years.

(F) As used in this section:

(1) "~~Developmentally disabled person~~Person with a developmental disability" means a person whose ability to resist or consent to an act is substantially impaired because of a

mental or physical condition or because of advanced age. 7791

(2) "Sexual activity for hire," "performance for hire," 7792
and "model or participant for hire" mean an implicit or explicit 7793
agreement to provide sexual activity, engage in an obscene, 7794
sexually oriented, or nudity oriented performance, or be a model 7795
or participant in the production of obscene, sexually oriented, 7796
or nudity oriented material, whichever is applicable, in 7797
exchange for anything of value paid to any of the following: 7798

(a) The person engaging in such sexual activity, 7799
performance, or modeling or participation; 7800

(b) Any person who recruits, lures, entices, isolates, 7801
harbors, transports, provides, obtains, or maintains, or 7802
attempts to recruit, lure, entice, isolate, harbor, transport, 7803
provide, obtain, or maintain the person described in division 7804
(F) (2) (a) of this section; 7805

(c) Any person associated with a person described in 7806
division (F) (2) (a) or (b) of this section. 7807

(3) "Material that is obscene, sexually oriented, or 7808
nudity oriented" and "performance that is obscene, sexually 7809
oriented, or nudity oriented" have the same meanings as in 7810
section 2929.01 of the Revised Code. 7811

Sec. 2907.24. (A) (1) No person shall solicit another who 7812
is eighteen years of age or older to engage with such other 7813
person in sexual activity for hire. 7814

(2) No person shall solicit another to engage with such 7815
other person in sexual activity for hire if the other person is 7816
sixteen or seventeen years of age and the offender knows that 7817
the other person is sixteen or seventeen years of age or is 7818
reckless in that regard. 7819

(3) No person shall solicit another to engage with such other person in sexual activity for hire if either of the following applies:

(a) The other person is less than sixteen years of age, whether or not the offender knows the age of the other person.

(b) The other person is a ~~developmentally disabled person~~ with a developmental disability and the offender knows or has reasonable cause to believe the other person is a ~~developmentally disabled person~~ with a developmental disability.

(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of division (A) of this section.

(C) (1) Whoever violates division (A) of this section is guilty of soliciting. A violation of division (A) (1) of this section is a misdemeanor of the third degree. A violation of division (A) (2) of this section is a felony of the fifth degree. A violation of division (A) (3) of this section is a felony of the third degree.

(2) Whoever violates division (B) of this section is guilty of engaging in solicitation after a positive HIV test. If the offender commits the violation prior to July 1, 1996, engaging in solicitation after a positive HIV test is a felony of the second degree. If the offender commits the violation on or after July 1, 1996, engaging in solicitation after a positive HIV test is a felony of the third degree.

(D) If a person is convicted of or pleads guilty to a violation of any provision of this section, an attempt to commit a violation of any provision of this section, or a violation of

or an attempt to commit a violation of a municipal ordinance 7849
that is substantially equivalent to any provision of this 7850
section and if the person, in committing or attempting to commit 7851
the violation, was in, was on, or used a motor vehicle, the 7852
court, in addition to or independent of all other penalties 7853
imposed for the violation, may impose upon the offender a class 7854
six suspension of the person's driver's license, commercial 7855
driver's license, temporary instruction permit, probationary 7856
license, or nonresident operating privilege from the range 7857
specified in division (A) (6) of section 4510.02 of the Revised 7858
Code. In lieu of imposing upon the offender the class six 7859
suspension, the court instead may require the offender to 7860
perform community service for a number of hours determined by 7861
the court. 7862

(E) As used in this section: 7863

(1) "~~Developmentally disabled person~~Person with a 7864
developmental disability" has the same meaning as in section 7865
2905.32 of the Revised Code. 7866

(2) "Sexual activity for hire" means an implicit or 7867
explicit agreement to provide sexual activity in exchange for 7868
anything of value paid to the person engaging in such sexual 7869
activity, to any person trafficking that person, or to any 7870
person associated with either such person. 7871

Sec. 2919.23. (A) No person, knowing the person is without 7872
privilege to do so or being reckless in that regard, shall 7873
entice, take, keep, or harbor a person identified in division 7874
(A) (1), (2), or (3) of this section from the parent, guardian, 7875
or custodian of the person identified in division (A) (1), (2), 7876
or (3) of this section: 7877

(1) A child under the age of eighteen, or a mentally or 7878
physically handicapped child under the age of twenty-one; 7879

(2) A person committed by law to an institution for 7880
delinquent, unruly, neglected, abused, or dependent children; 7881

(3) A person committed by law to an institution for the 7882
mentally ill or ~~mentally retarded~~ an institution for persons 7883
with intellectual disabilities. 7884

(B) No person shall aid, abet, induce, cause, or encourage 7885
a child or a ward of the juvenile court who has been committed 7886
to the custody of any person, department, or public or private 7887
institution to leave the custody of that person, department, or 7888
institution without legal consent. 7889

(C) It is an affirmative defense to a charge of enticing 7890
or taking under division (A) (1) of this section, that the actor 7891
reasonably believed that the actor's conduct was necessary to 7892
preserve the child's health or safety. It is an affirmative 7893
defense to a charge of keeping or harboring under division (A) 7894
of this section, that the actor in good faith gave notice to law 7895
enforcement or judicial authorities within a reasonable time 7896
after the child or committed person came under the actor's 7897
shelter, protection, or influence. 7898

(D) (1) Whoever violates this section is guilty of 7899
interference with custody. 7900

(2) Except as otherwise provided in this division, a 7901
violation of division (A) (1) of this section is a misdemeanor of 7902
the first degree. If the child who is the subject of a violation 7903
of division (A) (1) of this section is removed from the state or 7904
if the offender previously has been convicted of an offense 7905
under this section, a violation of division (A) (1) of this 7906

section is a felony of the fifth degree. If the child who is the 7907
subject of a violation of division (A) (1) of this section 7908
suffers physical harm as a result of the violation, a violation 7909
of division (A) (1) of this section is a felony of the fourth 7910
degree. 7911

(3) A violation of division (A) (2) or (3) of this section 7912
is a misdemeanor of the third degree. 7913

(4) A violation of division (B) of this section is a 7914
misdemeanor of the first degree. Each day of violation of 7915
division (B) of this section is a separate offense. 7916

Sec. 2929.01. As used in this chapter: 7917

(A) (1) "Alternative residential facility" means, subject 7918
to division (A) (2) of this section, any facility other than an 7919
offender's home or residence in which an offender is assigned to 7920
live and that satisfies all of the following criteria: 7921

(a) It provides programs through which the offender may 7922
seek or maintain employment or may receive education, training, 7923
treatment, or habilitation. 7924

(b) It has received the appropriate license or certificate 7925
for any specialized education, training, treatment, 7926
habilitation, or other service that it provides from the 7927
government agency that is responsible for licensing or 7928
certifying that type of education, training, treatment, 7929
habilitation, or service. 7930

(2) "Alternative residential facility" does not include a 7931
community-based correctional facility, jail, halfway house, or 7932
prison. 7933

(B) "Basic probation supervision" means a requirement that 7934

the offender maintain contact with a person appointed to 7935
supervise the offender in accordance with sanctions imposed by 7936
the court or imposed by the parole board pursuant to section 7937
2967.28 of the Revised Code. "Basic probation supervision" 7938
includes basic parole supervision and basic post-release control 7939
supervision. 7940

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have 7941
the same meanings as in section 2925.01 of the Revised Code. 7942

(D) "Community-based correctional facility" means a 7943
community-based correctional facility and program or district 7944
community-based correctional facility and program developed 7945
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 7946

(E) "Community control sanction" means a sanction that is 7947
not a prison term and that is described in section 2929.15, 7948
2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction 7949
that is not a jail term and that is described in section 7950
2929.26, 2929.27, or 2929.28 of the Revised Code. "Community 7951
control sanction" includes probation if the sentence involved 7952
was imposed for a felony that was committed prior to July 1, 7953
1996, or if the sentence involved was imposed for a misdemeanor 7954
that was committed prior to January 1, 2004. 7955

(F) "Controlled substance," "marihuana," "schedule I," and 7956
"schedule II" have the same meanings as in section 3719.01 of 7957
the Revised Code. 7958

(G) "Curfew" means a requirement that an offender during a 7959
specified period of time be at a designated place. 7960

(H) "Day reporting" means a sanction pursuant to which an 7961
offender is required each day to report to and leave a center or 7962
other approved reporting location at specified times in order to 7963

participate in work, education or training, treatment, and other 7964
approved programs at the center or outside the center. 7965

(I) "Deadly weapon" has the same meaning as in section 7966
2923.11 of the Revised Code. 7967

(J) "Drug and alcohol use monitoring" means a program 7968
under which an offender agrees to submit to random chemical 7969
analysis of the offender's blood, breath, or urine to determine 7970
whether the offender has ingested any alcohol or other drugs. 7971

(K) "Drug treatment program" means any program under which 7972
a person undergoes assessment and treatment designed to reduce 7973
or completely eliminate the person's physical or emotional 7974
reliance upon alcohol, another drug, or alcohol and another drug 7975
and under which the person may be required to receive assessment 7976
and treatment on an outpatient basis or may be required to 7977
reside at a facility other than the person's home or residence 7978
while undergoing assessment and treatment. 7979

(L) "Economic loss" means any economic detriment suffered 7980
by a victim as a direct and proximate result of the commission 7981
of an offense and includes any loss of income due to lost time 7982
at work because of any injury caused to the victim, and any 7983
property loss, medical cost, or funeral expense incurred as a 7984
result of the commission of the offense. "Economic loss" does 7985
not include non-economic loss or any punitive or exemplary 7986
damages. 7987

(M) "Education or training" includes study at, or in 7988
conjunction with a program offered by, a university, college, or 7989
technical college or vocational study and also includes the 7990
completion of primary school, secondary school, and literacy 7991
curricula or their equivalent. 7992

(N) "Firearm" has the same meaning as in section 2923.11 7993
of the Revised Code. 7994

(O) "Halfway house" means a facility licensed by the 7995
division of parole and community services of the department of 7996
rehabilitation and correction pursuant to section 2967.14 of the 7997
Revised Code as a suitable facility for the care and treatment 7998
of adult offenders. 7999

(P) "House arrest" means a period of confinement of an 8000
offender that is in the offender's home or in other premises 8001
specified by the sentencing court or by the parole board 8002
pursuant to section 2967.28 of the Revised Code and during which 8003
all of the following apply: 8004

(1) The offender is required to remain in the offender's 8005
home or other specified premises for the specified period of 8006
confinement, except for periods of time during which the 8007
offender is at the offender's place of employment or at other 8008
premises as authorized by the sentencing court or by the parole 8009
board. 8010

(2) The offender is required to report periodically to a 8011
person designated by the court or parole board. 8012

(3) The offender is subject to any other restrictions and 8013
requirements that may be imposed by the sentencing court or by 8014
the parole board. 8015

(Q) "Intensive probation supervision" means a requirement 8016
that an offender maintain frequent contact with a person 8017
appointed by the court, or by the parole board pursuant to 8018
section 2967.28 of the Revised Code, to supervise the offender 8019
while the offender is seeking or maintaining necessary 8020
employment and participating in training, education, and 8021

treatment programs as required in the court's or parole board's 8022
order. "Intensive probation supervision" includes intensive 8023
parole supervision and intensive post-release control 8024
supervision. 8025

(R) "Jail" means a jail, workhouse, minimum security jail, 8026
or other residential facility used for the confinement of 8027
alleged or convicted offenders that is operated by a political 8028
subdivision or a combination of political subdivisions of this 8029
state. 8030

(S) "Jail term" means the term in a jail that a sentencing 8031
court imposes or is authorized to impose pursuant to section 8032
2929.24 or 2929.25 of the Revised Code or pursuant to any other 8033
provision of the Revised Code that authorizes a term in a jail 8034
for a misdemeanor conviction. 8035

(T) "Mandatory jail term" means the term in a jail that a 8036
sentencing court is required to impose pursuant to division (G) 8037
of section 1547.99 of the Revised Code, division (E) of section 8038
2903.06 or division (D) of section 2903.08 of the Revised Code, 8039
division (E) or (G) of section 2929.24 of the Revised Code, 8040
division (B) of section 4510.14 of the Revised Code, or division 8041
(G) of section 4511.19 of the Revised Code or pursuant to any 8042
other provision of the Revised Code that requires a term in a 8043
jail for a misdemeanor conviction. 8044

(U) "Delinquent child" has the same meaning as in section 8045
2152.02 of the Revised Code. 8046

(V) "License violation report" means a report that is made 8047
by a sentencing court, or by the parole board pursuant to 8048
section 2967.28 of the Revised Code, to the regulatory or 8049
licensing board or agency that issued an offender a professional 8050

license or a license or permit to do business in this state and 8051
that specifies that the offender has been convicted of or 8052
pleaded guilty to an offense that may violate the conditions 8053
under which the offender's professional license or license or 8054
permit to do business in this state was granted or an offense 8055
for which the offender's professional license or license or 8056
permit to do business in this state may be revoked or suspended. 8057

(W) "Major drug offender" means an offender who is 8058
convicted of or pleads guilty to the possession of, sale of, or 8059
offer to sell any drug, compound, mixture, preparation, or 8060
substance that consists of or contains at least one thousand 8061
grams of hashish; at least one hundred grams of cocaine; at 8062
least two thousand five hundred unit doses or two hundred fifty 8063
grams of heroin; at least five thousand unit doses of L.S.D. or 8064
five hundred grams of L.S.D. in a liquid concentrate, liquid 8065
extract, or liquid distillate form; at least fifty grams of a 8066
controlled substance analog; or at least one hundred times the 8067
amount of any other schedule I or II controlled substance other 8068
than marihuana that is necessary to commit a felony of the third 8069
degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 8070
of the Revised Code that is based on the possession of, sale of, 8071
or offer to sell the controlled substance. 8072

(X) "Mandatory prison term" means any of the following: 8073

(1) Subject to division (X)(2) of this section, the term 8074
in prison that must be imposed for the offenses or circumstances 8075
set forth in divisions (F)(1) to (8) or (F)(12) to (18) of 8076
section 2929.13 and division (B) of section 2929.14 of the 8077
Revised Code. Except as provided in sections 2925.02, 2925.03, 8078
2925.04, 2925.05, and 2925.11 of the Revised Code, unless the 8079
maximum or another specific term is required under section 8080

2929.14 or 2929.142 of the Revised Code, a mandatory prison term 8081
described in this division may be any prison term authorized for 8082
the level of offense. 8083

(2) The term of sixty or one hundred twenty days in prison 8084
that a sentencing court is required to impose for a third or 8085
fourth degree felony OVI offense pursuant to division (G) (2) of 8086
section 2929.13 and division (G) (1) (d) or (e) of section 4511.19 8087
of the Revised Code or the term of one, two, three, four, or 8088
five years in prison that a sentencing court is required to 8089
impose pursuant to division (G) (2) of section 2929.13 of the 8090
Revised Code. 8091

(3) The term in prison imposed pursuant to division (A) of 8092
section 2971.03 of the Revised Code for the offenses and in the 8093
circumstances described in division (F) (11) of section 2929.13 8094
of the Revised Code or pursuant to division (B) (1) (a), (b), or 8095
(c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of 8096
section 2971.03 of the Revised Code and that term as modified or 8097
terminated pursuant to section 2971.05 of the Revised Code. 8098

(Y) "Monitored time" means a period of time during which 8099
an offender continues to be under the control of the sentencing 8100
court or parole board, subject to no conditions other than 8101
leading a law-abiding life. 8102

(Z) "Offender" means a person who, in this state, is 8103
convicted of or pleads guilty to a felony or a misdemeanor. 8104

(AA) "Prison" means a residential facility used for the 8105
confinement of convicted felony offenders that is under the 8106
control of the department of rehabilitation and correction but 8107
does not include a violation sanction center operated under 8108
authority of section 2967.141 of the Revised Code. 8109

(BB) "Prison term" includes either of the following 8110
sanctions for an offender: 8111

(1) A stated prison term; 8112

(2) A term in a prison shortened by, or with the approval 8113
of, the sentencing court pursuant to section 2929.143, 2929.20, 8114
2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code. 8115

(CC) "Repeat violent offender" means a person about whom 8116
both of the following apply: 8117

(1) The person is being sentenced for committing or for 8118
complicity in committing any of the following: 8119

(a) Aggravated murder, murder, any felony of the first or 8120
second degree that is an offense of violence, or an attempt to 8121
commit any of these offenses if the attempt is a felony of the 8122
first or second degree; 8123

(b) An offense under an existing or former law of this 8124
state, another state, or the United States that is or was 8125
substantially equivalent to an offense described in division 8126
(CC) (1) (a) of this section. 8127

(2) The person previously was convicted of or pleaded 8128
guilty to an offense described in division (CC) (1) (a) or (b) of 8129
this section. 8130

(DD) "Sanction" means any penalty imposed upon an offender 8131
who is convicted of or pleads guilty to an offense, as 8132
punishment for the offense. "Sanction" includes any sanction 8133
imposed pursuant to any provision of sections 2929.14 to 2929.18 8134
or 2929.24 to 2929.28 of the Revised Code. 8135

(EE) "Sentence" means the sanction or combination of 8136
sanctions imposed by the sentencing court on an offender who is 8137

convicted of or pleads guilty to an offense. 8138

(FF) "Stated prison term" means the prison term, mandatory 8139
prison term, or combination of all prison terms and mandatory 8140
prison terms imposed by the sentencing court pursuant to section 8141
2929.14, 2929.142, or 2971.03 of the Revised Code or under 8142
section 2919.25 of the Revised Code. "Stated prison term" 8143
includes any credit received by the offender for time spent in 8144
jail awaiting trial, sentencing, or transfer to prison for the 8145
offense and any time spent under house arrest or house arrest 8146
with electronic monitoring imposed after earning credits 8147
pursuant to section 2967.193 of the Revised Code. If an offender 8148
is serving a prison term as a risk reduction sentence under 8149
sections 2929.143 and 5120.036 of the Revised Code, "stated 8150
prison term" includes any period of time by which the prison 8151
term imposed upon the offender is shortened by the offender's 8152
successful completion of all assessment and treatment or 8153
programming pursuant to those sections. 8154

(GG) "Victim-offender mediation" means a reconciliation or 8155
mediation program that involves an offender and the victim of 8156
the offense committed by the offender and that includes a 8157
meeting in which the offender and the victim may discuss the 8158
offense, discuss restitution, and consider other sanctions for 8159
the offense. 8160

(HH) "Fourth degree felony OVI offense" means a violation 8161
of division (A) of section 4511.19 of the Revised Code that, 8162
under division (G) of that section, is a felony of the fourth 8163
degree. 8164

(II) "Mandatory term of local incarceration" means the 8165
term of sixty or one hundred twenty days in a jail, a community- 8166
based correctional facility, a halfway house, or an alternative 8167

residential facility that a sentencing court may impose upon a 8168
person who is convicted of or pleads guilty to a fourth degree 8169
felony OVI offense pursuant to division (G) (1) of section 8170
2929.13 of the Revised Code and division (G) (1) (d) or (e) of 8171
section 4511.19 of the Revised Code. 8172

(JJ) "Designated homicide, assault, or kidnapping 8173
offense," "violent sex offense," "sexual motivation 8174
specification," "sexually violent offense," "sexually violent 8175
predator," and "sexually violent predator specification" have 8176
the same meanings as in section 2971.01 of the Revised Code. 8177

(KK) "Sexually oriented offense," "child-victim oriented 8178
offense," and "tier III sex offender/child-victim offender" have 8179
the same meanings as in section 2950.01 of the Revised Code. 8180

(LL) An offense is "committed in the vicinity of a child" 8181
if the offender commits the offense within thirty feet of or 8182
within the same residential unit as a child who is under 8183
eighteen years of age, regardless of whether the offender knows 8184
the age of the child or whether the offender knows the offense 8185
is being committed within thirty feet of or within the same 8186
residential unit as the child and regardless of whether the 8187
child actually views the commission of the offense. 8188

(MM) "Family or household member" has the same meaning as 8189
in section 2919.25 of the Revised Code. 8190

(NN) "Motor vehicle" and "manufactured home" have the same 8191
meanings as in section 4501.01 of the Revised Code. 8192

(OO) "Detention" and "detention facility" have the same 8193
meanings as in section 2921.01 of the Revised Code. 8194

(PP) "Third degree felony OVI offense" means a violation 8195
of division (A) of section 4511.19 of the Revised Code that, 8196

under division (G) of that section, is a felony of the third degree. 8197
8198

(QQ) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code. 8199
8200

(RR) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code. 8201
8202

(SS) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code. 8203
8204

(TT) "Electronic monitoring" means monitoring through the use of an electronic monitoring device. 8205
8206

(UU) "Electronic monitoring device" means any of the following: 8207
8208

(1) Any device that can be operated by electrical or battery power and that conforms with all of the following: 8209
8210

(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (UU) (1) (b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver. 8211
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(b) The device has a receiver that can receive 8225
continuously the signals transmitted by a transmitter of the 8226
type described in division (UU) (1) (a) of this section, can 8227
transmit continuously those signals by a wireless or landline 8228
telephone connection to a central monitoring computer of the 8229
type described in division (UU) (1) (c) of this section, and can 8230
transmit continuously an appropriate signal to that central 8231
monitoring computer if the device has been turned off or altered 8232
without prior court approval or otherwise tampered with. The 8233
device is designed specifically for use in electronic 8234
monitoring, is not a converted wireless phone or another 8235
tracking device that is clearly not designed for electronic 8236
monitoring, and provides a means of text-based or voice 8237
communication with the person. 8238

(c) The device has a central monitoring computer that can 8239
receive continuously the signals transmitted by a wireless or 8240
landline telephone connection by a receiver of the type 8241
described in division (UU) (1) (b) of this section and can monitor 8242
continuously the person to whom an electronic monitoring device 8243
of the type described in division (UU) (1) (a) of this section is 8244
attached. 8245

(2) Any device that is not a device of the type described 8246
in division (UU) (1) of this section and that conforms with all 8247
of the following: 8248

(a) The device includes a transmitter and receiver that 8249
can monitor and determine the location of a subject person at 8250
any time, or at a designated point in time, through the use of a 8251
central monitoring computer or through other electronic means. 8252

(b) The device includes a transmitter and receiver that 8253
can determine at any time, or at a designated point in time, 8254

through the use of a central monitoring computer or other 8255
electronic means the fact that the transmitter is turned off or 8256
altered in any manner without prior approval of the court in 8257
relation to the electronic monitoring or without prior approval 8258
of the department of rehabilitation and correction in relation 8259
to the use of an electronic monitoring device for an inmate on 8260
transitional control or otherwise is tampered with. 8261

(3) Any type of technology that can adequately track or 8262
determine the location of a subject person at any time and that 8263
is approved by the director of rehabilitation and correction, 8264
including, but not limited to, any satellite technology, voice 8265
tracking system, or retinal scanning system that is so approved. 8266

(VV) "Non-economic loss" means nonpecuniary harm suffered 8267
by a victim of an offense as a result of or related to the 8268
commission of the offense, including, but not limited to, pain 8269
and suffering; loss of society, consortium, companionship, care, 8270
assistance, attention, protection, advice, guidance, counsel, 8271
instruction, training, or education; mental anguish; and any 8272
other intangible loss. 8273

(WW) "Prosecutor" has the same meaning as in section 8274
2935.01 of the Revised Code. 8275

(XX) "Continuous alcohol monitoring" means the ability to 8276
automatically test and periodically transmit alcohol consumption 8277
levels and tamper attempts at least every hour, regardless of 8278
the location of the person who is being monitored. 8279

(YY) A person is "adjudicated a sexually violent predator" 8280
if the person is convicted of or pleads guilty to a violent sex 8281
offense and also is convicted of or pleads guilty to a sexually 8282
violent predator specification that was included in the 8283

indictment, count in the indictment, or information charging 8284
that violent sex offense or if the person is convicted of or 8285
pleads guilty to a designated homicide, assault, or kidnapping 8286
offense and also is convicted of or pleads guilty to both a 8287
sexual motivation specification and a sexually violent predator 8288
specification that were included in the indictment, count in the 8289
indictment, or information charging that designated homicide, 8290
assault, or kidnapping offense. 8291

(ZZ) An offense is "committed in proximity to a school" if 8292
the offender commits the offense in a school safety zone or 8293
within five hundred feet of any school building or the 8294
boundaries of any school premises, regardless of whether the 8295
offender knows the offense is being committed in a school safety 8296
zone or within five hundred feet of any school building or the 8297
boundaries of any school premises. 8298

(AAA) "Human trafficking" means a scheme or plan to which 8299
all of the following apply: 8300

(1) Its object is one or more of the following: 8301

(a) To subject a victim or victims to involuntary 8302
servitude, as defined in section 2905.31 of the Revised Code or 8303
to compel a victim or victims to engage in sexual activity for 8304
hire, to engage in a performance that is obscene, sexually 8305
oriented, or nudity oriented, or to be a model or participant in 8306
the production of material that is obscene, sexually oriented, 8307
or nudity oriented; 8308

(b) To facilitate, encourage, or recruit a victim who is 8309
less than sixteen years of age or is a ~~developmentally disabled~~ 8310
person with a developmental disability, or victims who are less 8311
than sixteen years of age or are ~~developmentally disabled~~ 8312

persons with developmental disabilities, for any purpose listed 8313
in divisions (A) (2) (a) to (c) of section 2905.32 of the Revised 8314
Code; 8315

(c) To facilitate, encourage, or recruit a victim who is 8316
sixteen or seventeen years of age, or victims who are sixteen or 8317
seventeen years of age, for any purpose listed in divisions (A) 8318
(2) (a) to (c) of section 2905.32 of the Revised Code, if the 8319
circumstances described in division (A) (5), (6), (7), (8), (9), 8320
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 8321
apply with respect to the person engaging in the conduct and the 8322
victim or victims. 8323

(2) It involves at least two felony offenses, whether or 8324
not there has been a prior conviction for any of the felony 8325
offenses, to which all of the following apply: 8326

(a) Each of the felony offenses is a violation of section 8327
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, 8328
division (A) (1) or (2) of section 2907.323, or division (B) (1), 8329
(2), (3), (4), or (5) of section 2919.22 of the Revised Code or 8330
is a violation of a law of any state other than this state that 8331
is substantially similar to any of the sections or divisions of 8332
the Revised Code identified in this division. 8333

(b) At least one of the felony offenses was committed in 8334
this state. 8335

(c) The felony offenses are related to the same scheme or 8336
plan and are not isolated instances. 8337

(BBB) "Material," "nudity," "obscene," "performance," and 8338
"sexual activity" have the same meanings as in section 2907.01 8339
of the Revised Code. 8340

(CCC) "Material that is obscene, sexually oriented, or 8341

nudity oriented" means any material that is obscene, that shows 8342
a person participating or engaging in sexual activity, 8343
masturbation, or bestiality, or that shows a person in a state 8344
of nudity. 8345

(DDD) "Performance that is obscene, sexually oriented, or 8346
nudity oriented" means any performance that is obscene, that 8347
shows a person participating or engaging in sexual activity, 8348
masturbation, or bestiality, or that shows a person in a state 8349
of nudity. 8350

Sec. 2929.04. (A) Imposition of the death penalty for 8351
aggravated murder is precluded unless one or more of the 8352
following is specified in the indictment or count in the 8353
indictment pursuant to section 2941.14 of the Revised Code and 8354
proved beyond a reasonable doubt: 8355

(1) The offense was the assassination of the president of 8356
the United States or a person in line of succession to the 8357
presidency, the governor or lieutenant governor of this state, 8358
the president-elect or vice president-elect of the United 8359
States, the governor-elect or lieutenant governor-elect of this 8360
state, or a candidate for any of the offices described in this 8361
division. For purposes of this division, a person is a candidate 8362
if the person has been nominated for election according to law, 8363
if the person has filed a petition or petitions according to law 8364
to have the person's name placed on the ballot in a primary or 8365
general election, or if the person campaigns as a write-in 8366
candidate in a primary or general election. 8367

(2) The offense was committed for hire. 8368

(3) The offense was committed for the purpose of escaping 8369
detection, apprehension, trial, or punishment for another 8370

offense committed by the offender. 8371

(4) The offense was committed while the offender was under 8372
detention or while the offender was at large after having broken 8373
detention. As used in division (A)(4) of this section, 8374
"detention" has the same meaning as in section 2921.01 of the 8375
Revised Code, except that detention does not include 8376
hospitalization, institutionalization, or confinement in a 8377
mental health facility or ~~mental retardation and developmentally~~ 8378
~~disabled intellectual disabilities~~ facility unless at the time 8379
of the commission of the offense either of the following 8380
circumstances apply: 8381

(a) The offender was in the facility as a result of being 8382
charged with a violation of a section of the Revised Code. 8383

(b) The offender was under detention as a result of being 8384
convicted of or pleading guilty to a violation of a section of 8385
the Revised Code. 8386

(5) Prior to the offense at bar, the offender was 8387
convicted of an offense an essential element of which was the 8388
purposeful killing of or attempt to kill another, or the offense 8389
at bar was part of a course of conduct involving the purposeful 8390
killing of or attempt to kill two or more persons by the 8391
offender. 8392

(6) The victim of the offense was a law enforcement 8393
officer, as defined in section 2911.01 of the Revised Code, whom 8394
the offender had reasonable cause to know or knew to be a law 8395
enforcement officer as so defined, and either the victim, at the 8396
time of the commission of the offense, was engaged in the 8397
victim's duties, or it was the offender's specific purpose to 8398
kill a law enforcement officer as so defined. 8399

(7) The offense was committed while the offender was 8400
committing, attempting to commit, or fleeing immediately after 8401
committing or attempting to commit kidnapping, rape, aggravated 8402
arson, aggravated robbery, or aggravated burglary, and either 8403
the offender was the principal offender in the commission of the 8404
aggravated murder or, if not the principal offender, committed 8405
the aggravated murder with prior calculation and design. 8406

(8) The victim of the aggravated murder was a witness to 8407
an offense who was purposely killed to prevent the victim's 8408
testimony in any criminal proceeding and the aggravated murder 8409
was not committed during the commission, attempted commission, 8410
or flight immediately after the commission or attempted 8411
commission of the offense to which the victim was a witness, or 8412
the victim of the aggravated murder was a witness to an offense 8413
and was purposely killed in retaliation for the victim's 8414
testimony in any criminal proceeding. 8415

(9) The offender, in the commission of the offense, 8416
purposefully caused the death of another who was under thirteen 8417
years of age at the time of the commission of the offense, and 8418
either the offender was the principal offender in the commission 8419
of the offense or, if not the principal offender, committed the 8420
offense with prior calculation and design. 8421

(10) The offense was committed while the offender was 8422
committing, attempting to commit, or fleeing immediately after 8423
committing or attempting to commit terrorism. 8424

(B) If one or more of the aggravating circumstances listed 8425
in division (A) of this section is specified in the indictment 8426
or count in the indictment and proved beyond a reasonable doubt, 8427
and if the offender did not raise the matter of age pursuant to 8428
section 2929.023 of the Revised Code or if the offender, after 8429

raising the matter of age, was found at trial to have been 8430
eighteen years of age or older at the time of the commission of 8431
the offense, the court, trial jury, or panel of three judges 8432
shall consider, and weigh against the aggravating circumstances 8433
proved beyond a reasonable doubt, the nature and circumstances 8434
of the offense, the history, character, and background of the 8435
offender, and all of the following factors: 8436

(1) Whether the victim of the offense induced or 8437
facilitated it; 8438

(2) Whether it is unlikely that the offense would have 8439
been committed, but for the fact that the offender was under 8440
duress, coercion, or strong provocation; 8441

(3) Whether, at the time of committing the offense, the 8442
offender, because of a mental disease or defect, lacked 8443
substantial capacity to appreciate the criminality of the 8444
offender's conduct or to conform the offender's conduct to the 8445
requirements of the law; 8446

(4) The youth of the offender; 8447

(5) The offender's lack of a significant history of prior 8448
criminal convictions and delinquency adjudications; 8449

(6) If the offender was a participant in the offense but 8450
not the principal offender, the degree of the offender's 8451
participation in the offense and the degree of the offender's 8452
participation in the acts that led to the death of the victim; 8453

(7) Any other factors that are relevant to the issue of 8454
whether the offender should be sentenced to death. 8455

(C) The defendant shall be given great latitude in the 8456
presentation of evidence of the factors listed in division (B) 8457

of this section and of any other factors in mitigation of the 8458
imposition of the sentence of death. 8459

The existence of any of the mitigating factors listed in 8460
division (B) of this section does not preclude the imposition of 8461
a sentence of death on the offender but shall be weighed 8462
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 8463
Revised Code by the trial court, trial jury, or the panel of 8464
three judges against the aggravating circumstances the offender 8465
was found guilty of committing. 8466

Sec. 2929.06. (A) If a sentence of death imposed upon an 8467
offender is set aside, nullified, or vacated because the court 8468
of appeals, in a case in which a sentence of death was imposed 8469
for an offense committed before January 1, 1995, or the supreme 8470
court, in cases in which the supreme court reviews the sentence 8471
upon appeal, could not affirm the sentence of death under the 8472
standards imposed by section 2929.05 of the Revised Code, is set 8473
aside, nullified, or vacated for the sole reason that the 8474
statutory procedure for imposing the sentence of death that is 8475
set forth in sections 2929.03 and 2929.04 of the Revised Code is 8476
unconstitutional, is set aside, nullified, or vacated pursuant 8477
to division (C) of section 2929.05 of the Revised Code, or is 8478
set aside, nullified, or vacated because a court has determined 8479
that the offender is ~~mentally retarded~~ a person with an 8480
intellectual disability under standards set forth in decisions 8481
of the supreme court of this state or the United States supreme 8482
court, the trial court that sentenced the offender shall conduct 8483
a hearing to resentence the offender. At the resentencing 8484
hearing, the court shall impose upon the offender a sentence of 8485
life imprisonment or an indefinite term consisting of a minimum 8486
term of thirty years and a maximum term of life imprisonment 8487
that is determined as specified in this division. If division 8488

(D) of section 2929.03 of the Revised Code, at the time the 8489
offender committed the aggravated murder for which the sentence 8490
of death was imposed, required the imposition when a sentence of 8491
death was not imposed of a sentence of life imprisonment without 8492
parole or a sentence of an indefinite term consisting of a 8493
minimum term of thirty years and a maximum term of life 8494
imprisonment to be imposed pursuant to division (A) or (B) (3) of 8495
section 2971.03 of the Revised Code and served pursuant to that 8496
section, the court shall impose the sentence so required. In all 8497
other cases, the sentences of life imprisonment that are 8498
available at the hearing, and from which the court shall impose 8499
sentence, shall be the same sentences of life imprisonment that 8500
were available under division (D) of section 2929.03 or under 8501
section 2909.24 of the Revised Code at the time the offender 8502
committed the offense for which the sentence of death was 8503
imposed. Nothing in this division regarding the resentencing of 8504
an offender shall affect the operation of section 2971.03 of the 8505
Revised Code. 8506

(B) Whenever any court of this state or any federal court 8507
sets aside, nullifies, or vacates a sentence of death imposed 8508
upon an offender because of error that occurred in the 8509
sentencing phase of the trial and if division (A) of this 8510
section does not apply, the trial court that sentenced the 8511
offender shall conduct a new hearing to resentence the offender. 8512
If the offender was tried by a jury, the trial court shall 8513
impanel a new jury for the hearing. If the offender was tried by 8514
a panel of three judges, that panel or, if necessary, a new 8515
panel of three judges shall conduct the hearing. At the hearing, 8516
the court or panel shall follow the procedure set forth in 8517
division (D) of section 2929.03 of the Revised Code in 8518
determining whether to impose upon the offender a sentence of 8519

death, a sentence of life imprisonment, or an indefinite term 8520
consisting of a minimum term of thirty years and a maximum term 8521
of life imprisonment. If, pursuant to that procedure, the court 8522
or panel determines that it will impose a sentence other than a 8523
sentence of death, the court or panel shall impose upon the 8524
offender one of the sentences of life imprisonment that could 8525
have been imposed at the time the offender committed the offense 8526
for which the sentence of death was imposed, determined as 8527
specified in this division, or an indefinite term consisting of 8528
a minimum term of thirty years and a maximum term of life 8529
imprisonment that is determined as specified in this division. 8530
If division (D) of section 2929.03 of the Revised Code, at the 8531
time the offender committed the aggravated murder for which the 8532
sentence of death was imposed, required the imposition when a 8533
sentence of death was not imposed of a sentence of life 8534
imprisonment without parole or a sentence of an indefinite term 8535
consisting of a minimum term of thirty years and a maximum term 8536
of life imprisonment to be imposed pursuant to division (A) or 8537
(B) (3) of section 2971.03 of the Revised Code and served 8538
pursuant to that section, the court or panel shall impose the 8539
sentence so required. In all other cases, the sentences of life 8540
imprisonment that are available at the hearing, and from which 8541
the court or panel shall impose sentence, shall be the same 8542
sentences of life imprisonment that were available under 8543
division (D) of section 2929.03 or under section 2909.24 of the 8544
Revised Code at the time the offender committed the offense for 8545
which the sentence of death was imposed. 8546

(C) If a sentence of life imprisonment without parole 8547
imposed upon an offender pursuant to section 2929.021 or 2929.03 8548
of the Revised Code is set aside, nullified, or vacated for the 8549
sole reason that the statutory procedure for imposing the 8550

sentence of life imprisonment without parole that is set forth 8551
in sections 2929.03 and 2929.04 of the Revised Code is 8552
unconstitutional, the trial court that sentenced the offender 8553
shall conduct a hearing to resentence the offender to life 8554
imprisonment with parole eligibility after serving twenty-five 8555
full years of imprisonment or to life imprisonment with parole 8556
eligibility after serving thirty full years of imprisonment. 8557

(D) Nothing in this section limits or restricts the rights 8558
of the state to appeal any order setting aside, nullifying, or 8559
vacating a conviction or sentence of death, when an appeal of 8560
that nature otherwise would be available. 8561

(E) This section, as amended by H.B. 184 of the 125th 8562
general assembly, shall apply to all offenders who have been 8563
sentenced to death for an aggravated murder that was committed 8564
on or after October 19, 1981, or for terrorism that was 8565
committed on or after May 15, 2002. This section, as amended by 8566
H.B. 184 of the 125th general assembly, shall apply equally to 8567
all such offenders sentenced to death prior to, on, or after 8568
March 23, 2005, including offenders who, on March 23, 2005, are 8569
challenging their sentence of death and offenders whose sentence 8570
of death has been set aside, nullified, or vacated by any court 8571
of this state or any federal court but who, as of March 23, 8572
2005, have not yet been resentenced. 8573

Sec. 2930.061. (A) If a person is charged in a complaint, 8574
indictment, or information with any crime or specified 8575
delinquent act or with any other violation of law, and if the 8576
case involves a victim that the prosecutor in the case knows is 8577
a ~~mentally retarded person or a developmentally disabled person~~ 8578
with a developmental disability, in addition to any other 8579
notices required under this chapter or under any other provision 8580

of law, the prosecutor in the case shall send written notice of 8581
the charges to the department of developmental disabilities. The 8582
written notice shall specifically identify the person so 8583
charged. 8584

(B) As used in this section, "~~mentally retarded person~~" 8585
and "~~developmentally disabled person~~developmental disability" 8586
~~have~~has the same ~~meanings~~meaning as in section 5123.01 of the 8587
Revised Code. 8588

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 8589
in a case who has requested to receive notice under this section 8590
shall be given notice of the incarceration of the defendant. If 8591
an alleged juvenile offender is committed to the temporary 8592
custody of a school, camp, institution, or other facility 8593
operated for the care of delinquent children or to the legal 8594
custody of the department of youth services, a victim in a case 8595
who has requested to receive notice under this section shall be 8596
given notice of the commitment. Promptly after sentence is 8597
imposed upon the defendant or the commitment of the alleged 8598
juvenile offender is ordered, the prosecutor in the case shall 8599
notify the victim of the date on which the defendant will be 8600
released from confinement or the prosecutor's reasonable 8601
estimate of that date or the date on which the alleged juvenile 8602
offender will have served the minimum period of commitment or 8603
the prosecutor's reasonable estimate of that date. The 8604
prosecutor also shall notify the victim of the name of the 8605
custodial agency of the defendant or alleged juvenile offender 8606
and tell the victim how to contact that custodial agency. If the 8607
custodial agency is the department of rehabilitation and 8608
correction, the prosecutor shall notify the victim of the 8609
services offered by the office of victims' services pursuant to 8610
section 5120.60 of the Revised Code. If the custodial agency is 8611

the department of youth services, the prosecutor shall notify 8612
the victim of the services provided by the office of victims' 8613
services within the release authority of the department pursuant 8614
to section 5139.55 of the Revised Code and the victim's right 8615
pursuant to section 5139.56 of the Revised Code to submit a 8616
written request to the release authority to be notified of 8617
actions the release authority takes with respect to the alleged 8618
juvenile offender. The victim shall keep the custodial agency 8619
informed of the victim's current address and telephone number. 8620

(B) (1) Upon the victim's request or in accordance with 8621
division (D) of this section, the prosecutor promptly shall 8622
notify the victim of any hearing for judicial release of the 8623
defendant pursuant to section 2929.20 of the Revised Code, of 8624
any hearing for release of the defendant pursuant to section 8625
2967.19 of the Revised Code, or of any hearing for judicial 8626
release or early release of the alleged juvenile offender 8627
pursuant to section 2151.38 of the Revised Code and of the 8628
victim's right to make a statement under those sections. The 8629
court shall notify the victim of its ruling in each of those 8630
hearings and on each of those applications. 8631

(2) If an offender is sentenced to a prison term pursuant 8632
to division (A) (3) or (B) of section 2971.03 of the Revised 8633
Code, upon the request of the victim of the crime or in 8634
accordance with division (D) of this section, the prosecutor 8635
promptly shall notify the victim of any hearing to be conducted 8636
pursuant to section 2971.05 of the Revised Code to determine 8637
whether to modify the requirement that the offender serve the 8638
entire prison term in a state correctional facility in 8639
accordance with division (C) of that section, whether to 8640
continue, revise, or revoke any existing modification of that 8641
requirement, or whether to terminate the prison term in 8642

accordance with division (D) of that section. The court shall 8643
notify the victim of any order issued at the conclusion of the 8644
hearing. 8645

(C) Upon the victim's request made at any time before the 8646
particular notice would be due or in accordance with division 8647
(D) of this section, the custodial agency of a defendant or 8648
alleged juvenile offender shall give the victim any of the 8649
following notices that is applicable: 8650

(1) At least sixty days before the adult parole authority 8651
recommends a pardon or commutation of sentence for the defendant 8652
or at least sixty days prior to a hearing before the adult 8653
parole authority regarding a grant of parole to the defendant, 8654
notice of the victim's right to submit a statement regarding the 8655
impact of the defendant's release in accordance with section 8656
2967.12 of the Revised Code and, if applicable, of the victim's 8657
right to appear at a full board hearing of the parole board to 8658
give testimony as authorized by section 5149.101 of the Revised 8659
Code; 8660

(2) At least sixty days before the defendant is 8661
transferred to transitional control under section 2967.26 of the 8662
Revised Code, notice of the pendency of the transfer and of the 8663
victim's right under that section to submit a statement 8664
regarding the impact of the transfer; 8665

(3) At least sixty days before the release authority of 8666
the department of youth services holds a release review, release 8667
hearing, or discharge review for the alleged juvenile offender, 8668
notice of the pendency of the review or hearing, of the victim's 8669
right to make an oral or written statement regarding the impact 8670
of the crime upon the victim or regarding the possible release 8671
or discharge, and, if the notice pertains to a hearing, of the 8672

victim's right to attend and make statements or comments at the 8673
hearing as authorized by section 5139.56 of the Revised Code; 8674

(4) Prompt notice of the defendant's or alleged juvenile 8675
offender's escape from a facility of the custodial agency in 8676
which the defendant was incarcerated or in which the alleged 8677
juvenile offender was placed after commitment, of the 8678
defendant's or alleged juvenile offender's absence without leave 8679
from a mental health or ~~mental retardation and developmental~~ 8680
disabilities facility or from other custody, and of the capture 8681
of the defendant or alleged juvenile offender after an escape or 8682
absence; 8683

(5) Notice of the defendant's or alleged juvenile 8684
offender's death while in confinement or custody; 8685

(6) Notice of the filing of a petition by the director of 8686
rehabilitation and correction pursuant to section 2967.19 of the 8687
Revised Code requesting the early release under that section of 8688
the defendant; 8689

(7) Notice of the defendant's or alleged juvenile 8690
offender's release from confinement or custody and the terms and 8691
conditions of the release. 8692

(D) (1) If a defendant is incarcerated for the commission 8693
of aggravated murder, murder, or an offense of violence that is 8694
a felony of the first, second, or third degree or is under a 8695
sentence of life imprisonment or if an alleged juvenile offender 8696
has been charged with the commission of an act that would be 8697
aggravated murder, murder, or an offense of violence that is a 8698
felony of the first, second, or third degree or be subject to a 8699
sentence of life imprisonment if committed by an adult, except 8700
as otherwise provided in this division, the notices described in 8701

divisions (B) and (C) of this section shall be given regardless 8702
of whether the victim has requested the notification. The 8703
notices described in divisions (B) and (C) of this section shall 8704
not be given under this division to a victim if the victim has 8705
requested pursuant to division (B)(2) of section 2930.03 of the 8706
Revised Code that the victim not be provided the notice. 8707
Regardless of whether the victim has requested that the notices 8708
described in division (C) of this section be provided or not be 8709
provided, the custodial agency shall give notice similar to 8710
those notices to the prosecutor in the case, to the sentencing 8711
court, to the law enforcement agency that arrested the defendant 8712
or alleged juvenile offender if any officer of that agency was a 8713
victim of the offense, and to any member of the victim's 8714
immediate family who requests notification. If the notice given 8715
under this division to the victim is based on an offense 8716
committed prior to ~~the effective date of this amendment~~ March 8717
22, 2013, and if the prosecutor or custodial agency has not 8718
previously successfully provided any notice to the victim under 8719
this division or division (B) or (C) of this section with 8720
respect to that offense and the offender who committed it, the 8721
notice also shall inform the victim that the victim may request 8722
that the victim not be provided any further notices with respect 8723
to that offense and the offender who committed it and shall 8724
describe the procedure for making that request. If the notice 8725
given under this division to the victim pertains to a hearing 8726
regarding a grant of a parole to the defendant, the notice also 8727
shall inform the victim that the victim, a member of the 8728
victim's immediate family, or the victim's representative may 8729
request a victim conference, as described in division (E) of 8730
this section, and shall provide an explanation of a victim 8731
conference. 8732

The prosecutor or custodial agency may give the notices to 8733
which this division applies by any reasonable means, including 8734
regular mail, telephone, and electronic mail. If the prosecutor 8735
or custodial agency attempts to provide notice to a victim under 8736
this division but the attempt is unsuccessful because the 8737
prosecutor or custodial agency is unable to locate the victim, 8738
is unable to provide the notice by its chosen method because it 8739
cannot determine the mailing address, telephone number, or 8740
electronic mail address at which to provide the notice, or, if 8741
the notice is sent by mail, the notice is returned, the 8742
prosecutor or custodial agency shall make another attempt to 8743
provide the notice to the victim. If the second attempt is 8744
unsuccessful, the prosecutor or custodial agency shall make at 8745
least one more attempt to provide the notice. If the notice is 8746
based on an offense committed prior to ~~the effective date of~~ 8747
~~this amendment~~ March 22, 2013, in each attempt to provide the 8748
notice to the victim, the notice shall include the opt-out 8749
information described in the preceding paragraph. The prosecutor 8750
or custodial agency, in accordance with division (D) (2) of this 8751
section, shall keep a record of all attempts to provide the 8752
notice, and of all notices provided, under this division. 8753

Division (D) (1) of this section, and the notice-related 8754
provisions of divisions (E) (2) and (K) of section 2929.20, 8755
division (H) of section 2967.12, division (E) (1) (b) of section 8756
2967.19, division (A) (3) (b) of section 2967.26, division (D) (1) 8757
of section 2967.28, and division (A) (2) of section 5149.101 of 8758
the Revised Code enacted in the act in which division (D) (1) of 8759
this section was enacted, shall be known as "Roberta's Law." 8760

(2) Each prosecutor and custodial agency that attempts to 8761
give any notice to which division (D) (1) of this section applies 8762
shall keep a record of all attempts to give the notice. The 8763

record shall indicate the person who was to be the recipient of 8764
the notice, the date on which the attempt was made, the manner 8765
in which the attempt was made, and the person who made the 8766
attempt. If the attempt is successful and the notice is given, 8767
the record shall indicate that fact. The record shall be kept in 8768
a manner that allows public inspection of attempts and notices 8769
given to persons other than victims without revealing the names, 8770
addresses, or other identifying information relating to victims. 8771
The record of attempts and notices given to victims is not a 8772
public record, but the prosecutor or custodial agency shall 8773
provide upon request a copy of that record to a prosecuting 8774
attorney, judge, law enforcement agency, or member of the 8775
general assembly. The record of attempts and notices given to 8776
persons other than victims is a public record. A record kept 8777
under this division may be indexed by offender name, or in any 8778
other manner determined by the prosecutor or the custodial 8779
agency. Each prosecutor or custodial agency that is required to 8780
keep a record under this division shall determine the procedures 8781
for keeping the record and the manner in which it is to be kept, 8782
subject to the requirements of this division. 8783

(E) The adult parole authority shall adopt rules under 8784
Chapter 119. of the Revised Code providing for a victim 8785
conference, upon request of the victim, a member of the victim's 8786
immediate family, or the victim's representative, prior to a 8787
parole hearing in the case of a prisoner who is incarcerated for 8788
the commission of aggravated murder, murder, or an offense of 8789
violence that is a felony of the first, second, or third degree 8790
or is under a sentence of life imprisonment. The rules shall 8791
provide for, but not be limited to, all of the following: 8792

(1) Subject to division (E) (3) of this section, attendance 8793
by the victim, members of the victim's immediate family, the 8794

victim's representative, and, if practicable, other individuals; 8795

(2) Allotment of up to one hour for the conference; 8796

(3) A specification of the number of persons specified in 8797
division (E) (1) of this section who may be present at any single 8798
victim conference, if limited by the department pursuant to 8799
division (F) of this section. 8800

(F) The department may limit the number of persons 8801
specified in division (E) (1) of this section who may be present 8802
at any single victim conference, provided that the department 8803
shall not limit the number of persons who may be present at any 8804
single conference to fewer than three. If the department limits 8805
the number of persons who may be present at any single victim 8806
conference, the department shall permit and schedule, upon 8807
request of the victim, a member of the victim's immediate 8808
family, or the victim's representative, multiple victim 8809
conferences for the persons specified in division (E) (1) of this 8810
section. 8811

(G) As used in this section, "victim's immediate family" 8812
has the same meaning as in section 2967.12 of the Revised Code. 8813

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 8814
of the Revised Code: 8815

(1) "Prosecutor" means a prosecuting attorney or a city 8816
director of law, village solicitor, or similar chief legal 8817
officer of a municipal corporation who has authority to 8818
prosecute a criminal case that is before the court or the 8819
criminal case in which a defendant in a criminal case has been 8820
found incompetent to stand trial or not guilty by reason of 8821
insanity. 8822

(2) "Examiner" means either of the following: 8823

(a) A psychiatrist or a licensed clinical psychologist who 8824
satisfies the criteria of division (I) of section 5122.01 of the 8825
Revised Code or is employed by a certified forensic center 8826
designated by the department of mental health and addiction 8827
services to conduct examinations or evaluations. 8828

(b) For purposes of a separate ~~mental retardation~~ 8829
intellectual disability evaluation that is ordered by a court 8830
pursuant to division (H) of section 2945.371 of the Revised 8831
Code, a psychologist designated by the director of developmental 8832
disabilities pursuant to that section to conduct that separate 8833
~~mental retardation~~ intellectual disability evaluation. 8834

(3) "Nonsecured status" means any unsupervised, off- 8835
grounds movement or trial visit from a hospital or institution, 8836
or any conditional release, that is granted to a person who is 8837
found incompetent to stand trial and is committed pursuant to 8838
section 2945.39 of the Revised Code or to a person who is found 8839
not guilty by reason of insanity and is committed pursuant to 8840
section 2945.40 of the Revised Code. 8841

(4) "Unsupervised, off-grounds movement" includes only 8842
off-grounds privileges that are unsupervised and that have an 8843
expectation of return to the hospital or institution on a daily 8844
basis. 8845

(5) "Trial visit" means a patient privilege of a longer 8846
stated duration of unsupervised community contact with an 8847
expectation of return to the hospital or institution at 8848
designated times. 8849

(6) "Conditional release" means a commitment status under 8850
which the trial court at any time may revoke a person's 8851
conditional release and order the rehospitalization or 8852

reinstitutionalization of the person as described in division 8853
(A) of section 2945.402 of the Revised Code and pursuant to 8854
which a person who is found incompetent to stand trial or a 8855
person who is found not guilty by reason of insanity lives and 8856
receives treatment in the community for a period of time that 8857
does not exceed the maximum prison term or term of imprisonment 8858
that the person could have received for the offense in question 8859
had the person been convicted of the offense instead of being 8860
found incompetent to stand trial on the charge of the offense or 8861
being found not guilty by reason of insanity relative to the 8862
offense. 8863

(7) "Licensed clinical psychologist," "mentally ill person 8864
subject to court order," and "psychiatrist" have the same 8865
meanings as in section 5122.01 of the Revised Code. 8866

(8) "~~Mentally retarded person~~ Person with an intellectual 8867
disability subject to institutionalization by court order" has 8868
the same meaning as in section 5123.01 of the Revised Code. 8869

(B) In a criminal action in a court of common pleas, a 8870
county court, or a municipal court, the court, prosecutor, or 8871
defense may raise the issue of the defendant's competence to 8872
stand trial. If the issue is raised before the trial has 8873
commenced, the court shall hold a hearing on the issue as 8874
provided in this section. If the issue is raised after the trial 8875
has commenced, the court shall hold a hearing on the issue only 8876
for good cause shown or on the court's own motion. 8877

(C) The court shall conduct the hearing required or 8878
authorized under division (B) of this section within thirty days 8879
after the issue is raised, unless the defendant has been 8880
referred for evaluation in which case the court shall conduct 8881
the hearing within ten days after the filing of the report of 8882

the evaluation or, in the case of a defendant who is ordered by 8883
the court pursuant to division (H) of section 2945.371 of the 8884
Revised Code to undergo a separate ~~mental retardation~~ 8885
intellectual disability evaluation conducted by a psychologist 8886
designated by the director of developmental disabilities, within 8887
ten days after the filing of the report of the separate ~~mental~~ 8888
~~retardation~~ intellectual disability evaluation under that 8889
division. A hearing may be continued for good cause. 8890

(D) The defendant shall be represented by counsel at the 8891
hearing conducted under division (C) of this section. If the 8892
defendant is unable to obtain counsel, the court shall appoint 8893
counsel under Chapter 120. of the Revised Code or under the 8894
authority recognized in division (C) of section 120.06, division 8895
(E) of section 120.16, division (E) of section 120.26, or 8896
section 2941.51 of the Revised Code before proceeding with the 8897
hearing. 8898

(E) The prosecutor and defense counsel may submit evidence 8899
on the issue of the defendant's competence to stand trial. A 8900
written report of the evaluation of the defendant may be 8901
admitted into evidence at the hearing by stipulation, but, if 8902
either the prosecution or defense objects to its admission, the 8903
report may be admitted under sections 2317.36 to 2317.38 of the 8904
Revised Code or any other applicable statute or rule. 8905

(F) The court shall not find a defendant incompetent to 8906
stand trial solely because the defendant is receiving or has 8907
received treatment as a voluntary or involuntary mentally ill 8908
patient under Chapter 5122. or a voluntary or involuntary 8909
~~mentally retarded~~ resident with an intellectual disability under 8910
Chapter 5123. of the Revised Code or because the defendant is 8911
receiving or has received psychotropic drugs or other 8912

medication, even if the defendant might become incompetent to stand trial without the drugs or medication. 8913
8914

(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 order authorized by section 2945.38 of the Revised Code. 8915
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(H) Municipal courts shall follow the procedures set forth in sections 2945.37 to 2945.402 of the Revised Code. Except as provided in section 2945.371 of the Revised Code, a municipal court shall not order an evaluation of the defendant's competence to stand trial or the defendant's mental condition at the time of the commission of the offense to be conducted at any hospital operated by the department of mental health and addiction services. Those evaluations shall be performed through community resources including, but not limited to, certified forensic centers, court probation departments, and community mental health services providers. All expenses of the evaluations shall be borne by the legislative authority of the municipal court, as defined in section 1901.03 of the Revised Code, and shall be taxed as costs in the case. If a defendant is found incompetent to stand trial or not guilty by reason of insanity, a municipal court may commit the defendant as provided in sections 2945.38 to 2945.402 of the Revised Code. 8923
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Sec. 2945.371. (A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order 8940
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one or more evaluations of the defendant's present mental 8943
condition or, in the case of a plea of not guilty by reason of 8944
insanity, of the defendant's mental condition at the time of the 8945
offense charged. An examiner shall conduct the evaluation. 8946

(B) If the court orders more than one evaluation under 8947
division (A) of this section, the prosecutor and the defendant 8948
may recommend to the court an examiner whom each prefers to 8949
perform one of the evaluations. If a defendant enters a plea of 8950
not guilty by reason of insanity and if the court does not 8951
designate an examiner recommended by the defendant, the court 8952
shall inform the defendant that the defendant may have 8953
independent expert evaluation and that, if the defendant is 8954
unable to obtain independent expert evaluation, it will be 8955
obtained for the defendant at public expense if the defendant is 8956
indigent. 8957

(C) If the court orders an evaluation under division (A) 8958
of this section, the defendant shall be available at the times 8959
and places established by the examiners who are to conduct the 8960
evaluation. The court may order a defendant who has been 8961
released on bail or recognizance to submit to an evaluation 8962
under this section. If a defendant who has been released on bail 8963
or recognizance refuses to submit to a complete evaluation, the 8964
court may amend the conditions of bail or recognizance and order 8965
the sheriff to take the defendant into custody and deliver the 8966
defendant to a center, program, or facility operated or 8967
certified by the department of mental health and addiction 8968
services or the department of developmental disabilities where 8969
the defendant may be held for evaluation for a reasonable period 8970
of time not to exceed twenty days. 8971

(D) A defendant who has not been released on bail or 8972

recognizance may be evaluated at the defendant's place of 8973
detention. Upon the request of the examiner, the court may order 8974
the sheriff to transport the defendant to a program or facility 8975
operated or certified by the department of mental health and 8976
addiction services or the department of developmental 8977
disabilities, where the defendant may be held for evaluation for 8978
a reasonable period of time not to exceed twenty days, and to 8979
return the defendant to the place of detention after the 8980
evaluation. A municipal court may make an order under this 8981
division only upon the request of a certified forensic center 8982
examiner. 8983

(E) If a court orders the evaluation to determine a 8984
defendant's mental condition at the time of the offense charged, 8985
the court shall inform the examiner of the offense with which 8986
the defendant is charged. 8987

(F) In conducting an evaluation of a defendant's mental 8988
condition at the time of the offense charged, the examiner shall 8989
consider all relevant evidence. If the offense charged involves 8990
the use of force against another person, the relevant evidence 8991
to be considered includes, but is not limited to, any evidence 8992
that the defendant suffered, at the time of the commission of 8993
the offense, from the "battered woman syndrome." 8994

(G) The examiner shall file a written report with the 8995
court within thirty days after entry of a court order for 8996
evaluation, and the court shall provide copies of the report to 8997
the prosecutor and defense counsel. The report shall include all 8998
of the following: 8999

(1) The examiner's findings; 9000

(2) The facts in reasonable detail on which the findings 9001

are based; 9002

(3) If the evaluation was ordered to determine the 9003
defendant's competence to stand trial, all of the following 9004
findings or recommendations that are applicable: 9005

(a) Whether the defendant is capable of understanding the 9006
nature and objective of the proceedings against the defendant or 9007
of assisting in the defendant's defense; 9008

(b) If the examiner's opinion is that the defendant is 9009
incapable of understanding the nature and objective of the 9010
proceedings against the defendant or of assisting in the 9011
defendant's defense, whether the defendant presently is mentally 9012
ill or ~~mentally retarded~~ has an intellectual disability and, if 9013
the examiner's opinion is that the defendant presently ~~is~~ 9014
~~mentally retarded~~ has an intellectual disability, whether the 9015
defendant appears to be a ~~mentally retarded~~ person with an 9016
intellectual disability subject to institutionalization by court 9017
order; 9018

(c) If the examiner's opinion is that the defendant is 9019
incapable of understanding the nature and objective of the 9020
proceedings against the defendant or of assisting in the 9021
defendant's defense, the examiner's opinion as to the likelihood 9022
of the defendant becoming capable of understanding the nature 9023
and objective of the proceedings against the defendant and of 9024
assisting in the defendant's defense within one year if the 9025
defendant is provided with a course of treatment; 9026

(d) If the examiner's opinion is that the defendant is 9027
incapable of understanding the nature and objective of the 9028
proceedings against the defendant or of assisting in the 9029
defendant's defense and that the defendant presently is mentally 9030

ill or ~~mentally retarded~~ has an intellectual disability, the 9031
examiner's recommendation as to the least restrictive placement 9032
or commitment alternative, consistent with the defendant's 9033
treatment needs for restoration to competency and with the 9034
safety of the community. 9035

(4) If the evaluation was ordered to determine the 9036
defendant's mental condition at the time of the offense charged, 9037
the examiner's findings as to whether the defendant, at the time 9038
of the offense charged, did not know, as a result of a severe 9039
mental disease or defect, the wrongfulness of the defendant's 9040
acts charged. 9041

(H) If the examiner's report filed under division (G) of 9042
this section indicates that in the examiner's opinion the 9043
defendant is incapable of understanding the nature and objective 9044
of the proceedings against the defendant or of assisting in the 9045
defendant's defense and that in the examiner's opinion the 9046
defendant appears to be a ~~mentally retarded~~ person with an 9047
intellectual disability subject to institutionalization by court 9048
order, the court shall order the defendant to undergo a separate 9049
~~mental retardation-intellectual disability~~ evaluation conducted 9050
by a psychologist designated by the director of developmental 9051
disabilities. Divisions (C) to (F) of this section apply in 9052
relation to a separate ~~mental retardation-intellectual~~ 9053
disability evaluation conducted under this division. The 9054
psychologist appointed under this division to conduct the 9055
separate ~~mental retardation-intellectual disability~~ evaluation 9056
shall file a written report with the court within thirty days 9057
after the entry of the court order requiring the separate ~~mental-~~ 9058
~~retardation-intellectual disability~~ evaluation, and the court 9059
shall provide copies of the report to the prosecutor and defense 9060
counsel. The report shall include all of the information 9061

described in divisions (G) (1) to (4) of this section. If the 9062
court orders a separate ~~mental retardation intellectual~~ 9063
disability evaluation of a defendant under this division, the 9064
court shall not conduct a hearing under divisions (B) to (H) of 9065
section 2945.37 of the Revised Code regarding that defendant 9066
until a report of the separate ~~mental retardation intellectual~~ 9067
disability evaluation conducted under this division has been 9068
filed. Upon the filing of that report, the court shall conduct 9069
the hearing within the period of time specified in division (C) 9070
of section 2945.37 of the Revised Code. 9071

(I) An examiner appointed under divisions (A) and (B) of 9072
this section or under division (H) of this section to evaluate a 9073
defendant to determine the defendant's competence to stand trial 9074
also may be appointed to evaluate a defendant who has entered a 9075
plea of not guilty by reason of insanity, but an examiner of 9076
that nature shall prepare separate reports on the issue of 9077
competence to stand trial and the defense of not guilty by 9078
reason of insanity. 9079

(J) No statement that a defendant makes in an evaluation 9080
or hearing under divisions (A) to (H) of this section relating 9081
to the defendant's competence to stand trial or to the 9082
defendant's mental condition at the time of the offense charged 9083
shall be used against the defendant on the issue of guilt in any 9084
criminal action or proceeding, but, in a criminal action or 9085
proceeding, the prosecutor or defense counsel may call as a 9086
witness any person who evaluated the defendant or prepared a 9087
report pursuant to a referral under this section. Neither the 9088
appointment nor the testimony of an examiner appointed under 9089
this section precludes the prosecutor or defense counsel from 9090
calling other witnesses or presenting other evidence on 9091
competency or insanity issues. 9092

(K) Persons appointed as examiners under divisions (A) and 9093
(B) of this section or under division (H) of this section shall 9094
be paid a reasonable amount for their services and expenses, as 9095
certified by the court. The certified amount shall be paid by 9096
the county in the case of county courts and courts of common 9097
pleas and by the legislative authority, as defined in section 9098
1901.03 of the Revised Code, in the case of municipal courts. 9099

Sec. 2945.38. (A) If the issue of a defendant's competence 9100
to stand trial is raised and if the court, upon conducting the 9101
hearing provided for in section 2945.37 of the Revised Code, 9102
finds that the defendant is competent to stand trial, the 9103
defendant shall be proceeded against as provided by law. If the 9104
court finds the defendant competent to stand trial and the 9105
defendant is receiving psychotropic drugs or other medication, 9106
the court may authorize the continued administration of the 9107
drugs or medication or other appropriate treatment in order to 9108
maintain the defendant's competence to stand trial, unless the 9109
defendant's attending physician advises the court against 9110
continuation of the drugs, other medication, or treatment. 9111

(B) (1) (a) If, after taking into consideration all relevant 9112
reports, information, and other evidence, the court finds that 9113
the defendant is incompetent to stand trial and that there is a 9114
substantial probability that the defendant will become competent 9115
to stand trial within one year if the defendant is provided with 9116
a course of treatment, the court shall order the defendant to 9117
undergo treatment. If the defendant has been charged with a 9118
felony offense and if, after taking into consideration all 9119
relevant reports, information, and other evidence, the court 9120
finds that the defendant is incompetent to stand trial, but the 9121
court is unable at that time to determine whether there is a 9122
substantial probability that the defendant will become competent 9123

to stand trial within one year if the defendant is provided with 9124
a course of treatment, the court shall order continuing 9125
evaluation and treatment of the defendant for a period not to 9126
exceed four months to determine whether there is a substantial 9127
probability that the defendant will become competent to stand 9128
trial within one year if the defendant is provided with a course 9129
of treatment. 9130

(b) The court order for the defendant to undergo treatment 9131
or continuing evaluation and treatment under division (B) (1) (a) 9132
of this section shall specify that the defendant, if determined 9133
to require mental health treatment or continuing evaluation and 9134
treatment, either shall be committed to the department of mental 9135
health and addiction services for treatment or continuing 9136
evaluation and treatment at a hospital, facility, or agency, as 9137
determined to be clinically appropriate by the department of 9138
mental health and addiction services or shall be committed to a 9139
facility certified by the department of mental health and 9140
addiction services as being qualified to treat mental illness, 9141
to a public or community mental health facility, or to a 9142
psychiatrist or another mental health professional for treatment 9143
or continuing evaluation and treatment. Prior to placing the 9144
defendant, the department of mental health and addiction 9145
services shall obtain court approval for that placement 9146
following a hearing. The court order for the defendant to 9147
undergo treatment or continuing evaluation and treatment under 9148
division (B) (1) (a) of this section shall specify that the 9149
defendant, if determined to require treatment or continuing 9150
evaluation and treatment for ~~mental retardation~~ an intellectual 9151
disability, shall receive treatment or continuing evaluation and 9152
treatment at an institution or facility operated by the 9153
department of developmental disabilities, at a facility 9154

certified by the department of developmental disabilities as 9155
being qualified to treat ~~mental retardation~~ intellectual 9156
disabilities, at a public or private ~~mental retardation~~ 9157
intellectual disabilities facility, or by a psychiatrist or 9158
another ~~mental retardation~~ intellectual disabilities 9159
professional. In any case, the order may restrict the 9160
defendant's freedom of movement as the court considers 9161
necessary. The prosecutor in the defendant's case shall send to 9162
the chief clinical officer of the hospital, facility, or agency 9163
where the defendant is placed by the department of mental health 9164
and addiction services, or to the managing officer of the 9165
institution, the director of the program or facility, or the 9166
person to which the defendant is committed, copies of relevant 9167
police reports and other background information that pertains to 9168
the defendant and is available to the prosecutor unless the 9169
prosecutor determines that the release of any of the information 9170
in the police reports or any of the other background information 9171
to unauthorized persons would interfere with the effective 9172
prosecution of any person or would create a substantial risk of 9173
harm to any person. 9174

In determining the place of commitment, the court shall 9175
consider the extent to which the person is a danger to the 9176
person and to others, the need for security, and the type of 9177
crime involved and shall order the least restrictive alternative 9178
available that is consistent with public safety and treatment 9179
goals. In weighing these factors, the court shall give 9180
preference to protecting public safety. 9181

(c) If the defendant is found incompetent to stand trial, 9182
if the chief clinical officer of the hospital, facility, or 9183
agency where the defendant is placed, or the managing officer of 9184
the institution, the director of the program or facility, or the 9185

person to which the defendant is committed for treatment or 9186
continuing evaluation and treatment under division (B) (1) (b) of 9187
this section determines that medication is necessary to restore 9188
the defendant's competency to stand trial, and if the defendant 9189
lacks the capacity to give informed consent or refuses 9190
medication, the chief clinical officer of the hospital, 9191
facility, or agency where the defendant is placed, or the 9192
managing officer of the institution, the director of the program 9193
or facility, or the person to which the defendant is committed 9194
for treatment or continuing evaluation and treatment may 9195
petition the court for authorization for the involuntary 9196
administration of medication. The court shall hold a hearing on 9197
the petition within five days of the filing of the petition if 9198
the petition was filed in a municipal court or a county court 9199
regarding an incompetent defendant charged with a misdemeanor or 9200
within ten days of the filing of the petition if the petition 9201
was filed in a court of common pleas regarding an incompetent 9202
defendant charged with a felony offense. Following the hearing, 9203
the court may authorize the involuntary administration of 9204
medication or may dismiss the petition. 9205

(2) If the court finds that the defendant is incompetent 9206
to stand trial and that, even if the defendant is provided with 9207
a course of treatment, there is not a substantial probability 9208
that the defendant will become competent to stand trial within 9209
one year, the court shall order the discharge of the defendant, 9210
unless upon motion of the prosecutor or on its own motion, the 9211
court either seeks to retain jurisdiction over the defendant 9212
pursuant to section 2945.39 of the Revised Code or files an 9213
affidavit in the probate court for the civil commitment of the 9214
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 9215
alleging that the defendant is a mentally ill person subject to 9216

court order or a ~~mentally retarded~~ person with an intellectual 9217
disability subject to institutionalization by court order. If an 9218
affidavit is filed in the probate court, the trial court shall 9219
send to the probate court copies of all written reports of the 9220
defendant's mental condition that were prepared pursuant to 9221
section 2945.371 of the Revised Code. 9222

The trial court may issue the temporary order of detention 9223
that a probate court may issue under section 5122.11 or 5123.71 9224
of the Revised Code, to remain in effect until the probable 9225
cause or initial hearing in the probate court. Further 9226
proceedings in the probate court are civil proceedings governed 9227
by Chapter 5122. or 5123. of the Revised Code. 9228

(C) No defendant shall be required to undergo treatment, 9229
including any continuing evaluation and treatment, under 9230
division (B)(1) of this section for longer than whichever of the 9231
following periods is applicable: 9232

(1) One year, if the most serious offense with which the 9233
defendant is charged is one of the following offenses: 9234

(a) Aggravated murder, murder, or an offense of violence 9235
for which a sentence of death or life imprisonment may be 9236
imposed; 9237

(b) An offense of violence that is a felony of the first 9238
or second degree; 9239

(c) A conspiracy to commit, an attempt to commit, or 9240
complicity in the commission of an offense described in division 9241
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 9242
complicity is a felony of the first or second degree. 9243

(2) Six months, if the most serious offense with which the 9244
defendant is charged is a felony other than a felony described 9245

in division (C) (1) of this section; 9246

(3) Sixty days, if the most serious offense with which the 9247
defendant is charged is a misdemeanor of the first or second 9248
degree; 9249

(4) Thirty days, if the most serious offense with which 9250
the defendant is charged is a misdemeanor of the third or fourth 9251
degree, a minor misdemeanor, or an unclassified misdemeanor. 9252

(D) Any defendant who is committed pursuant to this 9253
section shall not voluntarily admit the defendant or be 9254
voluntarily admitted to a hospital or institution pursuant to 9255
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 9256
Code. 9257

(E) Except as otherwise provided in this division, a 9258
defendant who is charged with an offense and is committed by the 9259
court under this section to the department of mental health and 9260
addiction services or is committed to an institution or facility 9261
for the treatment of ~~mental retardation-intellectual~~ 9262
disabilities shall not be granted unsupervised on-grounds 9263
movement, supervised off-grounds movement, or nonsecured status 9264
except in accordance with the court order. The court may grant a 9265
defendant supervised off-grounds movement to obtain medical 9266
treatment or specialized habilitation treatment services if the 9267
person who supervises the treatment or the continuing evaluation 9268
and treatment of the defendant ordered under division (B) (1) (a) 9269
of this section informs the court that the treatment or 9270
continuing evaluation and treatment cannot be provided at the 9271
hospital or facility where the defendant is placed by the 9272
department of mental health and addiction services or the 9273
institution or facility to which the defendant is committed. The 9274
chief clinical officer of the hospital or facility where the 9275

defendant is placed by the department of mental health and 9276
addiction services or the managing officer of the institution or 9277
director of the facility to which the defendant is committed, or 9278
a designee of any of those persons, may grant a defendant 9279
movement to a medical facility for an emergency medical 9280
situation with appropriate supervision to ensure the safety of 9281
the defendant, staff, and community during that emergency 9282
medical situation. The chief clinical officer of the hospital or 9283
facility where the defendant is placed by the department of 9284
mental health and addiction services or the managing officer of 9285
the institution or director of the facility to which the 9286
defendant is committed shall notify the court within twenty-four 9287
hours of the defendant's movement to the medical facility for an 9288
emergency medical situation under this division. 9289

(F) The person who supervises the treatment or continuing 9290
evaluation and treatment of a defendant ordered to undergo 9291
treatment or continuing evaluation and treatment under division 9292
(B) (1) (a) of this section shall file a written report with the 9293
court at the following times: 9294

(1) Whenever the person believes the defendant is capable 9295
of understanding the nature and objective of the proceedings 9296
against the defendant and of assisting in the defendant's 9297
defense; 9298

(2) For a felony offense, fourteen days before expiration 9299
of the maximum time for treatment as specified in division (C) 9300
of this section and fourteen days before the expiration of the 9301
maximum time for continuing evaluation and treatment as 9302
specified in division (B) (1) (a) of this section, and, for a 9303
misdemeanor offense, ten days before the expiration of the 9304
maximum time for treatment, as specified in division (C) of this 9305

section; 9306

(3) At a minimum, after each six months of treatment; 9307

(4) Whenever the person who supervises the treatment or 9308
continuing evaluation and treatment of a defendant ordered under 9309
division (B) (1) (a) of this section believes that there is not a 9310
substantial probability that the defendant will become capable 9311
of understanding the nature and objective of the proceedings 9312
against the defendant or of assisting in the defendant's defense 9313
even if the defendant is provided with a course of treatment. 9314

(G) A report under division (F) of this section shall 9315
contain the examiner's findings, the facts in reasonable detail 9316
on which the findings are based, and the examiner's opinion as 9317
to the defendant's capability of understanding the nature and 9318
objective of the proceedings against the defendant and of 9319
assisting in the defendant's defense. If, in the examiner's 9320
opinion, the defendant remains incapable of understanding the 9321
nature and objective of the proceedings against the defendant 9322
and of assisting in the defendant's defense and there is a 9323
substantial probability that the defendant will become capable 9324
of understanding the nature and objective of the proceedings 9325
against the defendant and of assisting in the defendant's 9326
defense if the defendant is provided with a course of treatment, 9327
if in the examiner's opinion the defendant remains mentally ill 9328
or mentally retarded continues to have an intellectual 9329
disability, and if the maximum time for treatment as specified 9330
in division (C) of this section has not expired, the report also 9331
shall contain the examiner's recommendation as to the least 9332
restrictive placement or commitment alternative that is 9333
consistent with the defendant's treatment needs for restoration 9334
to competency and with the safety of the community. The court 9335

shall provide copies of the report to the prosecutor and defense 9336
counsel. 9337

(H) If a defendant is committed pursuant to division (B) 9338
(1) of this section, within ten days after the treating 9339
physician of the defendant or the examiner of the defendant who 9340
is employed or retained by the treating facility advises that 9341
there is not a substantial probability that the defendant will 9342
become capable of understanding the nature and objective of the 9343
proceedings against the defendant or of assisting in the 9344
defendant's defense even if the defendant is provided with a 9345
course of treatment, within ten days after the expiration of the 9346
maximum time for treatment as specified in division (C) of this 9347
section, within ten days after the expiration of the maximum 9348
time for continuing evaluation and treatment as specified in 9349
division (B)(1)(a) of this section, within thirty days after a 9350
defendant's request for a hearing that is made after six months 9351
of treatment, or within thirty days after being advised by the 9352
treating physician or examiner that the defendant is competent 9353
to stand trial, whichever is the earliest, the court shall 9354
conduct another hearing to determine if the defendant is 9355
competent to stand trial and shall do whichever of the following 9356
is applicable: 9357

(1) If the court finds that the defendant is competent to 9358
stand trial, the defendant shall be proceeded against as 9359
provided by law. 9360

(2) If the court finds that the defendant is incompetent 9361
to stand trial, but that there is a substantial probability that 9362
the defendant will become competent to stand trial if the 9363
defendant is provided with a course of treatment, and the 9364
maximum time for treatment as specified in division (C) of this 9365

section has not expired, the court, after consideration of the 9366
examiner's recommendation, shall order that treatment be 9367
continued, may change the facility or program at which the 9368
treatment is to be continued, and shall specify whether the 9369
treatment is to be continued at the same or a different facility 9370
or program. 9371

(3) If the court finds that the defendant is incompetent 9372
to stand trial, if the defendant is charged with an offense 9373
listed in division (C)(1) of this section, and if the court 9374
finds that there is not a substantial probability that the 9375
defendant will become competent to stand trial even if the 9376
defendant is provided with a course of treatment, or if the 9377
maximum time for treatment relative to that offense as specified 9378
in division (C) of this section has expired, further proceedings 9379
shall be as provided in sections 2945.39, 2945.401, and 2945.402 9380
of the Revised Code. 9381

(4) If the court finds that the defendant is incompetent 9382
to stand trial, if the most serious offense with which the 9383
defendant is charged is a misdemeanor or a felony other than a 9384
felony listed in division (C)(1) of this section, and if the 9385
court finds that there is not a substantial probability that the 9386
defendant will become competent to stand trial even if the 9387
defendant is provided with a course of treatment, or if the 9388
maximum time for treatment relative to that offense as specified 9389
in division (C) of this section has expired, the court shall 9390
dismiss the indictment, information, or complaint against the 9391
defendant. A dismissal under this division is not a bar to 9392
further prosecution based on the same conduct. The court shall 9393
discharge the defendant unless the court or prosecutor files an 9394
affidavit in probate court for civil commitment pursuant to 9395
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 9396

civil commitment is filed, the court may detain the defendant 9397
for ten days pending civil commitment. All of the following 9398
provisions apply to persons charged with a misdemeanor or a 9399
felony other than a felony listed in division (C)(1) of this 9400
section who are committed by the probate court subsequent to the 9401
court's or prosecutor's filing of an affidavit for civil 9402
commitment under authority of this division: 9403

(a) The chief clinical officer of the entity, hospital, or 9404
facility, the managing officer of the institution, the director 9405
of the program, or the person to which the defendant is 9406
committed or admitted shall do all of the following: 9407

(i) Notify the prosecutor, in writing, of the discharge of 9408
the defendant, send the notice at least ten days prior to the 9409
discharge unless the discharge is by the probate court, and 9410
state in the notice the date on which the defendant will be 9411
discharged; 9412

(ii) Notify the prosecutor, in writing, when the defendant 9413
is absent without leave or is granted unsupervised, off-grounds 9414
movement, and send this notice promptly after the discovery of 9415
the absence without leave or prior to the granting of the 9416
unsupervised, off-grounds movement, whichever is applicable; 9417

(iii) Notify the prosecutor, in writing, of the change of 9418
the defendant's commitment or admission to voluntary status, 9419
send the notice promptly upon learning of the change to 9420
voluntary status, and state in the notice the date on which the 9421
defendant was committed or admitted on a voluntary status. 9422

(b) Upon receiving notice that the defendant will be 9423
granted unsupervised, off-grounds movement, the prosecutor 9424
either shall re-indict the defendant or promptly notify the 9425

court that the prosecutor does not intend to prosecute the 9426
charges against the defendant. 9427

(I) If a defendant is convicted of a crime and sentenced 9428
to a jail or workhouse, the defendant's sentence shall be 9429
reduced by the total number of days the defendant is confined 9430
for evaluation to determine the defendant's competence to stand 9431
trial or treatment under this section and sections 2945.37 and 9432
2945.371 of the Revised Code or by the total number of days the 9433
defendant is confined for evaluation to determine the 9434
defendant's mental condition at the time of the offense charged. 9435

Sec. 2945.39. (A) If a defendant who is charged with an 9436
offense described in division (C)(1) of section 2945.38 of the 9437
Revised Code is found incompetent to stand trial, after the 9438
expiration of the maximum time for treatment as specified in 9439
division (C) of that section or after the court finds that there 9440
is not a substantial probability that the defendant will become 9441
competent to stand trial even if the defendant is provided with 9442
a course of treatment, one of the following applies: 9443

(1) The court or the prosecutor may file an affidavit in 9444
probate court for civil commitment of the defendant in the 9445
manner provided in Chapter 5122. or 5123. of the Revised Code. 9446
If the court or prosecutor files an affidavit for civil 9447
commitment, the court may detain the defendant for ten days 9448
pending civil commitment. If the probate court commits the 9449
defendant subsequent to the court's or prosecutor's filing of an 9450
affidavit for civil commitment, the chief clinical officer of 9451
the entity, hospital, or facility, the managing officer of the 9452
institution, the director of the program, or the person to which 9453
the defendant is committed or admitted shall send to the 9454
prosecutor the notices described in divisions (H)(4)(a)(i) to 9455

(iii) of section 2945.38 of the Revised Code within the periods 9456
of time and under the circumstances specified in those 9457
divisions. 9458

(2) On the motion of the prosecutor or on its own motion, 9459
the court may retain jurisdiction over the defendant if, at a 9460
hearing, the court finds both of the following by clear and 9461
convincing evidence: 9462

(a) The defendant committed the offense with which the 9463
defendant is charged. 9464

(b) The defendant is a mentally ill person subject to 9465
court order or a ~~mentally retarded~~ person with an intellectual 9466
disability subject to institutionalization by court order. 9467

(B) In making its determination under division (A) (2) of 9468
this section as to whether to retain jurisdiction over the 9469
defendant, the court may consider all relevant evidence, 9470
including, but not limited to, any relevant psychiatric, 9471
psychological, or medical testimony or reports, the acts 9472
constituting the offense charged, and any history of the 9473
defendant that is relevant to the defendant's ability to conform 9474
to the law. 9475

(C) If the court conducts a hearing as described in 9476
division (A) (2) of this section and if the court does not make 9477
both findings described in divisions (A) (2) (a) and (b) of this 9478
section by clear and convincing evidence, the court shall 9479
dismiss the indictment, information, or complaint against the 9480
defendant. Upon the dismissal, the court shall discharge the 9481
defendant unless the court or prosecutor files an affidavit in 9482
probate court for civil commitment of the defendant pursuant to 9483
Chapter 5122. or 5123. of the Revised Code. If the court or 9484

prosecutor files an affidavit for civil commitment, the court 9485
may order that the defendant be detained for up to ten days 9486
pending the civil commitment. If the probate court commits the 9487
defendant subsequent to the court's or prosecutor's filing of an 9488
affidavit for civil commitment, the chief clinical officer of 9489
the entity, hospital, or facility, the managing officer of the 9490
institution, the director of the program, or the person to which 9491
the defendant is committed or admitted shall send to the 9492
prosecutor the notices described in divisions (H) (4) (a) (i) to 9493
(iii) of section 2945.38 of the Revised Code within the periods 9494
of time and under the circumstances specified in those 9495
divisions. A dismissal of charges under this division is not a 9496
bar to further criminal proceedings based on the same conduct. 9497

(D) (1) If the court conducts a hearing as described in 9498
division (A) (2) of this section and if the court makes the 9499
findings described in divisions (A) (2) (a) and (b) of this 9500
section by clear and convincing evidence, the court shall commit 9501
the defendant, if determined to require mental health treatment, 9502
either to the department of mental health and addiction services 9503
for treatment at a hospital, facility, or agency as determined 9504
clinically appropriate by the department of mental health and 9505
addiction services or to another medical or psychiatric 9506
facility, as appropriate. Prior to placing the defendant, the 9507
department of mental health and addiction services shall obtain 9508
court approval for that placement. If the court conducts such a 9509
hearing and if it makes those findings by clear and convincing 9510
evidence, the court shall commit the defendant, if determined to 9511
require treatment for ~~mental retardation~~ an intellectual 9512
disability, to a facility operated by the department of 9513
developmental disabilities, or another facility, as appropriate. 9514
In determining the place of commitment, the court shall consider 9515

the extent to which the person is a danger to the person and to 9516
others, the need for security, and the type of crime involved 9517
and shall order the least restrictive alternative available that 9518
is consistent with public safety and the welfare of the 9519
defendant. In weighing these factors, the court shall give 9520
preference to protecting public safety. 9521

(2) If a court makes a commitment of a defendant under 9522
division (D)(1) of this section, the prosecutor shall send to 9523
the hospital, facility, or agency where the defendant is placed 9524
by the department of mental health and addiction services or to 9525
the defendant's place of commitment all reports of the 9526
defendant's current mental condition and, except as otherwise 9527
provided in this division, any other relevant information, 9528
including, but not limited to, a transcript of the hearing held 9529
pursuant to division (A)(2) of this section, copies of relevant 9530
police reports, and copies of any prior arrest and conviction 9531
records that pertain to the defendant and that the prosecutor 9532
possesses. The prosecutor shall send the reports of the 9533
defendant's current mental condition in every case of 9534
commitment, and, unless the prosecutor determines that the 9535
release of any of the other relevant information to unauthorized 9536
persons would interfere with the effective prosecution of any 9537
person or would create a substantial risk of harm to any person, 9538
the prosecutor also shall send the other relevant information. 9539
Upon admission of a defendant committed under division (D)(1) of 9540
this section, the place of commitment shall send to the board of 9541
alcohol, drug addiction, and mental health services or the 9542
community mental health board serving the county in which the 9543
charges against the defendant were filed a copy of all reports 9544
of the defendant's current mental condition and a copy of the 9545
other relevant information provided by the prosecutor under this 9546

division, including, if provided, a transcript of the hearing 9547
held pursuant to division (A)(2) of this section, the relevant 9548
police reports, and the prior arrest and conviction records that 9549
pertain to the defendant and that the prosecutor possesses. 9550

(3) If a court makes a commitment under division (D)(1) of 9551
this section, all further proceedings shall be in accordance 9552
with sections 2945.401 and 2945.402 of the Revised Code. 9553

Sec. 2945.40. (A) If a person is found not guilty by 9554
reason of insanity, the verdict shall state that finding, and 9555
the trial court shall conduct a full hearing to determine 9556
whether the person is a mentally ill person subject to court 9557
order or a ~~mentally retarded person~~ with an intellectual 9558
disability subject to institutionalization by court order. Prior 9559
to the hearing, if the trial judge believes that there is 9560
probable cause that the person found not guilty by reason of 9561
insanity is a mentally ill person subject to court order or 9562
~~mentally retarded a person~~ with an intellectual disability 9563
subject to institutionalization by court order, the trial judge 9564
may issue a temporary order of detention for that person to 9565
remain in effect for ten court days or until the hearing, 9566
whichever occurs first. 9567

Any person detained pursuant to a temporary order of 9568
detention issued under this division shall be held in a suitable 9569
facility, taking into consideration the place and type of 9570
confinement prior to and during trial. 9571

(B) The court shall hold the hearing under division (A) of 9572
this section to determine whether the person found not guilty by 9573
reason of insanity is a mentally ill person subject to court 9574
order or a ~~mentally retarded person~~ with an intellectual 9575
disability subject to institutionalization by court order within 9576

ten court days after the finding of not guilty by reason of 9577
insanity. Failure to conduct the hearing within the ten-day 9578
period shall cause the immediate discharge of the respondent, 9579
unless the judge grants a continuance for not longer than ten 9580
court days for good cause shown or for any period of time upon 9581
motion of the respondent. 9582

(C) If a person is found not guilty by reason of insanity, 9583
the person has the right to attend all hearings conducted 9584
pursuant to sections 2945.37 to 2945.402 of the Revised Code. At 9585
any hearing conducted pursuant to one of those sections, the 9586
court shall inform the person that the person has all of the 9587
following rights: 9588

(1) The right to be represented by counsel and to have 9589
that counsel provided at public expense if the person is 9590
indigent, with the counsel to be appointed by the court under 9591
Chapter 120. of the Revised Code or under the authority 9592
recognized in division (C) of section 120.06, division (E) of 9593
section 120.16, division (E) of section 120.26, or section 9594
2941.51 of the Revised Code; 9595

(2) The right to have independent expert evaluation and to 9596
have that independent expert evaluation provided at public 9597
expense if the person is indigent; 9598

(3) The right to subpoena witnesses and documents, to 9599
present evidence on the person's behalf, and to cross-examine 9600
witnesses against the person; 9601

(4) The right to testify in the person's own behalf and to 9602
not be compelled to testify; 9603

(5) The right to have copies of any relevant medical or 9604
mental health document in the custody of the state or of any 9605

place of commitment other than a document for which the court 9606
finds that the release to the person of information contained in 9607
the document would create a substantial risk of harm to any 9608
person. 9609

(D) The hearing under division (A) of this section shall 9610
be open to the public, and the court shall conduct the hearing 9611
in accordance with the Rules of Civil Procedure. The court shall 9612
make and maintain a full transcript and record of the hearing 9613
proceedings. The court may consider all relevant evidence, 9614
including, but not limited to, any relevant psychiatric, 9615
psychological, or medical testimony or reports, the acts 9616
constituting the offense in relation to which the person was 9617
found not guilty by reason of insanity, and any history of the 9618
person that is relevant to the person's ability to conform to 9619
the law. 9620

(E) Upon completion of the hearing under division (A) of 9621
this section, if the court finds there is not clear and 9622
convincing evidence that the person is a mentally ill person 9623
subject to court order or a ~~mentally retarded~~ person with an 9624
intellectual disability subject to institutionalization by court 9625
order, the court shall discharge the person, unless a detainer 9626
has been placed upon the person by the department of 9627
rehabilitation and correction, in which case the person shall be 9628
returned to that department. 9629

(F) If, at the hearing under division (A) of this section, 9630
the court finds by clear and convincing evidence that the person 9631
is a mentally ill person subject to court order, the court shall 9632
commit the person either to the department of mental health and 9633
addiction services for treatment in a hospital, facility, or 9634
agency as determined clinically appropriate by the department of 9635

mental health and addiction services or to another medical or 9636
psychiatric facility, as appropriate. Prior to placing the 9637
defendant, the department of mental health and addiction 9638
services shall obtain court approval for that placement. If, at 9639
the hearing under division (A) of this section, the court 9640
determines by clear and convincing evidence that the person 9641
requires treatment for ~~mental retardation~~ an intellectual 9642
disability, it shall commit the person to a facility operated by 9643
the department of developmental disabilities or another 9644
facility, as appropriate. Further proceedings shall be in 9645
accordance with sections 2945.401 and 2945.402 of the Revised 9646
Code. In determining the place of commitment, the court shall 9647
consider the extent to which the person is a danger to the 9648
person and to others, the need for security, and the type of 9649
crime involved and shall order the least restrictive alternative 9650
available that is consistent with public safety and the welfare 9651
of the person. In weighing these factors, the court shall give 9652
preference to protecting public safety. 9653

(G) If a court makes a commitment of a person under 9654
division (F) of this section, the prosecutor shall send to the 9655
hospital, facility, or agency where the person is placed by the 9656
department of mental health and addiction services or to the 9657
defendant's place of commitment all reports of the person's 9658
current mental condition, and, except as otherwise provided in 9659
this division, any other relevant information, including, but 9660
not limited to, a transcript of the hearing held pursuant to 9661
division (A) of this section, copies of relevant police reports, 9662
and copies of any prior arrest and conviction records that 9663
pertain to the person and that the prosecutor possesses. The 9664
prosecutor shall send the reports of the person's current mental 9665
condition in every case of commitment, and, unless the 9666

prosecutor determines that the release of any of the other 9667
relevant information to unauthorized persons would interfere 9668
with the effective prosecution of any person or would create a 9669
substantial risk of harm to any person, the prosecutor also 9670
shall send the other relevant information. Upon admission of a 9671
person committed under division (F) of this section, the place 9672
of commitment shall send to the board of alcohol, drug 9673
addiction, and mental health services or the community mental 9674
health board serving the county in which the charges against the 9675
person were filed a copy of all reports of the person's current 9676
mental condition and a copy of the other relevant information 9677
provided by the prosecutor under this division, including, if 9678
provided, a transcript of the hearing held pursuant to division 9679
(A) of this section, the relevant police reports, and the prior 9680
arrest and conviction records that pertain to the person and 9681
that the prosecutor possesses. 9682

(H) A person who is committed pursuant to this section 9683
shall not voluntarily admit the person or be voluntarily 9684
admitted to a hospital or institution pursuant to section 9685
5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 9686

Sec. 2945.401. (A) A defendant found incompetent to stand 9687
trial and committed pursuant to section 2945.39 of the Revised 9688
Code or a person found not guilty by reason of insanity and 9689
committed pursuant to section 2945.40 of the Revised Code shall 9690
remain subject to the jurisdiction of the trial court pursuant 9691
to that commitment, and to the provisions of this section, until 9692
the final termination of the commitment as described in division 9693
(J) (1) of this section. If the jurisdiction is terminated under 9694
this division because of the final termination of the commitment 9695
resulting from the expiration of the maximum prison term or term 9696
of imprisonment described in division (J) (1) (b) of this section, 9697

the court or prosecutor may file an affidavit for the civil 9698
commitment of the defendant or person pursuant to Chapter 5122. 9699
or 5123. of the Revised Code. 9700

(B) A hearing conducted under any provision of sections 9701
2945.37 to 2945.402 of the Revised Code shall not be conducted 9702
in accordance with Chapters 5122. and 5123. of the Revised Code. 9703
Any person who is committed pursuant to section 2945.39 or 9704
2945.40 of the Revised Code shall not voluntarily admit the 9705
person or be voluntarily admitted to a hospital or institution 9706
pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the 9707
Revised Code. All other provisions of Chapters 5122. and 5123. 9708
of the Revised Code regarding hospitalization or 9709
institutionalization shall apply to the extent they are not in 9710
conflict with this chapter. A commitment under section 2945.39 9711
or 2945.40 of the Revised Code shall not be terminated and the 9712
conditions of the commitment shall not be changed except as 9713
otherwise provided in division (D) (2) of this section with 9714
respect to a ~~mentally retarded~~ person with an intellectual 9715
disability subject to institutionalization by court order or 9716
except by order of the trial court. 9717

(C) The department of mental health and addiction services 9718
or the institution, facility, or program to which a defendant or 9719
person has been committed under section 2945.39 or 2945.40 of 9720
the Revised Code shall report in writing to the trial court, at 9721
the times specified in this division, as to whether the 9722
defendant or person remains a mentally ill person subject to 9723
court order or a ~~mentally retarded~~ person with an intellectual 9724
disability subject to institutionalization by court order and, 9725
in the case of a defendant committed under section 2945.39 of 9726
the Revised Code, as to whether the defendant remains 9727
incompetent to stand trial. The department, institution, 9728

facility, or program shall make the reports after the initial 9729
six months of treatment and every two years after the initial 9730
report is made. The trial court shall provide copies of the 9731
reports to the prosecutor and to the counsel for the defendant 9732
or person. Within thirty days after its receipt pursuant to this 9733
division of a report from the department, institution, facility, 9734
or program, the trial court shall hold a hearing on the 9735
continued commitment of the defendant or person or on any 9736
changes in the conditions of the commitment of the defendant or 9737
person. The defendant or person may request a change in the 9738
conditions of confinement, and the trial court shall conduct a 9739
hearing on that request if six months or more have elapsed since 9740
the most recent hearing was conducted under this section. 9741

(D) (1) Except as otherwise provided in division (D) (2) of 9742
this section, when a defendant or person has been committed 9743
under section 2945.39 or 2945.40 of the Revised Code, at any 9744
time after evaluating the risks to public safety and the welfare 9745
of the defendant or person, the designee of the department of 9746
mental health and addiction services or the managing officer of 9747
the institution or director of the facility or program to which 9748
the defendant or person is committed may recommend a termination 9749
of the defendant's or person's commitment or a change in the 9750
conditions of the defendant's or person's commitment. 9751

Except as otherwise provided in division (D) (2) of this 9752
section, if the designee of the department of mental health and 9753
addiction services recommends on-grounds unsupervised movement, 9754
off-grounds supervised movement, or nonsecured status for the 9755
defendant or person or termination of the defendant's or 9756
person's commitment, the following provisions apply: 9757

(a) If the department's designee recommends on-grounds 9758

unsupervised movement or off-grounds supervised movement, the 9759
department's designee shall file with the trial court an 9760
application for approval of the movement and shall send a copy 9761
of the application to the prosecutor. Within fifteen days after 9762
receiving the application, the prosecutor may request a hearing 9763
on the application and, if a hearing is requested, shall so 9764
inform the department's designee. If the prosecutor does not 9765
request a hearing within the fifteen-day period, the trial court 9766
shall approve the application by entering its order approving 9767
the requested movement or, within five days after the expiration 9768
of the fifteen-day period, shall set a date for a hearing on the 9769
application. If the prosecutor requests a hearing on the 9770
application within the fifteen-day period, the trial court shall 9771
hold a hearing on the application within thirty days after the 9772
hearing is requested. If the trial court, within five days after 9773
the expiration of the fifteen-day period, sets a date for a 9774
hearing on the application, the trial court shall hold the 9775
hearing within thirty days after setting the hearing date. At 9776
least fifteen days before any hearing is held under this 9777
division, the trial court shall give the prosecutor written 9778
notice of the date, time, and place of the hearing. At the 9779
conclusion of each hearing conducted under this division, the 9780
trial court either shall approve or disapprove the application 9781
and shall enter its order accordingly. 9782

(b) If the department's designee recommends termination of 9783
the defendant's or person's commitment at any time or if the 9784
department's designee recommends the first of any nonsecured 9785
status for the defendant or person, the department's designee 9786
shall send written notice of this recommendation to the trial 9787
court and to the local forensic center. The local forensic 9788
center shall evaluate the committed defendant or person and, 9789

within thirty days after its receipt of the written notice, 9790
shall submit to the trial court and the department's designee a 9791
written report of the evaluation. The trial court shall provide 9792
a copy of the department's designee's written notice and of the 9793
local forensic center's written report to the prosecutor and to 9794
the counsel for the defendant or person. Upon the local forensic 9795
center's submission of the report to the trial court and the 9796
department's designee, all of the following apply: 9797

(i) If the forensic center disagrees with the 9798
recommendation of the department's designee, it shall inform the 9799
department's designee and the trial court of its decision and 9800
the reasons for the decision. The department's designee, after 9801
consideration of the forensic center's decision, shall either 9802
withdraw, proceed with, or modify and proceed with the 9803
recommendation. If the department's designee proceeds with, or 9804
modifies and proceeds with, the recommendation, the department's 9805
designee shall proceed in accordance with division (D) (1) (b) 9806
(iii) of this section. 9807

(ii) If the forensic center agrees with the recommendation 9808
of the department's designee, it shall inform the department's 9809
designee and the trial court of its decision and the reasons for 9810
the decision, and the department's designee shall proceed in 9811
accordance with division (D) (1) (b) (iii) of this section. 9812

(iii) If the forensic center disagrees with the 9813
recommendation of the department's designee and the department's 9814
designee proceeds with, or modifies and proceeds with, the 9815
recommendation or if the forensic center agrees with the 9816
recommendation of the department's designee, the department's 9817
designee shall work with community mental health services 9818
providers, programs, facilities, or boards of alcohol, drug 9819

addiction, and mental health services or community mental health 9820
boards to develop a plan to implement the recommendation. If the 9821
defendant or person is on medication, the plan shall include, 9822
but shall not be limited to, a system to monitor the defendant's 9823
or person's compliance with the prescribed medication treatment 9824
plan. The system shall include a schedule that clearly states 9825
when the defendant or person shall report for a medication 9826
compliance check. The medication compliance checks shall be 9827
based upon the effective duration of the prescribed medication, 9828
taking into account the route by which it is taken, and shall be 9829
scheduled at intervals sufficiently close together to detect a 9830
potential increase in mental illness symptoms that the 9831
medication is intended to prevent. 9832

The department's designee, after consultation with the 9833
board of alcohol, drug addiction, and mental health services or 9834
the community mental health board serving the area, shall send 9835
the recommendation and plan developed under division (D) (1) (b) 9836
(iii) of this section, in writing, to the trial court, the 9837
prosecutor, and the counsel for the committed defendant or 9838
person. The trial court shall conduct a hearing on the 9839
recommendation and plan developed under division (D) (1) (b) (iii) 9840
of this section. Divisions (D) (1) (c) and (d) and (E) to (J) of 9841
this section apply regarding the hearing. 9842

(c) If the department's designee's recommendation is for 9843
nonsecured status or termination of commitment, the prosecutor 9844
may obtain an independent expert evaluation of the defendant's 9845
or person's mental condition, and the trial court may continue 9846
the hearing on the recommendation for a period of not more than 9847
thirty days to permit time for the evaluation. 9848

The prosecutor may introduce the evaluation report or 9849

present other evidence at the hearing in accordance with the 9850
Rules of Evidence. 9851

(d) The trial court shall schedule the hearing on a 9852
department's designee's recommendation for nonsecured status or 9853
termination of commitment and shall give reasonable notice to 9854
the prosecutor and the counsel for the defendant or person. 9855
Unless continued for independent evaluation at the prosecutor's 9856
request or for other good cause, the hearing shall be held 9857
within thirty days after the trial court's receipt of the 9858
recommendation and plan. 9859

(2) (a) Division (D) (1) of this section does not apply to 9860
on-grounds unsupervised movement of a defendant or person who 9861
has been committed under section 2945.39 or 2945.40 of the 9862
Revised Code, who is a ~~mentally retarded~~ person with an 9863
intellectual disability subject to institutionalization by court 9864
order, and who is being provided residential habilitation, care, 9865
and treatment in a facility operated by the department of 9866
developmental disabilities. 9867

(b) If, pursuant to section 2945.39 of the Revised Code, 9868
the trial court commits a defendant who is found incompetent to 9869
stand trial and who is a ~~mentally retarded~~ person with an 9870
intellectual disability subject to institutionalization by court 9871
order, if the defendant is being provided residential 9872
habilitation, care, and treatment in a facility operated by the 9873
department of developmental disabilities, if an individual who 9874
is conducting a survey for the department of health to determine 9875
the facility's compliance with the certification requirements of 9876
the medicaid program cites the defendant's receipt of the 9877
residential habilitation, care, and treatment in the facility as 9878
being inappropriate under the certification requirements, if the 9879

defendant's receipt of the residential habilitation, care, and 9880
treatment in the facility potentially jeopardizes the facility's 9881
continued receipt of federal medicaid moneys, and if as a result 9882
of the citation the chief clinical officer of the facility 9883
determines that the conditions of the defendant's commitment 9884
should be changed, the department of developmental disabilities 9885
may cause the defendant to be removed from the particular 9886
facility and, after evaluating the risks to public safety and 9887
the welfare of the defendant and after determining whether 9888
another type of placement is consistent with the certification 9889
requirements, may place the defendant in another facility that 9890
the department selects as an appropriate facility for the 9891
defendant's continued receipt of residential habilitation, care, 9892
and treatment and that is a no less secure setting than the 9893
facility in which the defendant had been placed at the time of 9894
the citation. Within three days after the defendant's removal 9895
and alternative placement under the circumstances described in 9896
division (D) (2) (b) of this section, the department of 9897
developmental disabilities shall notify the trial court and the 9898
prosecutor in writing of the removal and alternative placement. 9899

The trial court shall set a date for a hearing on the 9900
removal and alternative placement, and the hearing shall be held 9901
within twenty-one days after the trial court's receipt of the 9902
notice from the department of developmental disabilities. At 9903
least ten days before the hearing is held, the trial court shall 9904
give the prosecutor, the department of developmental 9905
disabilities, and the counsel for the defendant written notice 9906
of the date, time, and place of the hearing. At the hearing, the 9907
trial court shall consider the citation issued by the individual 9908
who conducted the survey for the department of health to be 9909
prima-facie evidence of the fact that the defendant's commitment 9910

to the particular facility was inappropriate under the 9911
certification requirements of the medicaid program and 9912
potentially jeopardizes the particular facility's continued 9913
receipt of federal medicaid moneys. At the conclusion of the 9914
hearing, the trial court may approve or disapprove the 9915
defendant's removal and alternative placement. If the trial 9916
court approves the defendant's removal and alternative 9917
placement, the department of developmental disabilities may 9918
continue the defendant's alternative placement. If the trial 9919
court disapproves the defendant's removal and alternative 9920
placement, it shall enter an order modifying the defendant's 9921
removal and alternative placement, but that order shall not 9922
require the department of developmental disabilities to replace 9923
the defendant for purposes of continued residential 9924
habilitation, care, and treatment in the facility associated 9925
with the citation issued by the individual who conducted the 9926
survey for the department of health. 9927

(E) In making a determination under this section regarding 9928
nonsecured status or termination of commitment, the trial court 9929
shall consider all relevant factors, including, but not limited 9930
to, all of the following: 9931

(1) Whether, in the trial court's view, the defendant or 9932
person currently represents a substantial risk of physical harm 9933
to the defendant or person or others; 9934

(2) Psychiatric and medical testimony as to the current 9935
mental and physical condition of the defendant or person; 9936

(3) Whether the defendant or person has insight into the 9937
defendant's or person's condition so that the defendant or 9938
person will continue treatment as prescribed or seek 9939
professional assistance as needed; 9940

(4) The grounds upon which the state relies for the proposed commitment;

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D) (1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D) (1) of this section, the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to court order or a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D) (1)

or (2) of this section, the prosecutor shall represent the state 9970
or the public interest. 9971

(I) At the conclusion of a hearing conducted under 9972
division (D)(1) of this section regarding a recommendation from 9973
the designee of the department of mental health and addiction 9974
services, managing officer of the institution, or director of a 9975
facility or program, the trial court may approve, disapprove, or 9976
modify the recommendation and shall enter an order accordingly. 9977

(J) (1) A defendant or person who has been committed 9978
pursuant to section 2945.39 or 2945.40 of the Revised Code 9979
continues to be under the jurisdiction of the trial court until 9980
the final termination of the commitment. For purposes of 9981
division (J) of this section, the final termination of a 9982
commitment occurs upon the earlier of one of the following: 9983

(a) The defendant or person no longer is a mentally ill 9984
person subject to court order or a ~~mentally retarded~~ person with 9985
an intellectual disability subject to institutionalization by 9986
court order, as determined by the trial court; 9987

(b) The expiration of the maximum prison term or term of 9988
imprisonment that the defendant or person could have received if 9989
the defendant or person had been convicted of the most serious 9990
offense with which the defendant or person is charged or in 9991
relation to which the defendant or person was found not guilty 9992
by reason of insanity; 9993

(c) The trial court enters an order terminating the 9994
commitment under the circumstances described in division (J)(2) 9995
(a)(ii) of this section. 9996

(2) (a) If a defendant is found incompetent to stand trial 9997
and committed pursuant to section 2945.39 of the Revised Code, 9998

if neither of the circumstances described in divisions (J) (1) (a) 9999
and (b) of this section applies to that defendant, and if a 10000
report filed with the trial court pursuant to division (C) of 10001
this section indicates that the defendant presently is competent 10002
to stand trial or if, at any other time during the period of the 10003
defendant's commitment, the prosecutor, the counsel for the 10004
defendant, or the designee of the department of mental health 10005
and addiction services or the managing officer of the 10006
institution or director of the facility or program to which the 10007
defendant is committed files an application with the trial court 10008
alleging that the defendant presently is competent to stand 10009
trial and requesting a hearing on the competency issue or the 10010
trial court otherwise has reasonable cause to believe that the 10011
defendant presently is competent to stand trial and determines 10012
on its own motion to hold a hearing on the competency issue, the 10013
trial court shall schedule a hearing on the competency of the 10014
defendant to stand trial, shall give the prosecutor, the counsel 10015
for the defendant, and the department's designee or the managing 10016
officer of the institution or the director of the facility to 10017
which the defendant is committed notice of the date, time, and 10018
place of the hearing at least fifteen days before the hearing, 10019
and shall conduct the hearing within thirty days of the filing 10020
of the application or of its own motion. If, at the conclusion 10021
of the hearing, the trial court determines that the defendant 10022
presently is capable of understanding the nature and objective 10023
of the proceedings against the defendant and of assisting in the 10024
defendant's defense, the trial court shall order that the 10025
defendant is competent to stand trial and shall be proceeded 10026
against as provided by law with respect to the applicable 10027
offenses described in division (C) (1) of section 2945.38 of the 10028
Revised Code and shall enter whichever of the following 10029
additional orders is appropriate: 10030

(i) If the trial court determines that the defendant 10031
remains a mentally ill person subject to court order or a 10032
~~mentally retarded person~~ with an intellectual disability subject 10033
to institutionalization by court order, the trial court shall 10034
order that the defendant's commitment to the department of 10035
mental health and addiction services or to an institution, 10036
facility, or program for the treatment of ~~mental retardation~~ 10037
intellectual disabilities be continued during the pendency of 10038
the trial on the applicable offenses described in division (C) 10039
(1) of section 2945.38 of the Revised Code. 10040

(ii) If the trial court determines that the defendant no 10041
longer is a mentally ill person subject to court order or a 10042
~~mentally retarded person~~ with an intellectual disability subject 10043
to institutionalization by court order, the trial court shall 10044
order that the defendant's commitment to the department of 10045
mental health and addiction services or to an institution, 10046
facility, or program for the treatment of ~~mental retardation~~ 10047
intellectual disabilities shall not be continued during the 10048
pendency of the trial on the applicable offenses described in 10049
division (C) (1) of section 2945.38 of the Revised Code. This 10050
order shall be a final termination of the commitment for 10051
purposes of division (J) (1) (c) of this section. 10052

(b) If, at the conclusion of the hearing described in 10053
division (J) (2) (a) of this section, the trial court determines 10054
that the defendant remains incapable of understanding the nature 10055
and objective of the proceedings against the defendant or of 10056
assisting in the defendant's defense, the trial court shall 10057
order that the defendant continues to be incompetent to stand 10058
trial, that the defendant's commitment to the department of 10059
mental health and addiction services or to an institution, 10060
facility, or program for the treatment of ~~mental retardation~~ 10061

intellectual disabilities shall be continued, and that the 10062
defendant remains subject to the jurisdiction of the trial court 10063
pursuant to that commitment, and to the provisions of this 10064
section, until the final termination of the commitment as 10065
described in division (J) (1) of this section. 10066

Sec. 2945.482. (A) As used in this section: 10067

(1) "~~Mentally retarded person~~" and "~~developmentally-~~
~~disabled person~~Developmental disability" ~~have~~ has the same 10068
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 10069
10070

(2) "~~Mentally retarded or developmentally disabled-~~
~~victim~~Victim with a developmental disability" includes a 10071
~~mentally retarded or developmentally disabled person~~ with a 10072
developmental disability who was a victim of a violation 10073
identified in division (B) (1) of this section or an offense of 10074
violence or against whom was directed any conduct that 10075
constitutes, or that is an element of, a violation identified in 10076
division (B) (1) of this section or an offense of violence. 10077
10078

(B) (1) In any proceeding in the prosecution of a charge of 10079
a violation of section 2903.16, 2903.34, 2903.341, 2905.03, 10080
2907.02, 2907.03, 2907.05, 2907.06, 2907.09, 2907.21, 2907.23, 10081
2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised 10082
Code or an offense of violence and in which an alleged victim of 10083
the violation or offense was a ~~mentally retarded or-~~
~~developmentally disabled person~~ with a developmental disability, 10084
the judge of the court in which the prosecution is being 10085
conducted, upon motion of an attorney for the prosecution, shall 10086
order that the testimony of the ~~mentally retarded or-~~
~~developmentally disabled victim~~ with a developmental disability 10087
be taken by deposition. The prosecution also may request that 10088
the deposition be videotaped in accordance with division (B) (2) 10089
10090
10091

of this section. The judge shall notify the ~~mentally retarded or~~ 10092
~~developmentally disabled~~ victim with a developmental disability 10093
whose deposition is to be taken, the prosecution, and the 10094
defense of the date, time, and place for taking the deposition. 10095
The notice shall identify the ~~mentally retarded or~~ 10096
~~developmentally disabled~~ victim with a developmental disability 10097
who is to be examined and shall indicate whether a request that 10098
the deposition be videotaped has been made. The defendant shall 10099
have the right to attend the deposition and the right to be 10100
represented by counsel. Depositions shall be taken in the manner 10101
provided in civil cases, except that the judge shall preside at 10102
the taking of the deposition and shall rule at the time on any 10103
objections of the prosecution or the attorney for the defense. 10104
The prosecution and the attorney for the defense shall have the 10105
right, as at trial, to full examination and cross-examination of 10106
the ~~mentally retarded or developmentally disabled~~ victim with a 10107
developmental disability whose deposition is to be taken. If a 10108
deposition taken under this division is intended to be offered 10109
as evidence in the proceeding, it shall be filed in the court in 10110
which the action is pending and is admissible in the manner 10111
described in division (C) of this section. 10112

If a deposition of a ~~mentally retarded or developmentally~~ 10113
~~disabled~~ victim with a developmental disability taken under this 10114
division is admitted as evidence at the proceeding under 10115
division (C) of this section, the ~~mentally retarded or~~ 10116
~~developmentally disabled~~ victim with a developmental disability 10117
shall not be required to testify in person at the proceeding. 10118

At any time before the conclusion of the proceeding, the 10119
attorney for the defense may file a motion with the judge 10120
requesting that another deposition of the ~~mentally retarded or~~ 10121
~~developmentally disabled~~ victim with a developmental disability 10122

be taken because new evidence material to the defense has been 10123
discovered that the attorney for the defense could not with 10124
reasonable diligence have discovered prior to the taking of the 10125
admitted deposition. If the court orders the taking of another 10126
deposition under this provision, the deposition shall be taken 10127
in accordance with this division. If the admitted deposition was 10128
a videotaped deposition taken in accordance with division (B) (2) 10129
of this section, the new deposition shall be videotaped in 10130
accordance with that division. In other cases, the new 10131
deposition may be videotaped in accordance with that division. 10132

(2) If the prosecution requests that a deposition to be 10133
taken under division (B) (2) of this section be videotaped, the 10134
judge shall order that the deposition be videotaped in 10135
accordance with this division. If a judge issues an order that 10136
the deposition be videotaped, the judge shall exclude from the 10137
room in which the deposition is to be taken every person except 10138
the ~~mentally retarded or developmentally disabled~~ victim with a 10139
developmental disability giving the testimony, the judge, one or 10140
more interpreters if needed, the attorneys for the prosecution 10141
and the defense, any person needed to operate the equipment to 10142
be used, one person chosen by the ~~mentally retarded or~~ 10143
~~developmentally disabled~~ victim with a developmental disability 10144
giving the deposition, and any person whose presence the judge 10145
determines would contribute to the welfare and well-being of the 10146
~~mentally retarded or developmentally disabled~~ victim with a 10147
developmental disability giving the deposition. The person 10148
chosen by the ~~mentally retarded or developmentally disabled~~ 10149
victim with a developmental disability shall not be a witness in 10150
the proceeding and, both before and during the deposition, shall 10151
not discuss the testimony of the ~~mentally retarded or~~ 10152
~~developmentally disabled~~ victim with a developmental disability 10153

with any other witness in the proceeding. To the extent 10154
feasible, any person operating the recording equipment shall be 10155
restricted to a room adjacent to the room in which the 10156
deposition is being taken, or to a location in the room in which 10157
the deposition is being taken that is behind a screen or mirror, 10158
so that the person operating the recording equipment can see and 10159
hear, but cannot be seen or heard by, the ~~mentally retarded or~~ 10160
~~developmentally disabled~~ victim with a developmental disability 10161
giving the deposition during the deposition. 10162

The defendant shall be permitted to observe and hear the 10163
testimony of the ~~mentally retarded or developmentally disabled~~ 10164
victim with a developmental disability giving the deposition on 10165
a monitor, shall be provided with an electronic means of 10166
immediate communication with the defendant's attorney during the 10167
testimony, and shall be restricted to a location from which the 10168
defendant cannot be seen or heard by the ~~mentally retarded or~~ 10169
~~developmentally disabled~~ victim with a developmental disability 10170
giving the deposition, except on a monitor provided for that 10171
purpose. The ~~mentally retarded or developmentally disabled~~ 10172
victim with a developmental disability giving the deposition 10173
shall be provided with a monitor on which the victim can 10174
observe, during the testimony, the defendant. The judge, at the 10175
judge's discretion, may preside at the deposition by electronic 10176
means from outside the room in which the deposition is to be 10177
taken. If the judge presides by electronic means, the judge 10178
shall be provided with monitors on which the judge can see each 10179
person in the room in which the deposition is to be taken and 10180
with an electronic means of communication with each person, and 10181
each person in the room shall be provided with a monitor on 10182
which that person can see the judge and with an electronic means 10183
of communication with the judge. A deposition that is videotaped 10184

under this division shall be taken and filed in the manner 10185
described in division (B) (1) of this section and is admissible 10186
in the manner described in this division and division (C) of 10187
this section, and, if a deposition that is videotaped under this 10188
division is admitted as evidence at the proceeding, the ~~mentally-~~ 10189
~~retarded or developmentally disabled~~ victim with a developmental 10190
disability shall not be required to testify in person at the 10191
proceeding. No deposition videotaped under this division shall 10192
be admitted as evidence at any proceeding unless division (C) of 10193
this section is satisfied relative to the deposition and all of 10194
the following apply relative to the recording: 10195

(a) The recording is both aural and visual and is recorded 10196
on film or videotape, or by other electronic means. 10197

(b) The recording is authenticated under the Rules of 10198
Evidence and the Rules of Criminal Procedure as a fair and 10199
accurate representation of what occurred, and the recording is 10200
not altered other than at the direction and under the 10201
supervision of the judge in the proceeding. 10202

(c) Each voice on the recording that is material to the 10203
testimony on the recording or the making of the recording, as 10204
determined by the judge, is identified. 10205

(d) Both the prosecution and the defendant are afforded an 10206
opportunity to view the recording before it is shown in the 10207
proceeding. 10208

(C) (1) At any proceeding in a prosecution in relation to 10209
which a deposition was taken under division (B) of this section, 10210
the deposition or a part of it is admissible in evidence upon 10211
motion of the prosecution if the testimony in the deposition or 10212
the part to be admitted is not excluded by the hearsay rule and 10213

if the deposition or the part to be admitted otherwise is 10214
admissible under the Rules of Evidence. For purposes of this 10215
division, testimony is not excluded by the hearsay rule if the 10216
testimony is not hearsay under Evidence Rule 801; the testimony 10217
is within an exception to the hearsay rule set forth in Evidence 10218
Rule 803; the ~~mentally retarded or developmentally disabled~~ 10219
victim with a developmental disability who gave the testimony is 10220
unavailable as a witness, as defined in Evidence Rule 804, and 10221
the testimony is admissible under that rule; or both of the 10222
following apply: 10223

(a) The defendant had an opportunity and similar motive at 10224
the time of the taking of the deposition to develop the 10225
testimony by direct, cross, or redirect examination. 10226

(b) The judge determines that there is reasonable cause to 10227
believe that, if the ~~mentally retarded or developmentally~~ 10228
~~disabled~~ victim with a developmental disability who gave the 10229
testimony in the deposition were to testify in person at the 10230
proceeding, the ~~mentally retarded or developmentally disabled~~ 10231
victim with a developmental disability would experience serious 10232
emotional trauma as a result of the ~~mentally retarded or~~ 10233
~~developmentally disabled~~ victim's participation of the victim 10234
with a developmental disability at the proceeding. 10235

(2) Objections to receiving in evidence a deposition or a 10236
part of it under division (C) of this section shall be made as 10237
provided in civil actions. 10238

(3) The provisions of divisions (B) and (C) of this 10239
section are in addition to any other provisions of the Revised 10240
Code, the Rules of Criminal Procedure, or the Rules of Evidence 10241
that pertain to the taking or admission of depositions in a 10242
criminal proceeding and do not limit the admissibility under any 10243

of those other provisions of any deposition taken under division 10244
(B) of this section or otherwise taken. 10245

(D) In any proceeding in the prosecution of any charge of 10246
a violation listed in division (B)(1) of this section or an 10247
offense of violence and in which an alleged victim of the 10248
violation or offense was a ~~mentally retarded or developmentally~~ 10249
~~disabled~~ person with a developmental disability, the prosecution 10250
may file a motion with the judge requesting the judge to order 10251
the testimony of the ~~mentally retarded or developmentally~~ 10252
~~disabled~~ victim with a developmental disability to be taken in a 10253
room other than the room in which the proceeding is being 10254
conducted and be televised, by closed circuit equipment, into 10255
the room in which the proceeding is being conducted to be viewed 10256
by the jury, if applicable, the defendant, and any other persons 10257
who are not permitted in the room in which the testimony is to 10258
be taken but who would have been present during the testimony of 10259
the ~~mentally retarded or developmentally disabled~~ victim with a 10260
developmental disability had it been given in the room in which 10261
the proceeding is being conducted. Except for good cause shown, 10262
the prosecution shall file a motion under this division at least 10263
seven days before the date of the proceeding. The judge may 10264
issue the order upon the motion of the prosecution filed under 10265
this section, if the judge determines that the ~~mentally retarded~~ 10266
~~or developmentally disabled~~ victim with a developmental 10267
disability is unavailable to testify in the room in which the 10268
proceeding is being conducted in the physical presence of the 10269
defendant for one or more of the reasons set forth in division 10270
(F) of this section. If a judge issues an order of that nature, 10271
the judge shall exclude from the room in which the testimony is 10272
to be taken every person except a person described in division 10273
(B)(2) of this section. The judge, at the judge's discretion, 10274

may preside during the giving of the testimony by electronic 10275
means from outside the room in which it is being given, subject 10276
to the limitations set forth in division (B) (2) of this section. 10277
To the extent feasible, any person operating the televising 10278
equipment shall be hidden from the sight and hearing of the 10279
~~mentally retarded or developmentally disabled~~ victim with a 10280
developmental disability giving the testimony, in a manner 10281
similar to that described in division (B) (2) of this section. 10282
The defendant shall be permitted to observe and hear the 10283
testimony of the ~~mentally retarded or developmentally disabled~~ 10284
victim with a developmental disability giving the testimony on a 10285
monitor, shall be provided with an electronic means of immediate 10286
communication with the defendant's attorney during the 10287
testimony, and shall be restricted to a location from which the 10288
defendant cannot be seen or heard by the ~~mentally retarded or~~ 10289
~~developmentally disabled~~ victim with a developmental disability 10290
giving the testimony, except on a monitor provided for that 10291
purpose. The ~~mentally retarded or developmentally disabled~~ 10292
victim with a developmental disability giving the testimony 10293
shall be provided with a monitor on which the ~~mentally retarded-~~ 10294
~~or developmentally disabled~~ victim with a developmental 10295
disability can observe, during the testimony, the defendant. 10296

(E) In any proceeding in the prosecution of any charge of 10297
a violation listed in division (B) (1) of this section or an 10298
offense of violence and in which an alleged victim of the 10299
violation or offense was a ~~mentally retarded or developmentally-~~ 10300
~~disabled~~ victim with a developmental disability, the prosecution 10301
may file a motion with the judge requesting the judge to order 10302
the testimony of the ~~mentally retarded or developmentally-~~ 10303
~~disabled~~ victim with a developmental disability to be taken 10304
outside of the room in which the proceeding is being conducted 10305

and be recorded for showing in the room in which the proceeding 10306
is being conducted before the judge, the jury, if applicable, 10307
the defendant, and any other persons who would have been present 10308
during the testimony of the ~~mentally retarded or developmentally~~ 10309
~~disabled~~ victim with a developmental disability had it been 10310
given in the room in which the proceeding is being conducted. 10311
Except for good cause shown, the prosecution shall file a motion 10312
under this division at least seven days before the date of the 10313
proceeding. The judge may issue the order upon the motion of the 10314
prosecution filed under this division, if the judge determines 10315
that the ~~mentally retarded or developmentally disabled~~ victim 10316
with a developmental disability is unavailable to testify in the 10317
room in which the proceeding is being conducted in the physical 10318
presence of the defendant, for one or more of the reasons set 10319
forth in division (F) of this section. If a judge issues an 10320
order of that nature, the judge shall exclude from the room in 10321
which the testimony is to be taken every person except a person 10322
described in division (B) (2) of this section. To the extent 10323
feasible, any person operating the recording equipment shall be 10324
hidden from the sight and hearing of the ~~mentally retarded or~~ 10325
~~developmentally disabled~~ victim with a developmental disability 10326
giving the testimony, in a manner similar to that described in 10327
division (B) (2) of this section. The defendant shall be 10328
permitted to observe and hear the testimony of the ~~mentally~~ 10329
~~retarded or developmentally disabled~~ victim with a developmental 10330
disability who is giving the testimony on a monitor, shall be 10331
provided with an electronic means of immediate communication 10332
with the defendant's attorney during the testimony, and shall be 10333
restricted to a location from which the defendant cannot be seen 10334
or heard by the ~~mentally retarded or developmentally disabled~~ 10335
victim with a developmental disability giving the testimony, 10336
except on a monitor provided for that purpose. The ~~mentally~~ 10337

~~retarded or developmentally disabled~~-victim with a developmental 10338
disability giving the testimony shall be provided with a monitor 10339
on which the victim can observe, during the testimony, the 10340
defendant. No order for the taking of testimony by recording 10341
shall be issued under this division unless the provisions set 10342
forth in divisions (B)(2)(a), (b), (c), and (d) of this section 10343
apply to the recording of the testimony. 10344

(F) For purposes of divisions (D) and (E) of this section, 10345
a judge may order the testimony of a ~~mentally retarded or~~ 10346
~~developmentally disabled~~-victim with a developmental disability 10347
to be taken outside the room in which the proceeding is being 10348
conducted if the judge determines that the ~~mentally retarded or~~ 10349
~~developmentally disabled~~-victim with a developmental disability 10350
is unavailable to testify in the room in the physical presence 10351
of the defendant due to one or more of the following: 10352

(1) The persistent refusal of the ~~mentally retarded or~~ 10353
~~developmentally disabled~~-victim with a developmental disability 10354
to testify despite judicial requests to do so; 10355

(2) The inability of the ~~mentally retarded or~~ 10356
~~developmentally disabled~~-victim with a developmental disability 10357
to communicate about the alleged violation or offense because of 10358
extreme fear, failure of memory, or another similar reason; 10359

(3) The substantial likelihood that the ~~mentally retarded-~~ 10360
~~or developmentally disabled~~-victim with a developmental 10361
disability will suffer serious emotional trauma from so 10362
testifying. 10363

(G)(1) If a judge issues an order pursuant to division (D) 10364
or (E) of this section that requires the testimony of a ~~mentally-~~ 10365
~~retarded or developmentally disabled~~-victim with a developmental 10366

disability in a criminal proceeding to be taken outside of the 10367
room in which the proceeding is being conducted, the order shall 10368
specifically identify the ~~mentally retarded or developmentally~~ 10369
~~disabled~~ victim with a developmental disability to whose 10370
testimony it applies, the order applies only during the 10371
testimony of the specified ~~mentally retarded or developmentally~~ 10372
~~disabled~~ victim with a developmental disability, and the 10373
~~mentally retarded or developmentally disabled~~ victim with a 10374
developmental disability giving the testimony shall not be 10375
required to testify at the proceeding other than in accordance 10376
with the order. 10377

(2) A judge who makes any determination regarding the 10378
admissibility of a deposition under divisions (B) and (C) of 10379
this section, the videotaping of a deposition under division (B) 10380
(2) of this section, or the taking of testimony outside of the 10381
room in which a proceeding is being conducted under division (D) 10382
or (E) of this section shall enter the determination and 10383
findings on the record in the proceeding. 10384

Sec. 2945.491. (A) As used in this section: 10385

(1) "~~Mentally retarded person~~" and "~~developmentally~~ 10386
~~disabled person~~Developmental disability" ~~have~~ has the same 10387
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 10388

(2) "~~Mentally retarded or developmentally disabled~~ 10389
~~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

(B) (1) At a trial on a charge of a felony violation of 10398
section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 10399
2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 10400
2907.323 of the Revised Code or an offense of violence and in 10401
which an alleged victim of the violation or offense was a 10402
~~mentally retarded or developmentally disabled person with a~~ 10403
developmental disability, the court, upon motion of the 10404
prosecutor in the case, may admit videotaped preliminary hearing 10405
testimony of the ~~mentally retarded or developmentally disabled~~ 10406
victim with a developmental disability as evidence at the trial, 10407
in lieu of the ~~mentally retarded or developmentally disabled~~ 10408
victim with a developmental disability appearing as a witness 10409
and testifying at trial, if all of the following apply: 10410

(a) The videotape of the testimony was made at the 10411
preliminary hearing at which probable cause of the violation 10412
charged was found. 10413

(b) The videotape of the testimony was made in accordance 10414
with division (C) of section 2937.11 of the Revised Code. 10415

(c) The testimony in the videotape is not excluded by the 10416
hearsay rule and otherwise is admissible under the Rules of 10417
Evidence. For purposes of this division, testimony is not 10418
excluded by the hearsay rule if the testimony is not hearsay 10419
under Evidence Rule 801, the testimony is within an exception to 10420
the hearsay rule set forth in Evidence Rule 803, the ~~mentally~~ 10421
~~retarded or developmentally disabled~~ victim with a developmental 10422
disability who gave the testimony is unavailable as a witness, 10423
as defined in Evidence Rule 804, and the testimony is admissible 10424
under that rule, or both of the following apply: 10425

(i) The accused had an opportunity and similar motive at 10426
the preliminary hearing to develop the testimony of the ~~mentally-~~ 10427
~~retarded or developmentally disabled~~ victim with a developmental 10428
disability by direct, cross, or redirect examination. 10429

(ii) The court determines that there is reasonable cause 10430
to believe that if the ~~mentally retarded or developmentally-~~ 10431
~~disabled~~ victim with a developmental disability who gave the 10432
testimony at the preliminary hearing were to testify in person 10433
at the trial, the ~~mentally retarded or developmentally disabled-~~ 10434
victim with a developmental disability would experience serious 10435
emotional trauma as a result of the victim's participation at 10436
the trial. 10437

(2) If a ~~mentally retarded or developmentally disabled-~~ 10438
victim with a developmental disability of an alleged felony 10439
violation of section 2903.16, 2903.34, 2903.341, 2907.02, 10440
2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 10441
2907.322, or 2907.323 of the Revised Code or an alleged felony 10442
offense of violence testifies at the preliminary hearing in the 10443
case, if the testimony of the ~~mentally retarded or-~~ 10444
~~developmentally disabled~~ victim with a developmental disability 10445
at the preliminary hearing was videotaped pursuant to division 10446
(C) of section 2937.11 of the Revised Code, and if the defendant 10447
in the case files a written objection to the use, pursuant to 10448
division (B)(1) of this section, of the videotaped testimony at 10449
the trial, the court, immediately after the filing of the 10450
objection, shall hold a hearing to determine whether the 10451
videotaped testimony of the ~~mentally retarded or developmentally-~~ 10452
~~disabled~~ victim with a developmental disability should be 10453
admissible at trial under division (B)(1) of this section and, 10454
if it is admissible, whether the ~~mentally retarded or-~~ 10455
~~developmentally disabled~~ victim with a developmental disability 10456

should be required to provide limited additional testimony of 10457
the type described in this division. At the hearing held 10458
pursuant to this division, the defendant and the prosecutor in 10459
the case may present any evidence that is relevant to the issues 10460
to be determined at the hearing, but the ~~mentally retarded or~~ 10461
~~developmentally disabled~~ victim with a developmental disability 10462
shall not be required to testify at the hearing. 10463

After the hearing, the court shall not require the 10464
~~mentally retarded or developmentally disabled~~ victim with a 10465
developmental disability to testify at the trial, unless it 10466
determines that both of the following apply: 10467

(a) That the testimony of the ~~mentally retarded or~~ 10468
~~developmentally disabled~~ victim with a developmental disability 10469
at trial is necessary for one or more of the following reasons: 10470

(i) Evidence that was not available at the time of the 10471
testimony of the ~~mentally retarded or developmentally disabled~~ 10472
victim with a developmental disability at the preliminary 10473
hearing has been discovered. 10474

(ii) The circumstances surrounding the case have changed 10475
sufficiently to necessitate that the ~~mentally retarded or~~ 10476
~~developmentally disabled~~ victim with a developmental disability 10477
testify at the trial. 10478

(b) That the testimony of the ~~mentally retarded or~~ 10479
~~developmentally disabled~~ victim with a developmental disability 10480
at the trial is necessary to protect the right of the defendant 10481
to a fair trial. 10482

The court shall enter its finding and the reasons for it 10483
in the journal. If the court requires the ~~mentally retarded or~~ 10484
~~developmentally disabled~~ victim with a developmental disability 10485

to testify at the trial, the testimony of the victim shall be 10486
limited to the new evidence and changed circumstances, and the 10487
~~mentally retarded or developmentally disabled~~ victim with a 10488
developmental disability shall not otherwise be required to 10489
testify at the trial. The required testimony of the ~~mentally-~~ 10490
~~retarded or developmentally disabled~~ victim with a developmental 10491
disability may be given in person or, upon motion of the 10492
prosecution, may be taken by deposition in accordance with 10493
division (B) of section 2945.482 of the Revised Code provided 10494
the deposition is admitted as evidence under division (C) of 10495
that section, may be taken outside of the courtroom and 10496
televised into the courtroom in accordance with division (D) of 10497
that section, or may be taken outside of the courtroom and 10498
recorded for showing in the courtroom in accordance with 10499
division (E) of that section. 10500

(3) If videotaped testimony of a ~~mentally retarded or-~~ 10501
~~developmentally disabled~~ victim with a developmental disability 10502
is admitted at trial in accordance with division (B)(1) of this 10503
section, the ~~mentally retarded or developmentally disabled-~~ 10504
victim with a developmental disability shall not be compelled in 10505
any way to appear as a witness at the trial, except as provided 10506
in division (B)(2) of this section. 10507

(C) An order issued pursuant to division (B) of this 10508
section shall specifically identify the ~~mentally retarded or-~~ 10509
~~developmentally disabled~~ victim with a developmental disability 10510
concerning whose testimony it pertains. The order shall apply 10511
only during the testimony of the ~~mentally retarded or-~~ 10512
~~developmentally disabled~~ victim with a developmental disability 10513
it specifically identifies. 10514

Sec. 2949.29. (A) The prosecuting attorney, the convict, 10515

and the convict's counsel shall attend an inquiry commenced as 10516
provided in section 2949.28 of the Revised Code. The prosecuting 10517
attorney and the convict or the convict's counsel may produce, 10518
examine, and cross-examine witnesses, and all findings shall be 10519
in writing signed by the judge. If it is found that the convict 10520
is not insane, the sentence shall be executed at the time 10521
previously appointed, unless that time has passed pending 10522
completion of the inquiry, in which case the judge conducting 10523
the inquiry, if authorized by the supreme court, shall appoint a 10524
time for execution of the sentence to be effective fifteen days 10525
from the date of the entry of the judge's findings in the 10526
inquiry. 10527

(B) If it is found that the convict is insane and if 10528
authorized by the supreme court, the judge shall continue any 10529
stay of execution of the sentence previously issued, order the 10530
convict to be confined in the area at which other convicts 10531
sentenced to death are confined or in a maximum security medical 10532
or psychiatric facility operated by the department of 10533
rehabilitation and correction, and order treatment of the 10534
convict. Thereafter, the court at any time may conduct and, on 10535
motion of the prosecuting attorney, shall conduct a hearing 10536
pursuant to division (A) of this section to continue the inquiry 10537
into the convict's insanity and, as provided in section 2949.28 10538
of the Revised Code, may appoint one or more psychiatrists or 10539
psychologists to make a further examination of the convict and 10540
to submit a report to the court. If the court finds at the 10541
hearing that the convict is not insane and if the time 10542
previously appointed for execution of the sentence has not 10543
passed, the sentence shall be executed at the previously 10544
appointed time. If the court finds at the hearing that the 10545
convict is not insane and if the time previously appointed for 10546

execution of the sentence has passed, the judge who conducts the hearing, if authorized by the supreme court, shall appoint a new time for execution of the sentence to be effective fifteen days from the date of the entry of the judge's findings in the hearing.

(C) In all proceedings under this section, the convict is presumed not to be insane, and the court shall find that the convict is not insane unless the court finds by a preponderance of the evidence that the convict is insane.

(D) Proceedings for inquiry into the insanity of any convict sentenced to death shall be exclusively pursuant to this section, section 2949.28 of the Revised Code, and the Rules of Evidence. Neither Chapter 5122. or 5123. of the Revised Code nor any other provision of the Revised Code nor any other rule concerning mentally ill persons, ~~mentally retarded persons~~ with intellectual disabilities, or insane persons applies to any proceeding for inquiry into the insanity of any convict sentenced to death.

Sec. 2950.01. As used in this chapter, unless the context clearly requires otherwise:

(A) "Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age:

(1) A violation of section 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code;

(2) A violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the

other person did not consent to the sexual conduct, and the 10576
offender previously has not been convicted of or pleaded guilty 10577
to a violation of section 2907.02, 2907.03, or 2907.04 of the 10578
Revised Code or a violation of former section 2907.12 of the 10579
Revised Code; 10580

(3) A violation of section 2907.04 of the Revised Code 10581
when the offender is at least four years older than the other 10582
person with whom the offender engaged in sexual conduct or when 10583
the offender is less than four years older than the other person 10584
with whom the offender engaged in sexual conduct and the 10585
offender previously has been convicted of or pleaded guilty to a 10586
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 10587
Code or a violation of former section 2907.12 of the Revised 10588
Code; 10589

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 10590
the Revised Code when the violation was committed with a sexual 10591
motivation; 10592

(5) A violation of division (A) of section 2903.04 of the 10593
Revised Code when the offender committed or attempted to commit 10594
the felony that is the basis of the violation with a sexual 10595
motivation; 10596

(6) A violation of division (A) (3) of section 2903.211 of 10597
the Revised Code; 10598

(7) A violation of division (A) (1), (2), (3), or (5) of 10599
section 2905.01 of the Revised Code when the offense is 10600
committed with a sexual motivation; 10601

(8) A violation of division (A) (4) of section 2905.01 of 10602
the Revised Code; 10603

(9) A violation of division (B) of section 2905.01 of the 10604

Revised Code when the victim of the offense is under eighteen 10605
years of age and the offender is not a parent of the victim of 10606
the offense; 10607

(10) A violation of division (B) of section 2903.03, of 10608
division (B) of section 2905.02, of division (B) of section 10609
2905.03, of division (B) of section 2905.05, or of division (B) 10610
(5) of section 2919.22 of the Revised Code; 10611

(11) A violation of section 2905.32 of the Revised Code 10612
when any of the following applies: 10613

(a) The violation is a violation of division (A) (1) of 10614
that section and the offender knowingly recruited, lured, 10615
enticed, isolated, harbored, transported, provided, obtained, or 10616
maintained, or knowingly attempted to recruit, lure, entice, 10617
isolate, harbor, transport, provide, obtain, or maintain, 10618
another person knowing that the person would be compelled to 10619
engage in sexual activity for hire, engage in a performance that 10620
was obscene, sexually oriented, or nudity oriented, or be a 10621
model or participant in the production of material that was 10622
obscene, sexually oriented, or nudity oriented. 10623

(b) The violation is a violation of division (A) (2) of 10624
that section and the offender knowingly recruited, lured, 10625
enticed, isolated, harbored, transported, provided, obtained, or 10626
maintained, or knowingly attempted to recruit, lure, entice, 10627
isolate, harbor, transport, provide, obtain, or maintain a 10628
person who is less than sixteen years of age or is a 10629
~~developmentally disabled person~~ with a developmental disability 10630
whom the offender knows or has reasonable cause to believe is a 10631
~~developmentally disabled person~~ with a developmental disability 10632
for any purpose listed in divisions (A) (2) (a) to (c) of that 10633
section. 10634

(c) The violation is a violation of division (A) (3) of 10635
that section, the offender knowingly recruited, lured, enticed, 10636
isolated, harbored, transported, provided, obtained, or 10637
maintained, or knowingly attempted to recruit, lure, entice, 10638
isolate, harbor, transport, provide, obtain, or maintain a 10639
person who is sixteen or seventeen years of age for any purpose 10640
listed in divisions (A) (2) (a) to (c) of that section, and the 10641
circumstances described in division (A) (5), (6), (7), (8), (9), 10642
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 10643
apply with respect to the offender and the other person. 10644

(12) A violation of any former law of this state, any 10645
existing or former municipal ordinance or law of another state 10646
or the United States, any existing or former law applicable in a 10647
military court or in an Indian tribal court, or any existing or 10648
former law of any nation other than the United States that is or 10649
was substantially equivalent to any offense listed in division 10650
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of 10651
this section; 10652

(13) A violation of division (A) (3) of section 2907.24 of 10653
the Revised Code; 10654

(14) Any attempt to commit, conspiracy to commit, or 10655
complicity in committing any offense listed in division (A) (1), 10656
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 10657
(13) of this section. 10658

(B) (1) "Sex offender" means, subject to division (B) (2) of 10659
this section, a person who is convicted of, pleads guilty to, 10660
has been convicted of, has pleaded guilty to, is adjudicated a 10661
delinquent child for committing, or has been adjudicated a 10662
delinquent child for committing any sexually oriented offense. 10663

(2) "Sex offender" does not include a person who is 10664
convicted of, pleads guilty to, has been convicted of, has 10665
pleaded guilty to, is adjudicated a delinquent child for 10666
committing, or has been adjudicated a delinquent child for 10667
committing a sexually oriented offense if the offense involves 10668
consensual sexual conduct or consensual sexual contact and 10669
either of the following applies: 10670

(a) The victim of the sexually oriented offense was 10671
eighteen years of age or older and at the time of the sexually 10672
oriented offense was not under the custodial authority of the 10673
person who is convicted of, pleads guilty to, has been convicted 10674
of, has pleaded guilty to, is adjudicated a delinquent child for 10675
committing, or has been adjudicated a delinquent child for 10676
committing the sexually oriented offense. 10677

(b) The victim of the offense was thirteen years of age or 10678
older, and the person who is convicted of, pleads guilty to, has 10679
been convicted of, has pleaded guilty to, is adjudicated a 10680
delinquent child for committing, or has been adjudicated a 10681
delinquent child for committing the sexually oriented offense is 10682
not more than four years older than the victim. 10683

(C) "Child-victim oriented offense" means any of the 10684
following violations or offenses committed by a person, 10685
regardless of the person's age, when the victim is under 10686
eighteen years of age and is not a child of the person who 10687
commits the violation: 10688

(1) A violation of division (A) (1), (2), (3), or (5) of 10689
section 2905.01 of the Revised Code when the violation is not 10690
included in division (A) (7) of this section; 10691

(2) A violation of division (A) of section 2905.02, 10692

division (A) of section 2905.03, or division (A) of section 10693
2905.05 of the Revised Code; 10694

(3) A violation of any former law of this state, any 10695
existing or former municipal ordinance or law of another state 10696
or the United States, any existing or former law applicable in a 10697
military court or in an Indian tribal court, or any existing or 10698
former law of any nation other than the United States that is or 10699
was substantially equivalent to any offense listed in division 10700
(C) (1) or (2) of this section; 10701

(4) Any attempt to commit, conspiracy to commit, or 10702
complicity in committing any offense listed in division (C) (1), 10703
(2), or (3) of this section. 10704

(D) "Child-victim offender" means a person who is 10705
convicted of, pleads guilty to, has been convicted of, has 10706
pleaded guilty to, is adjudicated a delinquent child for 10707
committing, or has been adjudicated a delinquent child for 10708
committing any child-victim oriented offense. 10709

(E) "Tier I sex offender/child-victim offender" means any 10710
of the following: 10711

(1) A sex offender who is convicted of, pleads guilty to, 10712
has been convicted of, or has pleaded guilty to any of the 10713
following sexually oriented offenses: 10714

(a) A violation of section 2907.06, 2907.07, 2907.08, 10715
2907.22, or 2907.32 of the Revised Code; 10716

(b) A violation of section 2907.04 of the Revised Code 10717
when the offender is less than four years older than the other 10718
person with whom the offender engaged in sexual conduct, the 10719
other person did not consent to the sexual conduct, and the 10720
offender previously has not been convicted of or pleaded guilty 10721

to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(c) A violation of division (A) (1), (2), (3), or (5) of section 2907.05 of the Revised Code;

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code;

(e) A violation of division (A) (3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code;

(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- 10751
victim offender relative to the offense. 10752

(4) A child-victim offender who is adjudicated a 10753
delinquent child for committing or has been adjudicated a 10754
delinquent child for committing any child-victim oriented 10755
offense and who a juvenile court, pursuant to section 2152.82, 10756
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 10757
tier I sex offender/child-victim offender relative to the 10758
offense. 10759

(F) "Tier II sex offender/child-victim offender" means any 10760
of the following: 10761

(1) A sex offender who is convicted of, pleads guilty to, 10762
has been convicted of, or has pleaded guilty to any of the 10763
following sexually oriented offenses: 10764

(a) A violation of section 2907.21, 2907.321, or 2907.322 10765
of the Revised Code; 10766

(b) A violation of section 2907.04 of the Revised Code 10767
when the offender is at least four years older than the other 10768
person with whom the offender engaged in sexual conduct, or when 10769
the offender is less than four years older than the other person 10770
with whom the offender engaged in sexual conduct and the 10771
offender previously has been convicted of or pleaded guilty to a 10772
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 10773
Code or former section 2907.12 of the Revised Code; 10774

(c) A violation of division (A) (4) of section 2907.05, of 10775
division (A) (3) of section 2907.24, or of division (A) (1) or (2) 10776
of section 2907.323 of the Revised Code; 10777

(d) A violation of division (A) (1), (2), (3), or (5) of 10778
section 2905.01 of the Revised Code when the offense is 10779

committed with a sexual motivation; 10780

(e) A violation of division (A) (4) of section 2905.01 of 10781
the Revised Code when the victim of the offense is eighteen 10782
years of age or older; 10783

(f) A violation of division (B) of section 2905.02 or of 10784
division (B) (5) of section 2919.22 of the Revised Code; 10785

(g) A violation of section 2905.32 of the Revised Code 10786
that is described in division (A) (11) (a), (b), or (c) of this 10787
section; 10788

(h) A violation of any former law of this state, any 10789
existing or former municipal ordinance or law of another state 10790
or the United States, any existing or former law applicable in a 10791
military court or in an Indian tribal court, or any existing or 10792
former law of any nation other than the United States that is or 10793
was substantially equivalent to any offense listed in division 10794
(F) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 10795

(i) Any attempt to commit, conspiracy to commit, or 10796
complicity in committing any offense listed in division (F) (1) 10797
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 10798

(j) Any sexually oriented offense that is committed after 10799
the sex offender previously has been convicted of, pleaded 10800
guilty to, or has been adjudicated a delinquent child for 10801
committing any sexually oriented offense or child-victim 10802
oriented offense for which the offender was classified a tier I 10803
sex offender/child-victim offender. 10804

(2) A child-victim offender who is convicted of, pleads 10805
guilty to, has been convicted of, or has pleaded guilty to any 10806
child-victim oriented offense when the child-victim oriented 10807
offense is committed after the child-victim offender previously 10808

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, 10839
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the 10840
child a tier I sex offender/child-victim offender or a tier III 10841
sex offender/child-victim offender relative to the offense. 10842

(G) "Tier III sex offender/child-victim offender" means 10843
any of the following: 10844

(1) A sex offender who is convicted of, pleads guilty to, 10845
has been convicted of, or has pleaded guilty to any of the 10846
following sexually oriented offenses: 10847

(a) A violation of section 2907.02 or 2907.03 of the 10848
Revised Code; 10849

(b) A violation of division (B) of section 2907.05 of the 10850
Revised Code; 10851

(c) A violation of section 2903.01, 2903.02, or 2903.11 of 10852
the Revised Code when the violation was committed with a sexual 10853
motivation; 10854

(d) A violation of division (A) of section 2903.04 of the 10855
Revised Code when the offender committed or attempted to commit 10856
the felony that is the basis of the violation with a sexual 10857
motivation; 10858

(e) A violation of division (A) (4) of section 2905.01 of 10859
the Revised Code when the victim of the offense is under 10860
eighteen years of age; 10861

(f) A violation of division (B) of section 2905.01 of the 10862
Revised Code when the victim of the offense is under eighteen 10863
years of age and the offender is not a parent of the victim of 10864
the offense; 10865

(g) A violation of division (B) of section 2903.03 of the 10866

Revised Code; 10867

(h) A violation of any former law of this state, any 10868
existing or former municipal ordinance or law of another state 10869
or the United States, any existing or former law applicable in a 10870
military court or in an Indian tribal court, or any existing or 10871
former law of any nation other than the United States that is or 10872
was substantially equivalent to any offense listed in division 10873
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 10874

(i) Any attempt to commit, conspiracy to commit, or 10875
complicity in committing any offense listed in division (G) (1) 10876
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 10877

(j) Any sexually oriented offense that is committed after 10878
the sex offender previously has been convicted of, pleaded 10879
guilty to, or been adjudicated a delinquent child for committing 10880
any sexually oriented offense or child-victim oriented offense 10881
for which the offender was classified a tier II sex 10882
offender/child-victim offender or a tier III sex offender/child- 10883
victim offender. 10884

(2) A child-victim offender who is convicted of, pleads 10885
guilty to, has been convicted of, or has pleaded guilty to any 10886
child-victim oriented offense when the child-victim oriented 10887
offense is committed after the child-victim offender previously 10888
has been convicted of, pleaded guilty to, or been adjudicated a 10889
delinquent child for committing any sexually oriented offense or 10890
child-victim oriented offense for which the offender was 10891
classified a tier II sex offender/child-victim offender or a 10892
tier III sex offender/child-victim offender. 10893

(3) A sex offender who is adjudicated a delinquent child 10894
for committing or has been adjudicated a delinquent child for 10895

committing any sexually oriented offense and who a juvenile 10896
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 10897
of the Revised Code, classifies a tier III sex offender/child- 10898
victim offender relative to the offense. 10899

(4) A child-victim offender who is adjudicated a 10900
delinquent child for committing or has been adjudicated a 10901
delinquent child for committing any child-victim oriented 10902
offense and whom a juvenile court, pursuant to section 2152.82, 10903
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 10904
tier III sex offender/child-victim offender relative to the 10905
current offense. 10906

(5) A sex offender or child-victim offender who is not in 10907
any category of tier III sex offender/child-victim offender set 10908
forth in division (G) (1), (2), (3), or (4) of this section, who 10909
prior to January 1, 2008, was convicted of or pleaded guilty to 10910
a sexually oriented offense or child-victim oriented offense or 10911
was adjudicated a delinquent child for committing a sexually 10912
oriented offense or child-victim oriented offense and classified 10913
a juvenile offender registrant, and who prior to that date was 10914
adjudicated a sexual predator or adjudicated a child-victim 10915
predator, unless either of the following applies: 10916

(a) The sex offender or child-victim offender is 10917
reclassified pursuant to section 2950.031 or 2950.032 of the 10918
Revised Code as a tier I sex offender/child-victim offender or a 10919
tier II sex offender/child-victim offender relative to the 10920
offense. 10921

(b) The sex offender or child-victim offender is a 10922
delinquent child, and a juvenile court, pursuant to section 10923
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 10924
classifies the child a tier I sex offender/child-victim offender 10925

or a tier II sex offender/child-victim offender relative to the 10926
offense. 10927

(6) A sex offender who is convicted of, pleads guilty to, 10928
was convicted of, or pleaded guilty to a sexually oriented 10929
offense, if the sexually oriented offense and the circumstances 10930
in which it was committed are such that division (F) of section 10931
2971.03 of the Revised Code automatically classifies the 10932
offender as a tier III sex offender/child-victim offender; 10933

(7) A sex offender or child-victim offender who is 10934
convicted of, pleads guilty to, was convicted of, pleaded guilty 10935
to, is adjudicated a delinquent child for committing, or was 10936
adjudicated a delinquent child for committing a sexually 10937
oriented offense or child-victim offense in another state, in a 10938
federal court, military court, or Indian tribal court, or in a 10939
court in any nation other than the United States if both of the 10940
following apply: 10941

(a) Under the law of the jurisdiction in which the 10942
offender was convicted or pleaded guilty or the delinquent child 10943
was adjudicated, the offender or delinquent child is in a 10944
category substantially equivalent to a category of tier III sex 10945
offender/child-victim offender described in division (G) (1), 10946
(2), (3), (4), (5), or (6) of this section. 10947

(b) Subsequent to the conviction, plea of guilty, or 10948
adjudication in the other jurisdiction, the offender or 10949
delinquent child resides, has temporary domicile, attends school 10950
or an institution of higher education, is employed, or intends 10951
to reside in this state in any manner and for any period of time 10952
that subjects the offender or delinquent child to a duty to 10953
register or provide notice of intent to reside under section 10954
2950.04 or 2950.041 of the Revised Code. 10955

(H) "Confinement" includes, but is not limited to, a community residential sanction imposed pursuant to section 2929.16 or 2929.26 of the Revised Code.

(I) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(J) "Supervised release" means a release of an offender from a prison term, a term of imprisonment, or another type of confinement that satisfies either of the following conditions:

(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.

(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.

(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.

(L) "Post-release control sanction" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code.

(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 10985
oriented offense, who is fourteen years of age or older at the 10986
time of committing the offense, and who a juvenile court judge, 10987
pursuant to an order issued under section 2152.82, 2152.83, 10988
2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a 10989
juvenile offender registrant and specifies has a duty to comply 10990
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 10991
Revised Code. "Juvenile offender registrant" includes a person 10992
who prior to January 1, 2008, was a "juvenile offender 10993
registrant" under the definition of the term in existence prior 10994
to January 1, 2008, and a person who prior to July 31, 2003, was 10995
a "juvenile sex offender registrant" under the former definition 10996
of that former term. 10997

(N) "Public registry-qualified juvenile offender 10998
registrant" means a person who is adjudicated a delinquent child 10999
and on whom a juvenile court has imposed a serious youthful 11000
offender dispositional sentence under section 2152.13 of the 11001
Revised Code before, on, or after January 1, 2008, and to whom 11002
all of the following apply: 11003

(1) The person is adjudicated a delinquent child for 11004
committing, attempting to commit, conspiring to commit, or 11005
complicity in committing one of the following acts: 11006

(a) A violation of section 2907.02 of the Revised Code, 11007
division (B) of section 2907.05 of the Revised Code, or section 11008
2907.03 of the Revised Code if the victim of the violation was 11009
less than twelve years of age; 11010

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 11011
the Revised Code that was committed with a purpose to gratify 11012
the sexual needs or desires of the child; 11013

(c) A violation of division (B) of section 2903.03 of the Revised Code. 11014
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(2) The person was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the act. 11016
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(3) A juvenile court judge, pursuant to an order issued under section 2152.86 of the Revised Code, classifies the person a juvenile offender registrant, specifies the person has a duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code, and classifies the person a public registry-qualified juvenile offender registrant, and the classification of the person as a public registry-qualified juvenile offender registrant has not been terminated pursuant to division (D) of section 2152.86 of the Revised Code. 11018
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(O) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are locked and under the exclusive control of its staff and to ensure that, because of that exclusive control, no person who is institutionalized or confined in the facility may leave the facility without permission or supervision. 11027
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(P) "Out-of-state juvenile offender registrant" means a person who is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a sexually oriented offense or a child-victim oriented offense, who on or after January 1, 2002, moves to and resides in this state or temporarily is domiciled in this state for more than five days, and who has a duty under section 2950.04 or 2950.041 of the Revised Code to register in this state and the duty to otherwise comply with that applicable section and sections 2950.05 and 2950.06 of the Revised Code. 11033
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"Out-of-state juvenile offender registrant" includes a person 11044
who prior to January 1, 2008, was an "out-of-state juvenile 11045
offender registrant" under the definition of the term in 11046
existence prior to January 1, 2008, and a person who prior to 11047
July 31, 2003, was an "out-of-state juvenile sex offender 11048
registrant" under the former definition of that former term. 11049

(Q) "Juvenile court judge" includes a magistrate to whom 11050
the juvenile court judge confers duties pursuant to division (A) 11051
(15) of section 2151.23 of the Revised Code. 11052

(R) "Adjudicated a delinquent child for committing a 11053
sexually oriented offense" includes a child who receives a 11054
serious youthful offender dispositional sentence under section 11055
2152.13 of the Revised Code for committing a sexually oriented 11056
offense. 11057

(S) "School" and "school premises" have the same meanings 11058
as in section 2925.01 of the Revised Code. 11059

(T) "Residential premises" means the building in which a 11060
residential unit is located and the grounds upon which that 11061
building stands, extending to the perimeter of the property. 11062
"Residential premises" includes any type of structure in which a 11063
residential unit is located, including, but not limited to, 11064
multi-unit buildings and mobile and manufactured homes. 11065

(U) "Residential unit" means a dwelling unit for 11066
residential use and occupancy, and includes the structure or 11067
part of a structure that is used as a home, residence, or 11068
sleeping place by one person who maintains a household or two or 11069
more persons who maintain a common household. "Residential unit" 11070
does not include a halfway house or a community-based 11071
correctional facility. 11072

(V) "Multi-unit building" means a building in which is 11073
located more than twelve residential units that have entry doors 11074
that open directly into the unit from a hallway that is shared 11075
with one or more other units. A residential unit is not 11076
considered located in a multi-unit building if the unit does not 11077
have an entry door that opens directly into the unit from a 11078
hallway that is shared with one or more other units or if the 11079
unit is in a building that is not a multi-unit building as 11080
described in this division. 11081

(W) "Community control sanction" has the same meaning as 11082
in section 2929.01 of the Revised Code. 11083

(X) "Halfway house" and "community-based correctional 11084
facility" have the same meanings as in section 2929.01 of the 11085
Revised Code. 11086

Sec. 2951.041. (A) (1) If an offender is charged with a 11087
criminal offense, including but not limited to a violation of 11088
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 11089
of the Revised Code, and the court has reason to believe that 11090
drug or alcohol usage by the offender was a factor leading to 11091
the criminal offense with which the offender is charged or that, 11092
at the time of committing that offense, the offender had a 11093
mental illness, was a person with an intellectual disability, or 11094
was a victim of a violation of section 2905.32 of the Revised 11095
Code and that the mental illness, status as a person with 11096
intellectual disability, or fact that the offender was a victim 11097
of a violation of section 2905.32 of the Revised Code was a 11098
factor leading to the offender's criminal behavior, the court 11099
may accept, prior to the entry of a guilty plea, the offender's 11100
request for intervention in lieu of conviction. The request 11101
shall include a statement from the offender as to whether the 11102

offender is alleging that drug or alcohol usage by the offender 11103
was a factor leading to the criminal offense with which the 11104
offender is charged or is alleging that, at the time of 11105
committing that offense, the offender had a mental illness, was 11106
a person with an intellectual disability, or was a victim of a 11107
violation of section 2905.32 of the Revised Code and that the 11108
mental illness, status as a person with an intellectual 11109
disability, or fact that the offender was a victim of a 11110
violation of section 2905.32 of the Revised Code was a factor 11111
leading to the criminal offense with which the offender is 11112
charged. The request also shall include a waiver of the 11113
defendant's right to a speedy trial, the preliminary hearing, 11114
the time period within which the grand jury may consider an 11115
indictment against the offender, and arraignment, unless the 11116
hearing, indictment, or arraignment has already occurred. The 11117
court may reject an offender's request without a hearing. If the 11118
court elects to consider an offender's request, the court shall 11119
conduct a hearing to determine whether the offender is eligible 11120
under this section for intervention in lieu of conviction and 11121
shall stay all criminal proceedings pending the outcome of the 11122
hearing. If the court schedules a hearing, the court shall order 11123
an assessment of the offender for the purpose of determining the 11124
offender's eligibility for intervention in lieu of conviction 11125
and recommending an appropriate intervention plan. 11126

If the offender alleges that drug or alcohol usage by the 11127
offender was a factor leading to the criminal offense with which 11128
the offender is charged, the court may order that the offender 11129
be assessed by a community addiction services provider or a 11130
properly credentialed professional for the purpose of 11131
determining the offender's eligibility for intervention in lieu 11132
of conviction and recommending an appropriate intervention plan. 11133

The community addiction services provider or the properly 11134
credentialed professional shall provide a written assessment of 11135
the offender to the court. 11136

(2) The victim notification provisions of division (C) of 11137
section 2930.06 of the Revised Code apply in relation to any 11138
hearing held under division (A)(1) of this section. 11139

(B) An offender is eligible for intervention in lieu of 11140
conviction if the court finds all of the following: 11141

(1) The offender previously has not been convicted of or 11142
pleaded guilty to a felony offense of violence or previously has 11143
been convicted of or pleaded guilty to any felony that is not an 11144
offense of violence and the prosecuting attorney recommends that 11145
the offender be found eligible for participation in intervention 11146
in lieu of treatment under this section, previously has not been 11147
through intervention in lieu of conviction under this section or 11148
any similar regimen, and is charged with a felony for which the 11149
court, upon conviction, would impose a community control 11150
sanction on the offender under division (B)(2) of section 11151
2929.13 of the Revised Code or with a misdemeanor. 11152

(2) The offense is not a felony of the first, second, or 11153
third degree, is not an offense of violence, is not a violation 11154
of division (A)(1) or (2) of section 2903.06 of the Revised 11155
Code, is not a violation of division (A)(1) of section 2903.08 11156
of the Revised Code, is not a violation of division (A) of 11157
section 4511.19 of the Revised Code or a municipal ordinance 11158
that is substantially similar to that division, and is not an 11159
offense for which a sentencing court is required to impose a 11160
mandatory prison term, a mandatory term of local incarceration, 11161
or a mandatory term of imprisonment in a jail. 11162

(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 or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan, the offender has been assessed by a community addiction services provider of that nature or a properly credentialed professional in accordance with the court's order, and the community addiction services provider or properly credentialed professional has filed the written assessment of the offender with the court.

(5) If an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the offender had a mental illness, was a person with an intellectual disability, or was a victim of a violation of section 2905.32 of the Revised Code and that the mental illness, status as a person with an intellectual disability, or fact that the offender was a victim of a violation of section 2905.32 of the Revised Code was a factor leading to that offense, the offender has been assessed by a psychiatrist, psychologist, independent social worker, licensed professional clinical counselor, or independent marriage and family therapist for the purpose of determining the

offender's eligibility for intervention in lieu of conviction 11194
and recommending an appropriate intervention plan. 11195

(6) The offender's drug usage, alcohol usage, mental 11196
illness, or intellectual disability, or the fact that the 11197
offender was a victim of a violation of section 2905.32 of the 11198
Revised Code, whichever is applicable, was a factor leading to 11199
the criminal offense with which the offender is charged, 11200
intervention in lieu of conviction would not demean the 11201
seriousness of the offense, and intervention would substantially 11202
reduce the likelihood of any future criminal activity. 11203

(7) The alleged victim of the offense was not sixty-five 11204
years of age or older, permanently and totally disabled, under 11205
thirteen years of age, or a peace officer engaged in the 11206
officer's official duties at the time of the alleged offense. 11207

(8) If the offender is charged with a violation of section 11208
2925.24 of the Revised Code, the alleged violation did not 11209
result in physical harm to any person, and the offender 11210
previously has not been treated for drug abuse. 11211

(9) The offender is willing to comply with all terms and 11212
conditions imposed by the court pursuant to division (D) of this 11213
section. 11214

(10) The offender is not charged with an offense that 11215
would result in the offender being disqualified under Chapter 11216
4506. of the Revised Code from operating a commercial motor 11217
vehicle or would subject the offender to any other sanction 11218
under that chapter. 11219

(C) At the conclusion of a hearing held pursuant to 11220
division (A) of this section, the court shall enter its 11221
determination as to whether the offender is eligible for 11222

intervention in lieu of conviction and as to whether to grant 11223
the offender's request. If the court finds under division (B) of 11224
this section that the offender is eligible for intervention in 11225
lieu of conviction and grants the offender's request, the court 11226
shall accept the offender's plea of guilty and waiver of the 11227
defendant's right to a speedy trial, the preliminary hearing, 11228
the time period within which the grand jury may consider an 11229
indictment against the offender, and arraignment, unless the 11230
hearing, indictment, or arraignment has already occurred. In 11231
addition, the court then may stay all criminal proceedings and 11232
order the offender to comply with all terms and conditions 11233
imposed by the court pursuant to division (D) of this section. 11234
If the court finds that the offender is not eligible or does not 11235
grant the offender's request, the criminal proceedings against 11236
the offender shall proceed as if the offender's request for 11237
intervention in lieu of conviction had not been made. 11238

(D) If the court grants an offender's request for 11239
intervention in lieu of conviction, the court shall place the 11240
offender under the general control and supervision of the county 11241
probation department, the adult parole authority, or another 11242
appropriate local probation or court services agency, if one 11243
exists, as if the offender was subject to a community control 11244
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 11245
the Revised Code. The court shall establish an intervention plan 11246
for the offender. The terms and conditions of the intervention 11247
plan shall require the offender, for at least one year from the 11248
date on which the court grants the order of intervention in lieu 11249
of conviction, to abstain from the use of illegal drugs and 11250
alcohol, to participate in treatment and recovery support 11251
services, and to submit to regular random testing for drug and 11252
alcohol use and may include any other treatment terms and 11253

conditions, or terms and conditions similar to community control 11254
sanctions, which may include community service or restitution, 11255
that are ordered by the court. 11256

(E) If the court grants an offender's request for 11257
intervention in lieu of conviction and the court finds that the 11258
offender has successfully completed the intervention plan for 11259
the offender, including the requirement that the offender 11260
abstain from using illegal drugs and alcohol for a period of at 11261
least one year from the date on which the court granted the 11262
order of intervention in lieu of conviction, the requirement 11263
that the offender participate in treatment and recovery support 11264
services, and all other terms and conditions ordered by the 11265
court, the court shall dismiss the proceedings against the 11266
offender. Successful completion of the intervention plan and 11267
period of abstinence under this section shall be without 11268
adjudication of guilt and is not a criminal conviction for 11269
purposes of any disqualification or disability imposed by law 11270
and upon conviction of a crime, and the court may order the 11271
sealing of records related to the offense in question in the 11272
manner provided in sections 2953.31 to 2953.36 of the Revised 11273
Code. 11274

(F) If the court grants an offender's request for 11275
intervention in lieu of conviction and the offender fails to 11276
comply with any term or condition imposed as part of the 11277
intervention plan for the offender, the supervising authority 11278
for the offender promptly shall advise the court of this 11279
failure, and the court shall hold a hearing to determine whether 11280
the offender failed to comply with any term or condition imposed 11281
as part of the plan. If the court determines that the offender 11282
has failed to comply with any of those terms and conditions, it 11283
shall enter a finding of guilty and shall impose an appropriate 11284

sanction under Chapter 2929. of the Revised Code. If the court 11285
sentences the offender to a prison term, the court, after 11286
consulting with the department of rehabilitation and correction 11287
regarding the availability of services, may order continued 11288
court-supervised activity and treatment of the offender during 11289
the prison term and, upon consideration of reports received from 11290
the department concerning the offender's progress in the program 11291
of activity and treatment, may consider judicial release under 11292
section 2929.20 of the Revised Code. 11293

(G) As used in this section: 11294

(1) "Community addiction services provider" has the same 11295
meaning as in section 5119.01 of the Revised Code. 11296

(2) "Community control sanction" has the same meaning as 11297
in section 2929.01 of the Revised Code. 11298

(3) "Intervention in lieu of conviction" means any court- 11299
supervised activity that complies with this section. 11300

(4) "Intellectual disability" has the same meaning as in 11301
section 5123.01 of the Revised Code. 11302

(5) "Peace officer" has the same meaning as in section 11303
2935.01 of the Revised Code. 11304

~~(5)~~ (6) "Mental illness" and "psychiatrist" have the same 11305
meanings as in section 5122.01 of the Revised Code. 11306

~~(6)~~ "Person with intellectual disability" means a person 11307
having significantly subaverage general intellectual functioning 11308
existing concurrently with deficiencies in adaptive behavior, 11309
manifested during the developmental period. 11310

(7) "Psychologist" has the same meaning as in section 11311
4732.01 of the Revised Code. 11312

~~(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.~~

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 intellectual disability subject to institutionalization by court order, as defined in section 5123.01 of the Revised Code, the parole or probation officer, subject to the approval of the chief of the adult parole authority, the designee of the chief of the adult parole authority, or the chief probation officer, may file an affidavit under section 5122.11 or 5123.71 of the Revised Code. A parolee, person under a community control sanction, or releasee who is involuntarily detained under Chapter 5122. or 5123. of the Revised Code shall receive credit against the period of parole or community control or the term of post-release control for the period of involuntary detention.

If a parolee, person under a community control sanction, person under transitional control, or releasee escapes from an institution or facility within the department of mental health and addiction services or the department of developmental disabilities, the superintendent of the institution immediately shall notify the chief of the adult parole authority or the chief probation officer. Notwithstanding the provisions of section 5122.26 of the Revised Code, the procedure for the apprehension, detention, and return of the parolee, person under a community control sanction, person under transitional control,

or releasee is the same as that provided for the apprehension, 11344
detention, and return of persons who escape from institutions 11345
operated by the department of rehabilitation and correction. If 11346
the escaped parolee, person under transitional control, or 11347
releasee is not apprehended and returned to the custody of the 11348
department of mental health and addiction services or the 11349
department of developmental disabilities within ninety days 11350
after the escape, the parolee, person under transitional 11351
control, or releasee shall be discharged from the custody of the 11352
department of mental health and addiction services or the 11353
department of developmental disabilities and returned to the 11354
custody of the department of rehabilitation and correction. If 11355
the escaped person under a community control sanction is not 11356
apprehended and returned to the custody of the department of 11357
mental health and addiction services or the department of 11358
developmental disabilities within ninety days after the escape, 11359
the person under a community control sanction shall be 11360
discharged from the custody of the department of mental health 11361
and addiction services or the department of developmental 11362
disabilities and returned to the custody of the court that 11363
sentenced that person. 11364

Sec. 3107.02. (A) Any minor may be adopted. 11365

(B) An adult may be adopted under any of the following 11366
conditions: 11367

(1) If the adult is totally or permanently disabled; 11368

(2) If the adult is determined to be a ~~mentally retarded~~ 11369
person with an intellectual disability; 11370

(3) If the adult had established a child-foster caregiver, 11371
kinship caregiver, or child-stepparent relationship with the 11372

petitioners as a minor, and the adult consents to the adoption; 11373

(4) If the adult was, at the time of the adult's 11374
eighteenth birthday, in the permanent custody of or in a planned 11375
permanent living arrangement with a public children services 11376
agency or a private child placing agency, and the adult consents 11377
to the adoption; 11378

(5) If the adult is the child of the spouse of the 11379
petitioner, and the adult consents to the adoption. 11380

(C) When proceedings to adopt a minor are initiated by the 11381
filing of a petition, and the eighteenth birthday of the minor 11382
occurs prior to the decision of the court, the court shall 11383
require the person who is to be adopted to submit a written 11384
statement of consent or objection to the adoption. If an 11385
objection is submitted, the petition shall be dismissed, and if 11386
a consent is submitted, the court shall proceed with the case, 11387
and may issue an interlocutory order or final decree of 11388
adoption. 11389

(D) Any physical examination of the individual to be 11390
adopted as part of or in contemplation of a petition to adopt 11391
may be conducted by any health professional authorized by the 11392
Revised Code to perform physical examinations, including a 11393
physician assistant, a clinical nurse specialist, a certified 11394
nurse practitioner, or a certified nurse-midwife. Any written 11395
documentation of the physical examination shall be completed by 11396
the healthcare professional who conducted the examination. 11397

(E) An adult who consents to an adoption pursuant to 11398
division (B) (4) of this section shall provide the court with the 11399
name and contact information of the public children services 11400
agency or private child placing agency that had permanent 11401

custody of or a planned permanent living arrangement with that 11402
adult. The petitioner shall request verification from the agency 11403
as to whether the adult was or was not in the permanent custody 11404
of or in a planned permanent living arrangement with that agency 11405
at the time of the adult's eighteenth birthday and provide the 11406
verification to the court. 11407

(F) As used in this section: 11408

(1) "Developmental disability" has the same meaning as in 11409
section 5123.01 of the Revised Code. 11410

(2) "Kinship caregiver" has the same meaning as in section 11411
5101.85 of the Revised Code. 11412

~~(2) "Mentally retarded person" has the same meaning as in~~ 11413
~~section 5123.01 of the Revised Code.~~ 11414

(3) "Permanent custody" and "planned permanent living 11415
arrangement" have the same meanings as in section 2151.011 of 11416
the Revised Code. 11417

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of 11418
the Revised Code: 11419

(A) "Preschool program" means either of the following: 11420

(1) A child care program for preschool children that is 11421
operated by a school district board of education or an eligible 11422
nonpublic school. 11423

(2) A child care program for preschool children age three 11424
or older that is operated by a county ~~DD~~ board of developmental 11425
disabilities or a community school. 11426

(B) "Preschool child" or "child" means a child who has not 11427
entered kindergarten and is not of compulsory school age. 11428

- (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. 11429
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- (D) "Superintendent" means the superintendent of a school district or the chief administrative officer of a community school or an eligible nonpublic school. 11432
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- (E) "Director" means the director, head teacher, elementary principal, or site administrator who is the individual on site and responsible for supervision of a preschool program. 11435
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- (F) "Preschool staff member" means a preschool employee whose primary responsibility is care, teaching, or supervision of preschool children. 11439
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- (G) "Nonteaching employee" means a preschool program or school child program employee whose primary responsibilities are duties other than care, teaching, and supervision of preschool children or school children. 11442
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- (H) "Eligible nonpublic school" means a nonpublic school chartered as described in division (B) (8) of section 5104.02 of the Revised Code or chartered by the state board of education for any combination of grades one through twelve, regardless of whether it also offers kindergarten. 11446
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- (I) ~~"County DD board" means a county board of developmental disabilities.~~ 11451
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- ~~(J)~~ "School child program" means a child care program for only school children that is operated by a school district board of education, county ~~DD~~ board of developmental disabilities, community school, or eligible nonpublic school. 11453
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~~(K)~~ (J) "School child" means a child who is enrolled in or 11457
is eligible to be enrolled in a grade of kindergarten or above 11458
but is less than fifteen years old. 11459

~~(L)~~ (K) "School child program staff member" means an 11460
employee whose primary responsibility is the care, teaching, or 11461
supervision of children in a school child program. 11462

~~(M)~~ (L) "Child care" means administering to the needs of 11463
infants, toddlers, preschool children, and school children 11464
outside of school hours by persons other than their parents or 11465
guardians, custodians, or relatives by blood, marriage, or 11466
adoption for any part of the twenty-four-hour day in a place or 11467
residence other than a child's own home. 11468

~~(N)~~ (M) "Child day-care center," "publicly funded child 11469
care," and "school-age child care center" have the same meanings 11470
as in section 5104.01 of the Revised Code. 11471

~~(O)~~ (N) "Community school" means either of the following: 11472

(1) A community school established under Chapter 3314. of 11473
the Revised Code that is sponsored by an entity that is rated 11474
"exemplary" under section 3314.016 of the Revised Code. 11475

(2) A community school established under Chapter 3314. of 11476
the Revised Code that has received, on its most recent report 11477
card, either of the following: 11478

(a) If the school offers any of grade levels four through 11479
twelve, a grade of "C" or better for the overall value-added 11480
progress dimension under division (C) (1) (e) of section 3302.03 11481
of the Revised Code and for the performance index score under 11482
division (C) (1) (b) of section 3302.03 of the Revised Code; 11483

(b) If the school does not offer a grade level higher than 11484

three, a grade of "C" or better for making progress in improving 11485
literacy in grades kindergarten through three under division (C) 11486
(1)(g) of section 3302.03 of the Revised Code. 11487

Sec. 3301.53. (A) The state board of education, in 11488
consultation with the director of job and family services, shall 11489
formulate and prescribe by rule adopted under Chapter 119. of 11490
the Revised Code minimum standards to be applied to preschool 11491
programs operated by school district boards of education, county 11492
~~DD~~ boards of developmental disabilities, community schools, or 11493
eligible nonpublic schools. The rules shall include the 11494
following: 11495

(1) Standards ensuring that the preschool program is 11496
located in a safe and convenient facility that accommodates the 11497
enrollment of the program, is of the quality to support the 11498
growth and development of the children according to the program 11499
objectives, and meets the requirements of section 3301.55 of the 11500
Revised Code; 11501

(2) Standards ensuring that supervision, discipline, and 11502
programs will be administered according to established 11503
objectives and procedures; 11504

(3) Standards ensuring that preschool staff members and 11505
nonteaching employees are recruited, employed, assigned, 11506
evaluated, and provided inservice education without 11507
discrimination on the basis of age, color, national origin, 11508
race, or sex; and that preschool staff members and nonteaching 11509
employees are assigned responsibilities in accordance with 11510
written position descriptions commensurate with their training 11511
and experience; 11512

(4) A requirement that boards of education intending to 11513

establish a preschool program demonstrate a need for a preschool program prior to establishing the program; 11514
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(5) Requirements that children participating in preschool programs have been immunized to the extent considered appropriate by the state board to prevent the spread of communicable disease; 11516
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(6) Requirements that the parents of preschool children complete the emergency medical authorization form specified in section 3313.712 of the Revised Code. 11520
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11522

(B) The state board of education in consultation with the director of job and family services shall ensure that the rules adopted by the state board under sections 3301.52 to 3301.58 of the Revised Code are consistent with and meet or exceed the requirements of Chapter 5104. of the Revised Code with regard to child day-care centers. The state board and the director of job and family services shall review all such rules at least once every five years. 11523
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(C) The state board of education, in consultation with the director of job and family services, shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for school-age child care centers under Chapter 5104. of the Revised Code. 11531
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Sec. 3301.55. (A) A school district, county ~~DD~~board of developmental disabilities, community school, or eligible nonpublic school operating a preschool program shall house the program in buildings that meet the following requirements: 11536
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(1) The building is operated by the district, county ~~DD~~board of developmental disabilities, community school, or eligible nonpublic school and has been approved by the division 11540
11541
11542

of industrial compliance in the department of commerce or a 11543
certified municipal, township, or county building department for 11544
the purpose of operating a program for preschool children. Any 11545
such structure shall be constructed, equipped, repaired, 11546
altered, and maintained in accordance with applicable provisions 11547
of Chapters 3781. and 3791. and with rules adopted by the board 11548
of building standards under Chapter 3781. of the Revised Code 11549
for the safety and sanitation of structures erected for this 11550
purpose. 11551

(2) The building is in compliance with fire and safety 11552
laws and regulations as evidenced by reports of annual school 11553
fire and safety inspections as conducted by appropriate local 11554
authorities. 11555

(3) The school is in compliance with rules established by 11556
the state board of education regarding school food services. 11557

(4) The facility includes not less than thirty-five square 11558
feet of indoor space for each child in the program. Safe play 11559
space, including both indoor and outdoor play space, totaling 11560
not less than sixty square feet for each child using the space 11561
at any one time, shall be regularly available and scheduled for 11562
use. 11563

(5) First aid facilities and space for temporary placement 11564
or isolation of injured or ill children are provided. 11565

(B) Each school district, county ~~DD~~ board of developmental 11566
disabilities, community school, or eligible nonpublic school 11567
that operates, or proposes to operate, a preschool program shall 11568
submit a building plan including all information specified by 11569
the state board of education to the board not later than the 11570
first day of September of the school year in which the program 11571

is to be initiated. The board shall determine whether the 11572
buildings meet the requirements of this section and section 11573
3301.53 of the Revised Code, and notify the superintendent of 11574
its determination. If the board determines, on the basis of the 11575
building plan or any other information, that the buildings do 11576
not meet those requirements, it shall cause the buildings to be 11577
inspected by the department of education. The department shall 11578
make a report to the superintendent specifying any aspects of 11579
the building that are not in compliance with the requirements of 11580
this section and section 3301.53 of the Revised Code and the 11581
time period that will be allowed the district, county ~~DD~~-board 11582
of developmental disabilities, or school to meet the 11583
requirements. 11584

Sec. 3301.57. (A) For the purpose of improving programs, 11585
facilities, and implementation of the standards promulgated by 11586
the state board of education under section 3301.53 of the 11587
Revised Code, the state department of education shall provide 11588
consultation and technical assistance to school districts, 11589
county ~~DD~~-boards of developmental disabilities, community 11590
schools, and eligible nonpublic schools operating preschool 11591
programs or school child programs, and inservice training to 11592
preschool staff members, school child program staff members, and 11593
nonteaching employees. 11594

(B) The department and the school district board of 11595
education, county ~~DD~~-board of developmental disabilities, 11596
community school, or eligible nonpublic school shall jointly 11597
monitor each preschool program and each school child program. 11598

If the program receives any grant or other funding from 11599
the state or federal government, the department annually shall 11600
monitor all reports on attendance, financial support, and 11601

expenditures according to provisions for use of the funds. 11602

(C) The department of education, at least once during 11603
every twelve-month period of operation of a preschool program or 11604
a licensed school child program, shall inspect the program and 11605
provide a written inspection report to the superintendent of the 11606
school district, county ~~DD~~board of developmental disabilities, 11607
community school, or eligible nonpublic school. The department 11608
may inspect any program more than once, as considered necessary 11609
by the department, during any twelve-month period of operation. 11610
All inspections may be unannounced. No person shall interfere 11611
with any inspection conducted pursuant to this division or to 11612
the rules adopted pursuant to sections 3301.52 to 3301.59 of the 11613
Revised Code. 11614

Upon receipt of any complaint that a preschool program or 11615
a licensed school child program is out of compliance with the 11616
requirements in sections 3301.52 to 3301.59 of the Revised Code 11617
or the rules adopted under those sections, the department shall 11618
investigate and may inspect the program. 11619

(D) If a preschool program or a licensed school child 11620
program is determined to be out of compliance with the 11621
requirements of sections 3301.52 to 3301.59 of the Revised Code 11622
or the rules adopted under those sections, the department of 11623
education shall notify the appropriate superintendent, county ~~DD~~
board of developmental disabilities, community school, or 11624
eligible nonpublic school in writing regarding the nature of the 11625
violation, what must be done to correct the violation, and by 11626
what date the correction must be made. If the correction is not 11627
made by the date established by the department, it may commence 11628
action under Chapter 119. of the Revised Code to close the 11629
program or to revoke the license of the program. If a program 11630
11631

does not comply with an order to cease operation issued in 11632
accordance with Chapter 119. of the Revised Code, the department 11633
shall notify the attorney general, the prosecuting attorney of 11634
the county in which the program is located, or the city 11635
attorney, village solicitor, or other chief legal officer of the 11636
municipal corporation in which the program is located that the 11637
program is operating in violation of sections 3301.52 to 3301.59 11638
of the Revised Code or the rules adopted under those sections 11639
and in violation of an order to cease operation issued in 11640
accordance with Chapter 119. of the Revised Code. Upon receipt 11641
of the notification, the attorney general, prosecuting attorney, 11642
city attorney, village solicitor, or other chief legal officer 11643
shall file a complaint in the court of common pleas of the 11644
county in which the program is located requesting the court to 11645
issue an order enjoining the program from operating. The court 11646
shall grant the requested injunctive relief upon a showing that 11647
the program named in the complaint is operating in violation of 11648
sections 3301.52 to 3301.59 of the Revised Code or the rules 11649
adopted under those sections and in violation of an order to 11650
cease operation issued in accordance with Chapter 119. of the 11651
Revised Code. 11652

(E) The department of education shall prepare an annual 11653
report on inspections conducted under this section. The report 11654
shall include the number of inspections conducted, the number 11655
and types of violations found, and the steps taken to address 11656
the violations. The department shall file the report with the 11657
governor, the president and minority leader of the senate, and 11658
the speaker and minority leader of the house of representatives 11659
on or before the first day of January of each year, beginning in 11660
1999. 11661

Sec. 3301.58. (A) The department of education is 11662

responsible for the licensing of preschool programs and school 11663
child programs and for the enforcement of sections 3301.52 to 11664
3301.59 of the Revised Code and of any rules adopted under those 11665
sections. No school district board of education, county ~~DD~~-board 11666
of developmental disabilities, community school, or eligible 11667
nonpublic school shall operate, establish, manage, conduct, or 11668
maintain a preschool program without a license issued under this 11669
section. A school district board of education, county ~~DD~~-board 11670
of developmental disabilities, community school, or eligible 11671
nonpublic school may obtain a license under this section for a 11672
school child program. The school district board of education, 11673
county ~~DD~~-board of developmental disabilities, community school, 11674
or eligible nonpublic school shall post the license for each 11675
preschool program and licensed school child program it operates, 11676
establishes, manages, conducts, or maintains in a conspicuous 11677
place in the preschool program or licensed school child program 11678
that is accessible to parents, custodians, or guardians and 11679
employees and staff members of the program at all times when the 11680
program is in operation. 11681

(B) Any school district board of education, county ~~DD~~- 11682
board of developmental disabilities, community school, or 11683
eligible nonpublic school that desires to operate, establish, 11684
manage, conduct, or maintain a preschool program shall apply to 11685
the department of education for a license on a form that the 11686
department shall prescribe by rule. Any school district board of 11687
education, county ~~DD~~-board of developmental disabilities, 11688
community school, or eligible nonpublic school that desires to 11689
obtain a license for a school child program shall apply to the 11690
department for a license on a form that the department shall 11691
prescribe by rule. The department shall provide at no charge to 11692
each applicant for a license under this section a copy of the 11693

requirements under sections 3301.52 to 3301.59 of the Revised 11694
Code and any rules adopted under those sections. The department 11695
may establish application fees by rule adopted under Chapter 11696
119. of the Revised Code, and all applicants for a license shall 11697
pay any fee established by the department at the time of making 11698
an application for a license. All fees collected pursuant to 11699
this section shall be paid into the state treasury to the credit 11700
of the general revenue fund. 11701

(C) Upon the filing of an application for a license, the 11702
department of education shall investigate and inspect the 11703
preschool program or school child program to determine the 11704
license capacity for each age category of children of the 11705
program and to determine whether the program complies with 11706
sections 3301.52 to 3301.59 of the Revised Code and any rules 11707
adopted under those sections. When, after investigation and 11708
inspection, the department of education is satisfied that 11709
sections 3301.52 to 3301.59 of the Revised Code and any rules 11710
adopted under those sections are complied with by the applicant, 11711
the department of education shall issue the program a 11712
provisional license as soon as practicable in the form and 11713
manner prescribed by the rules of the department. The 11714
provisional license shall be valid for one year from the date of 11715
issuance unless revoked. 11716

(D) The department of education shall investigate and 11717
inspect a preschool program or school child program that has 11718
been issued a provisional license at least once during operation 11719
under the provisional license. If, after the investigation and 11720
inspection, the department of education determines that the 11721
requirements of sections 3301.52 to 3301.59 of the Revised Code 11722
and any rules adopted under those sections are met by the 11723
provisional licensee, the department of education shall issue 11724

the program a license. The license shall remain valid unless 11725
revoked or the program ceases operations. 11726

(E) The department of education annually shall investigate 11727
and inspect each preschool program or school child program 11728
licensed under division (D) of this section to determine if the 11729
requirements of sections 3301.52 to 3301.59 of the Revised Code 11730
and any rules adopted under those sections are met by the 11731
program, and shall notify the program of the results. 11732

(F) The license or provisional license shall state the 11733
name of the school district board of education, county ~~DD~~ board 11734
of developmental disabilities, community school, or eligible 11735
nonpublic school that operates the preschool program or school 11736
child program and the license capacity of the program. 11737

(G) The department of education may revoke the license of 11738
any preschool program or school child program that is not in 11739
compliance with the requirements of sections 3301.52 to 3301.59 11740
of the Revised Code and any rules adopted under those sections. 11741

(H) If the department of education revokes a license, the 11742
department shall not issue a license to the program within two 11743
years from the date of the revocation. All actions of the 11744
department with respect to licensing preschool programs and 11745
school child programs shall be in accordance with Chapter 119. 11746
of the Revised Code. 11747

Sec. 3314.022. The governing authority of any community 11748
school established under this chapter may contract with the 11749
governing authority of another community school, the board of 11750
education of a school district, the governing board of an 11751
educational service center, a county ~~DD~~ board of developmental 11752
disabilities, or the administrative authority of a nonpublic 11753

school for provision of services for any disabled student 11754
enrolled at the school. Any school district board of education 11755
or educational service center governing board shall negotiate 11756
with a community school governing authority that seeks to 11757
contract for the provision of services for a disabled student 11758
under this section in the same manner as it would with the board 11759
of education of a school district that seeks to contract for 11760
such services. 11761

Sec. 3317.02. As used in this chapter: 11762

(A) (1) "Category one career-technical education ADM" means 11763
the enrollment of students during the school year on a full-time 11764
equivalency basis in career-technical education programs 11765
described in division (A) of section 3317.014 of the Revised 11766
Code and certified under division (B) (11) or (D) (2) (h) of 11767
section 3317.03 of the Revised Code. 11768

(2) "Category two career-technical education ADM" means 11769
the enrollment of students during the school year on a full-time 11770
equivalency basis in career-technical education programs 11771
described in division (B) of section 3317.014 of the Revised 11772
Code and certified under division (B) (12) or (D) (2) (i) of 11773
section 3317.03 of the Revised Code. 11774

(3) "Category three career-technical education ADM" means 11775
the enrollment of students during the school year on a full-time 11776
equivalency basis in career-technical education programs 11777
described in division (C) of section 3317.014 of the Revised 11778
Code and certified under division (B) (13) or (D) (2) (j) of 11779
section 3317.03 of the Revised Code. 11780

(4) "Category four career-technical education ADM" means 11781
the enrollment of students during the school year on a full-time 11782

equivalency basis in career-technical education programs 11783
described in division (D) of section 3317.014 of the Revised 11784
Code and certified under division (B) (14) or (D) (2) (k) of 11785
section 3317.03 of the Revised Code. 11786

(5) "Category five career-technical education ADM" means 11787
the enrollment of students during the school year on a full-time 11788
equivalency basis in career-technical education programs 11789
described in division (E) of section 3317.014 of the Revised 11790
Code and certified under division (B) (15) or (D) (2) (l) of 11791
section 3317.03 of the Revised Code. 11792

(B) (1) "Category one limited English proficient ADM" means 11793
the full-time equivalent number of limited English proficient 11794
students described in division (A) of section 3317.016 of the 11795
Revised Code and certified under division (B) (16) or (D) (2) (m) 11796
of section 3317.03 of the Revised Code. 11797

(2) "Category two limited English proficient ADM" means 11798
the full-time equivalent number of limited English proficient 11799
students described in division (B) of section 3317.016 of the 11800
Revised Code and certified under division (B) (17) or (D) (2) (n) 11801
of section 3317.03 of the Revised Code. 11802

(3) "Category three limited English proficient ADM" means 11803
the full-time equivalent number of limited English proficient 11804
students described in division (C) of section 3317.016 of the 11805
Revised Code and certified under division (B) (18) or (D) (2) (o) 11806
of section 3317.03 of the Revised Code. 11807

(C) (1) "Category one special education ADM" means the 11808
full-time equivalent number of children with disabilities 11809
receiving special education services for the disability 11810
specified in division (A) of section 3317.013 of the Revised 11811

Code and certified under division (B) (5) or (D) (2) (b) of section 11812
3317.03 of the Revised Code. 11813

(2) "Category two special education ADM" means the full- 11814
time equivalent number of children with disabilities receiving 11815
special education services for those disabilities specified in 11816
division (B) of section 3317.013 of the Revised Code and 11817
certified under division (B) (6) or (D) (2) (c) of section 3317.03 11818
of the Revised Code. 11819

(3) "Category three special education ADM" means the full- 11820
time equivalent number of students receiving special education 11821
services for those disabilities specified in division (C) of 11822
section 3317.013 of the Revised Code, and certified under 11823
division (B) (7) or (D) (2) (d) of section 3317.03 of the Revised 11824
Code. 11825

(4) "Category four special education ADM" means the full- 11826
time equivalent number of students receiving special education 11827
services for those disabilities specified in division (D) of 11828
section 3317.013 of the Revised Code and certified under 11829
division (B) (8) or (D) (2) (e) of section 3317.03 of the Revised 11830
Code. 11831

(5) "Category five special education ADM" means the full- 11832
time equivalent number of students receiving special education 11833
services for the disabilities specified in division (E) of 11834
section 3317.013 of the Revised Code and certified under 11835
division (B) (9) or (D) (2) (f) of section 3317.03 of the Revised 11836
Code. 11837

(6) "Category six special education ADM" means the full- 11838
time equivalent number of students receiving special education 11839
services for the disabilities specified in division (F) of 11840

section 3317.013 of the Revised Code and certified under 11841
division (B) (10) or (D) (2) (g) of section 3317.03 of the Revised 11842
Code. 11843

~~(D) "County DD board" means a county board of 11844
developmental disabilities. 11845~~

~~(E)~~ "Economically disadvantaged index for a school 11846
district" means the square of the quotient of that district's 11847
percentage of students in its total ADM who are identified as 11848
economically disadvantaged as defined by the department of 11849
education, divided by the percentage of students in the 11850
statewide total ADM identified as economically disadvantaged. 11851
For purposes of this calculation: 11852

(1) For a city, local, or exempted village school 11853
district, the "statewide total ADM" equals the sum of the total 11854
ADM for all city, local, and exempted village school districts 11855
combined. 11856

(2) For a joint vocational school district, the "statewide 11857
total ADM" equals the sum of the formula ADM for all joint 11858
vocational school districts combined. 11859

~~(F)~~ (E) (1) "Formula ADM" means, for a city, local, or 11860
exempted village school district, the enrollment reported under 11861
division (A) of section 3317.03 of the Revised Code, as verified 11862
by the superintendent of public instruction and adjusted if so 11863
ordered under division (K) of that section, and as further 11864
adjusted by the department of education, as follows: 11865

(a) Count only twenty per cent of the number of joint 11866
vocational school district students counted under division (A) 11867

(3) of section 3317.03 of the Revised Code; 11868

(b) Add twenty per cent of the number of students who are 11869

entitled to attend school in the district under section 3313.64 11870
or 3313.65 of the Revised Code and are enrolled in another 11871
school district under a career-technical education compact. 11872

(2) "Formula ADM" means, for a joint vocational school 11873
district, the final number verified by the superintendent of 11874
public instruction, based on the enrollment reported and 11875
certified under division (D) of section 3317.03 of the Revised 11876
Code, as adjusted, if so ordered, under division (K) of that 11877
section. 11878

~~(G)~~(F) "Formula amount" means \$5,900, for fiscal year 11879
2016, and \$6,000, for fiscal year 2017. 11880

~~(H)~~(G) "FTE basis" means a count of students based on 11881
full-time equivalency, in accordance with rules adopted by the 11882
department of education pursuant to section 3317.03 of the 11883
Revised Code. In adopting its rules under this division, the 11884
department shall provide for counting any student in category 11885
one, two, three, four, five, or six special education ADM or in 11886
category one, two, three, four, or five career technical 11887
education ADM in the same proportion the student is counted in 11888
formula ADM. 11889

~~(I)~~(H) "Internet- or computer-based community school" has 11890
the same meaning as in section 3314.02 of the Revised Code. 11891

~~(J)~~(I) "Medically fragile child" means a child to whom 11892
all of the following apply: 11893

(1) The child requires the services of a doctor of 11894
medicine or osteopathic medicine at least once a week due to the 11895
instability of the child's medical condition. 11896

(2) The child requires the services of a registered nurse 11897
on a daily basis. 11898

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities.

~~(K)~~ (J) (1) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education and if either of the following apply:

(a) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child."

(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	11928
(B) (3) (h) of section 3317.03 of the Revised Code.	11929
(N) <u>(M)</u> "Related services" includes:	11930
(1) Child study, special education supervisors and	11931
coordinators, speech and hearing services, adaptive physical	11932
development services, occupational or physical therapy, teacher	11933
assistants for children with disabilities whose disabilities are	11934
described in division (B) of section 3317.013 or division (B) (3)	11935
of this section, behavioral intervention, interpreter services,	11936
work study, nursing services, and specialized integrative	11937
services as those terms are defined by the department;	11938
(2) Speech and language services provided to any student	11939
with a disability, including any student whose primary or only	11940
disability is a speech and language disability;	11941
(3) Any related service not specifically covered by other	11942
state funds but specified in federal law, including but not	11943
limited to, audiology and school psychological services;	11944
(4) Any service included in units funded under former	11945
division (O) (1) of section 3317.024 of the Revised Code;	11946
(5) Any other related service needed by children with	11947
disabilities in accordance with their individualized education	11948
programs.	11949
(O) <u>(N)</u> "School district," unless otherwise specified,	11950
means city, local, and exempted village school districts.	11951
(P) <u>(O)</u> "State education aid" has the same meaning as in	11952
section 5751.20 of the Revised Code.	11953
(Q) <u>(P)</u> "State share index" means the state share index	11954
calculated for a district under section 3317.017 of the Revised	11955

Code. 11956

~~(R)~~(Q) "Taxes charged and payable" means the taxes 11957
charged and payable against real and public utility property 11958
after making the reduction required by section 319.301 of the 11959
Revised Code, plus the taxes levied against tangible personal 11960
property. 11961

~~(S)~~(R) (1) For purposes of section 3317.017 of the Revised 11962
Code, "three-year average valuation" means the average of total 11963
taxable value for tax years 2012, 2013, and 2014. 11964

(2) For purposes of section 3317.018 of the Revised Code, 11965
"three-year average valuation" means the following: 11966

(a) For fiscal year 2016, the average of total taxable 11967
value for tax years 2013, 2014, and 2015; 11968

(b) For fiscal year 2017, the average of total taxable 11969
value for tax years 2014, 2015, and 2016. 11970

(3) For purposes of sections 3317.0217, 3317.0218, and 11971
3317.16 of the Revised Code, "three-year average valuation" 11972
means the following: 11973

(a) For fiscal year 2016, the average of total taxable 11974
value for tax years 2012, 2013, and 2014; 11975

(b) For fiscal year 2017, the average of total taxable 11976
value for tax years 2013, 2014, and 2015. 11977

~~(T)~~(S) "Total ADM" means, for a city, local, or exempted 11978
village school district, the enrollment reported under division 11979
(A) of section 3317.03 of the Revised Code, as verified by the 11980
superintendent of public instruction and adjusted if so ordered 11981
under division (K) of that section. 11982

~~(U)~~-(T) "Total special education ADM" means the sum of 11983
categories one through six special education ADM. 11984

~~(V)~~-(U) "Total taxable value" means the sum of the amounts 11985
certified for a city, local, exempted village, or joint 11986
vocational school district under divisions (A)(1) and (2) of 11987
section 3317.021 of the Revised Code. 11988

Sec. 3317.024. The following shall be distributed monthly, 11989
quarterly, or annually as may be determined by the state board 11990
of education: 11991

(A) An amount for each island school district and each 11992
joint state school district for the operation of each high 11993
school and each elementary school maintained within such 11994
district and for capital improvements for such schools. Such 11995
amounts shall be determined on the basis of standards adopted by 11996
the state board of education. However, for fiscal years 2012 and 11997
2013, an island district shall receive the lesser of its actual 11998
cost of operation, as certified to the department of education, 11999
or ninety-three per cent of the amount the district received in 12000
state operating funding for fiscal year 2011. If an island 12001
district received no funding for fiscal year 2011, it shall 12002
receive no funding for either of fiscal year 2012 or 2013. 12003

(B) An amount for each school district required to pay 12004
tuition for a child in an institution maintained by the 12005
department of youth services pursuant to section 3317.082 of the 12006
Revised Code, provided the child was not included in the 12007
calculation of the district's formula ADM, as that term is 12008
defined in section 3317.02 of the Revised Code, for the 12009
preceding school year. 12010

(C) An amount for the approved cost of transporting 12011

eligible pupils with disabilities attending a special education 12012
program approved by the department of education whom it is 12013
impossible or impractical to transport by regular school bus in 12014
the course of regular route transportation provided by the 12015
school district or educational service center. No district or 12016
service center is eligible to receive a payment under this 12017
division for the cost of transporting any pupil whom it 12018
transports by regular school bus and who is included in the 12019
district's transportation ADM. The state board of education 12020
shall establish standards and guidelines for use by the 12021
department of education in determining the approved cost of such 12022
transportation for each district or service center. 12023

(D) An amount to each school district, including each 12024
cooperative education school district, pursuant to section 12025
3313.81 of the Revised Code to assist in providing free lunches 12026
to needy children. The amounts shall be determined on the basis 12027
of rules adopted by the state board of education. 12028

(E) An amount to each school district, for each pupil 12029
attending a chartered nonpublic elementary or high school within 12030
the district. The amount shall equal the amount appropriated for 12031
the implementation of section 3317.06 of the Revised Code 12032
divided by the average daily membership in grades kindergarten 12033
through twelve in nonpublic elementary and high schools within 12034
the state as determined as of the last day of October of each 12035
school year. 12036

(F) An amount for each county ~~DD~~board of developmental 12037
disabilities, distributed on the basis of standards adopted by 12038
the state board of education, for the approved cost of 12039
transportation required for children attending special education 12040
programs operated by the county ~~DD~~board under section 3323.09 12041

of the Revised Code; 12042

(G) An amount to each institution defined under section 12043
3317.082 of the Revised Code providing elementary or secondary 12044
education to children other than children receiving special 12045
education under section 3323.091 of the Revised Code. This 12046
amount for any institution in any fiscal year shall equal the 12047
total of all tuition amounts required to be paid to the 12048
institution under division (A) (1) of section 3317.082 of the 12049
Revised Code. 12050

The state board of education or any other board of 12051
education or governing board may provide for any resident of a 12052
district or educational service center territory any educational 12053
service for which funds are made available to the board by the 12054
United States under the authority of public law, whether such 12055
funds come directly or indirectly from the United States or any 12056
agency or department thereof or through the state or any agency, 12057
department, or political subdivision thereof. 12058

Sec. 3317.03. (A) The superintendent of each city, local, 12059
and exempted village school district shall report to the state 12060
board of education as of the last day of October, March, and 12061
June of each year the enrollment of students receiving services 12062
from schools under the superintendent's supervision, and the 12063
numbers of other students entitled to attend school in the 12064
district under section 3313.64 or 3313.65 of the Revised Code 12065
the superintendent is required to report under this section, so 12066
that the department of education can calculate the district's 12067
formula ADM, total ADM, category one through five career- 12068
technical education ADM, category one through three limited 12069
English proficient ADM, category one through six special 12070
education ADM, preschool scholarship ADM, transportation ADM, 12071

and, for purposes of provisions of law outside of Chapter 3317. 12072
of the Revised Code, average daily membership. 12073

(1) The enrollment reported by the superintendent during 12074
the reporting period shall consist of the number of students in 12075
grades kindergarten through twelve receiving any educational 12076
services from the district, except that the following categories 12077
of students shall not be included in the determination: 12078

(a) Students enrolled in adult education classes; 12079

(b) Adjacent or other district students enrolled in the 12080
district under an open enrollment policy pursuant to section 12081
3313.98 of the Revised Code; 12082

(c) Students receiving services in the district pursuant 12083
to a compact, cooperative education agreement, or a contract, 12084
but who are entitled to attend school in another district 12085
pursuant to section 3313.64 or 3313.65 of the Revised Code; 12086

(d) Students for whom tuition is payable pursuant to 12087
sections 3317.081 and 3323.141 of the Revised Code; 12088

(e) Students receiving services in the district through a 12089
scholarship awarded under either section 3310.41 or sections 12090
3310.51 to 3310.64 of the Revised Code. 12091

When reporting students under division (A) (1) of this 12092
section, the superintendent also shall report the district where 12093
each student is entitled to attend school pursuant to sections 12094
3313.64 and 3313.65 of the Revised Code. 12095

(2) The department of education shall compile a list of 12096
all students reported to be enrolled in a district under 12097
division (A) (1) of this section and of the students entitled to 12098
attend school in the district pursuant to section 3313.64 or 12099

3313.65 of the Revised Code on an FTE basis but receiving	12100
educational services in grades kindergarten through twelve from	12101
one or more of the following entities:	12102
(a) A community school pursuant to Chapter 3314. of the	12103
Revised Code, including any participation in a college pursuant	12104
to Chapter 3365. of the Revised Code while enrolled in such	12105
community school;	12106
(b) An alternative school pursuant to sections 3313.974 to	12107
3313.979 of the Revised Code as described in division (I) (2) (a)	12108
or (b) of this section;	12109
(c) A college pursuant to Chapter 3365. of the Revised	12110
Code, except when the student is enrolled in the college while	12111
also enrolled in a community school pursuant to Chapter 3314., a	12112
science, technology, engineering, and mathematics school	12113
established under Chapter 3326., or a college-preparatory	12114
boarding school established under Chapter 3328. of the Revised	12115
Code;	12116
(d) An adjacent or other school district under an open	12117
enrollment policy adopted pursuant to section 3313.98 of the	12118
Revised Code;	12119
(e) An educational service center or cooperative education	12120
district;	12121
(f) Another school district under a cooperative education	12122
agreement, compact, or contract;	12123
(g) A chartered nonpublic school with a scholarship paid	12124
under section 3310.08 of the Revised Code, if the students	12125
qualified for the scholarship under section 3310.03 of the	12126
Revised Code;	12127

(h) 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.

As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 or 3310.51 of the Revised Code, as applicable.

(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.

(3) The department also shall compile a list of the students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in a joint vocational school district or under a career-technical education compact, excluding any students so entitled to attend school in the district who are enrolled in another school district through an open enrollment policy as reported under division (A) (2) (d) of this section and then enroll in a joint vocational school district or under a career-technical education compact.

The department shall provide each city, local, and exempted village school district with an opportunity to review the list of students compiled under divisions (A) (2) and (3) of this section to ensure that the students reported accurately reflect the enrollment of students in the district.

(B) To enable the department of education to obtain the 12157
data needed to complete the calculation of payments pursuant to 12158
this chapter, each superintendent shall certify from the reports 12159
provided by the department under division (A) of this section 12160
all of the following: 12161

(1) The total student enrollment in regular learning day 12162
classes included in the report under division (A) (1) or (2) of 12163
this section for each of the individual grades kindergarten 12164
through twelve in schools under the superintendent's 12165
supervision; 12166

(2) The unduplicated count of the number of preschool 12167
children with disabilities enrolled in the district for whom the 12168
district is eligible to receive funding under section 3317.0213 12169
of the Revised Code adjusted for the portion of the year each 12170
child is so enrolled, in accordance with the disability 12171
categories prescribed in section 3317.013 of the Revised Code; 12172

(3) The number of children entitled to attend school in 12173
the district pursuant to section 3313.64 or 3313.65 of the 12174
Revised Code who are: 12175

(a) Participating in a pilot project scholarship program 12176
established under sections 3313.974 to 3313.979 of the Revised 12177
Code as described in division (I) (2) (a) or (b) of this section; 12178

(b) Enrolled in a college under Chapter 3365. of the 12179
Revised Code, except when the student is enrolled in the college 12180
while also enrolled in a community school pursuant to Chapter 12181
3314. of the Revised Code, a science, technology, engineering, 12182
and mathematics school established under Chapter 3326., or a 12183
college-preparatory boarding school established under Chapter 12184
3328. of the Revised Code; 12185

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;	12186 12187
(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;	12188 12189 12190 12191 12192 12193
(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;	12194 12195 12196 12197
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code and who qualified for the scholarship under section 3310.03 of the Revised Code;	12198 12199 12200 12201
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	12202 12203 12204 12205
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	12206 12207 12208 12209
(i) Participating in a program operated by a county DD- <u>board of developmental disabilities</u> or a state institution;	12210 12211
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant	12212 12213 12214

to Chapter 3365. of the Revised Code while enrolled in the	12215
school;	12216
(k) Enrolled in a college-preparatory boarding school	12217
established under Chapter 3328. of the Revised Code, including	12218
any participation in a college pursuant to Chapter 3365. of the	12219
Revised Code while enrolled in the school;	12220
(1) Enrolled in an alternative public provider or a	12221
registered private provider with a scholarship awarded under	12222
sections 3310.51 to 3310.64 of the Revised Code.	12223
(4) The total enrollment of pupils in joint vocational	12224
schools;	12225
(5) The combined enrollment of children with disabilities	12226
reported under division (A) (1) or (2) of this section receiving	12227
special education services for the category one disability	12228
described in division (A) of section 3317.013 of the Revised	12229
Code, including children attending a special education program	12230
operated by an alternative public provider or a registered	12231
private provider with a scholarship awarded under sections	12232
3310.51 to 3310.64 of the Revised Code;	12233
(6) The combined enrollment of children with disabilities	12234
reported under division (A) (1) or (2) of this section receiving	12235
special education services for category two disabilities	12236
described in division (B) of section 3317.013 of the Revised	12237
Code, including children attending a special education program	12238
operated by an alternative public provider or a registered	12239
private provider with a scholarship awarded under sections	12240
3310.51 to 3310.64 of the Revised Code;	12241
(7) The combined enrollment of children with disabilities	12242
reported under division (A) (1) or (2) of this section receiving	12243

special education services for category three disabilities	12244
described in division (C) of section 3317.013 of the Revised	12245
Code, including children attending a special education program	12246
operated by an alternative public provider or a registered	12247
private provider with a scholarship awarded under sections	12248
3310.51 to 3310.64 of the Revised Code;	12249
(8) The combined enrollment of children with disabilities	12250
reported under division (A)(1) or (2) of this section receiving	12251
special education services for category four disabilities	12252
described in division (D) of section 3317.013 of the Revised	12253
Code, including children attending a special education program	12254
operated by an alternative public provider or a registered	12255
private provider with a scholarship awarded under sections	12256
3310.51 to 3310.64 of the Revised Code;	12257
(9) The combined enrollment of children with disabilities	12258
reported under division (A)(1) or (2) of this section receiving	12259
special education services for the category five disabilities	12260
described in division (E) of section 3317.013 of the Revised	12261
Code, including children attending a special education program	12262
operated by an alternative public provider or a registered	12263
private provider with a scholarship awarded under sections	12264
3310.51 to 3310.64 of the Revised Code;	12265
(10) The combined enrollment of children with disabilities	12266
reported under division (A)(1) or (2) and under division (B)(3)	12267
(h) of this section receiving special education services for	12268
category six disabilities described in division (F) of section	12269
3317.013 of the Revised Code, including children attending a	12270
special education program operated by an alternative public	12271
provider or a registered private provider with a scholarship	12272
awarded under either section 3310.41 or sections 3310.51 to	12273

3310.64 of the Revised Code;	12274
(11) The enrollment of pupils reported under division (A)	12275
(1) or (2) of this section on a full-time equivalency basis in	12276
category one career-technical education programs or classes,	12277
described in division (A) of section 3317.014 of the Revised	12278
Code, operated by the school district or by another district	12279
that is a member of the district's career-technical planning	12280
district, other than a joint vocational school district, or by	12281
an educational service center, notwithstanding division (H) <u>(G)</u>	12282
of section 3317.02 of the Revised Code and division (C) (3) of	12283
this section;	12284
(12) The enrollment of pupils reported under division (A)	12285
(1) or (2) of this section on a full-time equivalency basis in	12286
category two career-technical education programs or services,	12287
described in division (B) of section 3317.014 of the Revised	12288
Code, operated by the school district or another school district	12289
that is a member of the district's career-technical planning	12290
district, other than a joint vocational school district, or by	12291
an educational service center, notwithstanding division (H) <u>(G)</u>	12292
of section 3317.02 of the Revised Code and division (C) (3) of	12293
this section;	12294
(13) The enrollment of pupils reported under division (A)	12295
(1) or (2) of this section on a full-time equivalency basis in	12296
category three career-technical education programs or services,	12297
described in division (C) of section 3317.014 of the Revised	12298
Code, operated by the school district or another school district	12299
that is a member of the district's career-technical planning	12300
district, other than a joint vocational school district, or by	12301
an educational service center, notwithstanding division (H) <u>(G)</u>	12302
of section 3317.02 of the Revised Code and division (C) (3) of	12303

this section; 12304

(14) The enrollment of pupils reported under division (A) 12305
(1) or (2) of this section on a full-time equivalency basis in 12306
category four career-technical education programs or services, 12307
described in division (D) of section 3317.014 of the Revised 12308
Code, operated by the school district or another school district 12309
that is a member of the district's career-technical planning 12310
district, other than a joint vocational school district, or by 12311
an educational service center, notwithstanding division ~~(H)~~ (G) 12312
of section 3317.02 of the Revised Code and division (C) (3) of 12313
this section; 12314

(15) The enrollment of pupils reported under division (A) 12315
(1) or (2) of this section on a full-time equivalency basis in 12316
category five career-technical education programs or services, 12317
described in division (E) of section 3317.014 of the Revised 12318
Code, operated by the school district or another school district 12319
that is a member of the district's career-technical planning 12320
district, other than a joint vocational school district, or by 12321
an educational service center, notwithstanding division ~~(H)~~ (G) 12322
of section 3317.02 of the Revised Code and division (C) (3) of 12323
this section; 12324

(16) The enrollment of pupils reported under division (A) 12325
(1) or (2) of this section who are limited English proficient 12326
students described in division (A) of section 3317.016 of the 12327
Revised Code, excluding any student reported under division (B) 12328
(3) (e) of this section as enrolled in an internet- or computer- 12329
based community school; 12330

(17) The enrollment of pupils reported under division (A) 12331
(1) or (2) of this section who are limited English proficient 12332
students described in division (B) of section 3317.016 of the 12333

Revised Code, excluding any student reported under division (B)	12334
(3) (e) of this section as enrolled in an internet- or computer-	12335
based community school;	12336
(18) The enrollment of pupils reported under division (A)	12337
(1) or (2) of this section who are limited English proficient	12338
students described in division (C) of section 3317.016 of the	12339
Revised Code, excluding any student reported under division (B)	12340
(3) (e) of this section as enrolled in an internet- or computer-	12341
based community school;	12342
(19) The average number of children transported during the	12343
reporting period by the school district on board-owned or	12344
contractor-owned and -operated buses, reported in accordance	12345
with rules adopted by the department of education;	12346
(20) (a) The number of children, other than preschool	12347
children with disabilities, the district placed with a county DD-	12348
<u>board of developmental disabilities</u> in fiscal year 1998.	12349
Division (B) (20) (a) of this section does not apply after fiscal	12350
year 2013.	12351
(b) The number of children with disabilities, other than	12352
preschool children with disabilities, placed with a county DD-	12353
<u>board of developmental disabilities</u> in the current fiscal year	12354
to receive special education services for the category one	12355
disability described in division (A) of section 3317.013 of the	12356
Revised Code;	12357
(c) The number of children with disabilities, other than	12358
preschool children with disabilities, placed with a county DD-	12359
<u>board of developmental disabilities</u> in the current fiscal year	12360
to receive special education services for category two	12361
disabilities described in division (B) of section 3317.013 of	12362

the Revised Code; 12363

(d) The number of children with disabilities, other than 12364
preschool children with disabilities, placed with a county ~~DD~~- 12365
board of developmental disabilities in the current fiscal year 12366
to receive special education services for category three 12367
disabilities described in division (C) of section 3317.013 of 12368
the Revised Code; 12369

(e) The number of children with disabilities, other than 12370
preschool children with disabilities, placed with a county ~~DD~~- 12371
board of developmental disabilities in the current fiscal year 12372
to receive special education services for category four 12373
disabilities described in division (D) of section 3317.013 of 12374
the Revised Code; 12375

(f) The number of children with disabilities, other than 12376
preschool children with disabilities, placed with a county ~~DD~~- 12377
board of developmental disabilities in the current fiscal year 12378
to receive special education services for the category five 12379
disabilities described in division (E) of section 3317.013 of 12380
the Revised Code; 12381

(g) The number of children with disabilities, other than 12382
preschool children with disabilities, placed with a county ~~DD~~- 12383
board of developmental disabilities in the current fiscal year 12384
to receive special education services for category six 12385
disabilities described in division (F) of section 3317.013 of 12386
the Revised Code. 12387

(21) The enrollment of students who are economically 12388
disadvantaged, as defined by the department, excluding any 12389
student reported under division (B) (3) (e) of this section as 12390
enrolled in an internet- or computer-based community school. A 12391

student shall not be categorically excluded from the number 12392
reported under division (B) (21) of this section based on 12393
anything other than family income. 12394

(C) (1) The state board of education shall adopt rules 12395
necessary for implementing divisions (A), (B), and (D) of this 12396
section. 12397

(2) A student enrolled in a community school established 12398
under Chapter 3314., a science, technology, engineering, and 12399
mathematics school established under Chapter 3326., or a 12400
college-preparatory boarding school established under Chapter 12401
3328. of the Revised Code shall be counted in the formula ADM 12402
and, if applicable, the category one, two, three, four, five, or 12403
six special education ADM of the school district in which the 12404
student is entitled to attend school under section 3313.64 or 12405
3313.65 of the Revised Code for the same proportion of the 12406
school year that the student is counted in the enrollment of the 12407
community school, the science, technology, engineering, and 12408
mathematics school, or the college-preparatory boarding school 12409
for purposes of section 3314.08, 3326.33, or 3328.24 of the 12410
Revised Code. Notwithstanding the enrollment of students 12411
certified pursuant to division (B) (3) (d), (e), (j), or (k) of 12412
this section, the department may adjust the formula ADM of a 12413
school district to account for students entitled to attend 12414
school in the district under section 3313.64 or 3313.65 of the 12415
Revised Code who are enrolled in a community school, a science, 12416
technology, engineering, and mathematics school, or a college- 12417
preparatory boarding school for only a portion of the school 12418
year. 12419

(3) No child shall be counted as more than a total of one 12420
child in the sum of the enrollment of students of a school 12421

district under division (A), divisions (B) (1) to (22), or 12422
division (D) of this section, except as follows: 12423

(a) A child with a disability described in section 12424
3317.013 of the Revised Code may be counted both in formula ADM 12425
and in category one, two, three, four, five, or six special 12426
education ADM and, if applicable, in category one, two, three, 12427
four, or five career-technical education ADM. As provided in 12428
division ~~(H)~~(G) of section 3317.02 of the Revised Code, such a 12429
child shall be counted in category one, two, three, four, five, 12430
or six special education ADM in the same proportion that the 12431
child is counted in formula ADM. 12432

(b) A child enrolled in career-technical education 12433
programs or classes described in section 3317.014 of the Revised 12434
Code may be counted both in formula ADM and category one, two, 12435
three, four, or five career-technical education ADM and, if 12436
applicable, in category one, two, three, four, five, or six 12437
special education ADM. Such a child shall be counted in category 12438
one, two, three, four, or five career-technical education ADM in 12439
the same proportion as the percentage of time that the child 12440
spends in the career-technical education programs or classes. 12441

(4) Based on the information reported under this section, 12442
the department of education shall determine the total student 12443
count, as defined in section 3301.011 of the Revised Code, for 12444
each school district. 12445

(D) (1) The superintendent of each joint vocational school 12446
district shall report and certify to the superintendent of 12447
public instruction as of the last day of October, March, and 12448
June of each year the enrollment of students receiving services 12449
from schools under the superintendent's supervision so that the 12450
department can calculate the district's formula ADM, total ADM, 12451

category one through five career-technical education ADM, 12452
category one through three limited English proficient ADM, 12453
category one through six special education ADM, and for purposes 12454
of provisions of law outside of Chapter 3317. of the Revised 12455
Code, average daily membership. 12456

The enrollment reported and certified by the 12457
superintendent, except as otherwise provided in this division, 12458
shall consist of the the number of students in grades six 12459
through twelve receiving any educational services from the 12460
district, except that the following categories of students shall 12461
not be included in the determination: 12462

(a) Students enrolled in adult education classes; 12463

(b) Adjacent or other district joint vocational students 12464
enrolled in the district under an open enrollment policy 12465
pursuant to section 3313.98 of the Revised Code; 12466

(c) Students receiving services in the district pursuant 12467
to a compact, cooperative education agreement, or a contract, 12468
but who are entitled to attend school in a city, local, or 12469
exempted village school district whose territory is not part of 12470
the territory of the joint vocational district; 12471

(d) Students for whom tuition is payable pursuant to 12472
sections 3317.081 and 3323.141 of the Revised Code. 12473

(2) To enable the department of education to obtain the 12474
data needed to complete the calculation of payments pursuant to 12475
this chapter, each superintendent shall certify from the report 12476
provided under division (D)(1) of this section the enrollment 12477
for each of the following categories of students: 12478

(a) Students enrolled in each individual grade included in 12479
the joint vocational district schools; 12480

(b) Children with disabilities receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;	12481 12482 12483
(c) Children with disabilities receiving special education services for the category two disabilities described in division (B) of section 3317.013 of the Revised Code;	12484 12485 12486
(d) Children with disabilities receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;	12487 12488 12489
(e) Children with disabilities receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;	12490 12491 12492
(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;	12493 12494 12495
(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;	12496 12497 12498
(h) Students receiving category one career-technical education services, described in division (A) of section 3317.014 of the Revised Code;	12499 12500 12501
(i) Students receiving category two career-technical education services, described in division (B) of section 3317.014 of the Revised Code;	12502 12503 12504
(j) Students receiving category three career-technical education services, described in division (C) of section 3317.014 of the Revised Code;	12505 12506 12507
(k) Students receiving category four career-technical	12508

education services, described in division (D) of section	12509
3317.014 of the Revised Code;	12510
(1) Students receiving category five career-technical	12511
education services, described in division (E) of section	12512
3317.014 of the Revised Code;	12513
(m) Limited English proficient students described in	12514
division (A) of section 3317.016 of the Revised Code;	12515
(n) Limited English proficient students described in	12516
division (B) of section 3317.016 of the Revised Code;	12517
(o) Limited English proficient students described in	12518
division (C) of section 3317.016 of the Revised Code;	12519
(p) Students who are economically disadvantaged, as	12520
defined by the department. A student shall not be categorically	12521
excluded from the number reported under division (D) (2) (p) of	12522
this section based on anything other than family income.	12523
The superintendent of each joint vocational school	12524
district shall also indicate the city, local, or exempted	12525
village school district in which each joint vocational district	12526
pupil is entitled to attend school pursuant to section 3313.64	12527
or 3313.65 of the Revised Code.	12528
(E) In each school of each city, local, exempted village,	12529
joint vocational, and cooperative education school district	12530
there shall be maintained a record of school enrollment, which	12531
record shall accurately show, for each day the school is in	12532
session, the actual enrollment in regular day classes. For the	12533
purpose of determining the enrollment of students, the	12534
enrollment figure of any school shall not include any pupils	12535
except those pupils described by division (A) of this section.	12536
The record of enrollment for each school shall be maintained in	12537

such manner that no pupil shall be counted as enrolled prior to 12538
the actual date of entry in the school and also in such manner 12539
that where for any cause a pupil permanently withdraws from the 12540
school that pupil shall not be counted as enrolled from and 12541
after the date of such withdrawal. There shall not be included 12542
in the enrollment of any school any of the following: 12543

(1) Any pupil who has graduated from the twelfth grade of 12544
a public or nonpublic high school; 12545

(2) Any pupil who is not a resident of the state; 12546

(3) Any pupil who was enrolled in the schools of the 12547
district during the previous school year when assessments were 12548
administered under section 3301.0711 of the Revised Code but did 12549
not take one or more of the assessments required by that section 12550
and was not excused pursuant to division (C) (1) or (3) of that 12551
section; 12552

(4) Any pupil who has attained the age of twenty-two 12553
years, except for veterans of the armed services whose 12554
attendance was interrupted before completing the recognized 12555
twelve-year course of the public schools by reason of induction 12556
or enlistment in the armed forces and who apply for reenrollment 12557
in the public school system of their residence not later than 12558
four years after termination of war or their honorable 12559
discharge; 12560

(5) Any pupil who has a high school equivalence diploma as 12561
defined in section 5107.40 of the Revised Code. 12562

If, however, any veteran described by division (E) (4) of 12563
this section elects to enroll in special courses organized for 12564
veterans for whom tuition is paid under the provisions of 12565
federal laws, or otherwise, that veteran shall not be included 12566

in the enrollment of students determined under this section. 12567

Notwithstanding division (E) (3) of this section, the 12568
enrollment of any school may include a pupil who did not take an 12569
assessment required by section 3301.0711 of the Revised Code if 12570
the superintendent of public instruction grants a waiver from 12571
the requirement to take the assessment to the specific pupil and 12572
a parent is not paying tuition for the pupil pursuant to section 12573
3313.6410 of the Revised Code. The superintendent may grant such 12574
a waiver only for good cause in accordance with rules adopted by 12575
the state board of education. 12576

The formula ADM, total ADM, category one through five 12577
career-technical education ADM, category one through three 12578
limited English proficient ADM, category one through six special 12579
education ADM, preschool scholarship ADM, transportation ADM, 12580
and, for purposes of provisions of law outside of Chapter 3317. 12581
of the Revised Code, average daily membership of any school 12582
district shall be determined in accordance with rules adopted by 12583
the state board of education. 12584

(F) (1) If a student attending a community school under 12585
Chapter 3314., a science, technology, engineering, and 12586
mathematics school established under Chapter 3326., or a 12587
college-preparatory boarding school established under Chapter 12588
3328. of the Revised Code is not included in the formula ADM 12589
calculated for the school district in which the student is 12590
entitled to attend school under section 3313.64 or 3313.65 of 12591
the Revised Code, the department of education shall adjust the 12592
formula ADM of that school district to include the student in 12593
accordance with division (C) (2) of this section, and shall 12594
recalculate the school district's payments under this chapter 12595
for the entire fiscal year on the basis of that adjusted formula 12596

ADM. 12597

(2) If a student awarded an educational choice scholarship 12598
is not included in the formula ADM of the school district from 12599
which the department deducts funds for the scholarship under 12600
section 3310.08 of the Revised Code, the department shall adjust 12601
the formula ADM of that school district to include the student 12602
to the extent necessary to account for the deduction, and shall 12603
recalculate the school district's payments under this chapter 12604
for the entire fiscal year on the basis of that adjusted formula 12605
ADM. 12606

(3) If a student awarded a scholarship under the Jon 12607
Peterson special needs scholarship program is not included in 12608
the formula ADM of the school district from which the department 12609
deducts funds for the scholarship under section 3310.55 of the 12610
Revised Code, the department shall adjust the formula ADM of 12611
that school district to include the student to the extent 12612
necessary to account for the deduction, and shall recalculate 12613
the school district's payments under this chapter for the entire 12614
fiscal year on the basis of that adjusted formula ADM. 12615

(G) (1) (a) The superintendent of an institution operating a 12616
special education program pursuant to section 3323.091 of the 12617
Revised Code shall, for the programs under such superintendent's 12618
supervision, certify to the state board of education, in the 12619
manner prescribed by the superintendent of public instruction, 12620
both of the following: 12621

(i) The unduplicated count of the number of all children 12622
with disabilities other than preschool children with 12623
disabilities receiving services at the institution for each 12624
category of disability described in divisions (A) to (F) of 12625
section 3317.013 of the Revised Code adjusted for the portion of 12626

the year each child is so enrolled; 12627

(ii) The unduplicated count of the number of all preschool 12628
children with disabilities in classes or programs for whom the 12629
district is eligible to receive funding under section 3317.0213 12630
of the Revised Code adjusted for the portion of the year each 12631
child is so enrolled, reported according to the categories 12632
prescribed in section 3317.013 of the Revised Code. 12633

(b) The superintendent of an institution with career- 12634
technical education units approved under section 3317.05 of the 12635
Revised Code shall, for the units under the superintendent's 12636
supervision, certify to the state board of education the 12637
enrollment in those units, in the manner prescribed by the 12638
superintendent of public instruction. 12639

(2) The superintendent of each county ~~DD~~-board of 12640
developmental disabilities that maintains special education 12641
classes under section 3317.20 of the Revised Code or provides 12642
services to preschool children with disabilities pursuant to an 12643
agreement between the ~~DD~~-county board and the appropriate school 12644
district shall do both of the following: 12645

(a) Certify to the state board, in the manner prescribed 12646
by the board, the enrollment in classes under section 3317.20 of 12647
the Revised Code for each school district that has placed 12648
children in the classes; 12649

(b) Certify to the state board, in the manner prescribed 12650
by the board, the unduplicated count of the number of all 12651
preschool children with disabilities enrolled in classes for 12652
which the DD board is eligible to receive funding under section 12653
3317.0213 of the Revised Code adjusted for the portion of the 12654
year each child is so enrolled, reported according to the 12655

categories prescribed in section 3317.013 of the Revised Code, 12656
and the number of those classes. 12657

(H) Except as provided in division (I) of this section, 12658
when any city, local, or exempted village school district 12659
provides instruction for a nonresident pupil whose attendance is 12660
unauthorized attendance as defined in section 3327.06 of the 12661
Revised Code, that pupil's enrollment shall not be included in 12662
that district's enrollment figure used in calculating the 12663
district's payments under this chapter. The reporting official 12664
shall report separately the enrollment of all pupils whose 12665
attendance in the district is unauthorized attendance, and the 12666
enrollment of each such pupil shall be credited to the school 12667
district in which the pupil is entitled to attend school under 12668
division (B) of section 3313.64 or section 3313.65 of the 12669
Revised Code as determined by the department of education. 12670

(I) (1) A city, local, exempted village, or joint 12671
vocational school district admitting a scholarship student of a 12672
pilot project district pursuant to division (C) of section 12673
3313.976 of the Revised Code may count such student in its 12674
enrollment. 12675

(2) In any year for which funds are appropriated for pilot 12676
project scholarship programs, a school district implementing a 12677
state-sponsored pilot project scholarship program that year 12678
pursuant to sections 3313.974 to 3313.979 of the Revised Code 12679
may count in its enrollment: 12680

(a) All children residing in the district and utilizing a 12681
scholarship to attend kindergarten in any alternative school, as 12682
defined in section 3313.974 of the Revised Code; 12683

(b) All children who were enrolled in the district in the 12684

preceding year who are utilizing a scholarship to attend an 12685
alternative school. 12686

(J) The superintendent of each cooperative education 12687
school district shall certify to the superintendent of public 12688
instruction, in a manner prescribed by the state board of 12689
education, the applicable enrollments for all students in the 12690
cooperative education district, also indicating the city, local, 12691
or exempted village district where each pupil is entitled to 12692
attend school under section 3313.64 or 3313.65 of the Revised 12693
Code. 12694

(K) If the superintendent of public instruction determines 12695
that a component of the enrollment certified or reported by a 12696
district superintendent, or other reporting entity, is not 12697
correct, the superintendent of public instruction may order that 12698
the formula ADM used for the purposes of payments under any 12699
section of Title XXXVIII of the Revised Code be adjusted in the 12700
amount of the error. 12701

Sec. 3317.032. Each city, local, exempted village, and 12702
cooperative education school district, each educational service 12703
center, each county ~~DD~~ board of developmental disabilities, and 12704
each institution operating a special education program pursuant 12705
to section 3323.091 of the Revised Code shall, in accordance 12706
with procedures adopted by the state board of education, 12707
maintain a record of district membership of all preschool 12708
children with disabilities who are served by a special education 12709
program. 12710

Sec. 3317.07. If the department of education determines 12711
that a county ~~DD~~ board of developmental disabilities no longer 12712
needs a school bus because the board no longer transports 12713
children to a special education program operated by the board, 12714

or if the department determines that a school district no longer 12715
needs a school bus to transport pupils to a nonpublic school or 12716
special education program, the department may reassign a bus 12717
that was funded with payments provided pursuant to the version 12718
of this section in effect prior to the effective date of this 12719
amendment for the purpose of transporting such pupils. The 12720
department may reassign a bus to a county ~~DD~~-board of 12721
developmental disabilities or school district that transports 12722
children to a special education program designated in the 12723
children's individualized education ~~plans~~programs, or to a 12724
school district that transports pupils to a nonpublic school, 12725
and needs an additional school bus. 12726

Sec. 3317.15. (A) As used in this section, "child with a 12727
disability" has the same meaning as in section 3323.01 of the 12728
Revised Code. 12729

(B) Each city, exempted village, local, and joint 12730
vocational school district shall continue to comply with all 12731
requirements of federal statutes and regulations, the Revised 12732
Code, and rules adopted by the state board of education 12733
governing education of children with disabilities, including, 12734
but not limited to, requirements that children with disabilities 12735
be served by appropriately licensed or certificated education 12736
personnel. 12737

(C) Each city, exempted village, local, and joint 12738
vocational school district shall consult with the educational 12739
service center serving the county in which the school district 12740
is located and, if it elects to participate pursuant to section 12741
5126.04 of the Revised Code, the county ~~DD~~-board of 12742
developmental disabilities of that county, in providing services 12743
that serve the best interests of children with disabilities. 12744

(D) Each school district shall annually provide 12745
documentation to the department of education that it employs the 12746
appropriate number of licensed or certificated personnel to 12747
serve the district's students with disabilities. 12748

(E) The department annually shall audit a sample of school 12749
districts to ensure that children with disabilities are being 12750
appropriately reported. 12751

(F) Each school district shall provide speech-language 12752
pathology services at a ratio of one speech-language pathologist 12753
per two thousand students receiving any educational services 12754
from the district other than adult education. Each district 12755
shall provide school psychological services at a ratio of one 12756
school psychologist per two thousand five hundred students 12757
receiving any educational services from the district other than 12758
adult education. A district may obtain the services of speech- 12759
language pathologists and school psychologists by any means 12760
permitted by law, including contracting with an educational 12761
service center. If, however, a district is unable to obtain the 12762
services of the required number of speech-language pathologists 12763
or school psychologists, the district may request from the 12764
superintendent of public instruction, and the superintendent may 12765
grant, a waiver of this provision for a period of time 12766
established by the superintendent. 12767

Sec. 3317.20. This section does not apply to preschool 12768
children with disabilities. 12769

(A) As used in this section: 12770

(1) "Applicable special education amount" means the amount 12771
specified in section 3317.013 of the Revised Code for a 12772
disability described in that section. 12773

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code. 12774
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(3) "State share index" means the state share index of the child's school district. 12777
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(B) The department shall annually pay each county ~~DD~~-board of developmental disabilities for each child with a disability, other than a preschool child with a disability, for whom the county ~~DD~~-board provides special education and related services an amount equal to the formula amount + (state share index X the applicable special education amount). 12779
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(C) Each county ~~DD~~-board of developmental disabilities shall report to the department, in the manner specified by the department, the name of each child for whom the county ~~DD~~-board of developmental disabilities provides special education and related services and the child's school district. 12785
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(D) (1) For the purpose of verifying the accuracy of the payments under this section, the department may request from either of the following entities the data verification code assigned under division (D) (2) of section 3301.0714 of the Revised Code to any child who is placed with a county ~~DD~~-board of developmental disabilities: 12790
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(a) The child's school district; 12796

(b) The independent contractor engaged to create and maintain data verification codes. 12797
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(2) Upon a request by the department under division (D) (1) of this section for the data verification code of a child, the child's school district shall submit that code to the department in the manner specified by the department. If the child has not 12799
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been assigned a code, the district shall assign a code to that 12803
child and submit the code to the department by a date specified 12804
by the department. If the district does not assign a code to the 12805
child by the specified date, the department shall assign a code 12806
to the child. 12807

The department annually shall submit to each school 12808
district the name and data verification code of each child 12809
residing in the district for whom the department has assigned a 12810
code under this division. 12811

(3) The department shall not release any data verification 12812
code that it receives under division (D) of this section to any 12813
person except as provided by law. 12814

(E) Any document relative to special education and related 12815
services provided by a county ~~DD~~ board of developmental 12816
disabilities that the department holds in its files that 12817
contains both a student's name or other personally identifiable 12818
information and the student's data verification code shall not 12819
be a public record under section 149.43 of the Revised Code. 12820

Sec. 3323.01. As used in this chapter: 12821

(A) "Child with a disability" means a child who is at 12822
least three years of age and less than twenty-two years of age; 12823
who has ~~mental retardation~~ an intellectual disability, a hearing 12824
impairment (including deafness), a speech or language 12825
impairment, a visual impairment (including blindness), a serious 12826
emotional disturbance, an orthopedic impairment, autism, 12827
traumatic brain injury, an other health impairment, a specific 12828
learning disability (including dyslexia), deaf-blindness, or 12829
multiple disabilities; and who, by reason thereof, needs special 12830
education and related services. 12831

A "child with a disability" may include a child who is at 12832
least three years of age and less than six years of age; who is 12833
experiencing developmental delays, as defined by standards 12834
adopted by the state board of education and as measured by 12835
appropriate diagnostic instruments and procedures in one or more 12836
of the following areas: physical development, cognitive 12837
development, communication development, social or emotional 12838
development, or adaptive development; and who, by reason 12839
thereof, needs special education and related services. 12840

~~(B) "County DD board" means a county board of~~ 12841
~~developmental disabilities.~~ 12842

~~(C)~~ "Free appropriate public education" means special 12843
education and related services that meet all of the following: 12844

(1) Are provided at public expense, under public 12845
supervision and direction, and without charge; 12846

(2) Meet the standards of the state board of education; 12847

(3) Include an appropriate preschool, elementary, or 12848
secondary education as otherwise provided by the law of this 12849
state; 12850

(4) Are provided for each child with a disability in 12851
conformity with the child's individualized education program. 12852

~~(D)~~ (C) "Homeless children" means "homeless children and 12853
youths" as defined in section 725 of the "McKinney-Vento 12854
Homeless Assistance Act," 42 U.S.C. 11434a. 12855

~~(E)~~ (D) "Individualized education program" or "IEP" means 12856
the written statement described in section 3323.011 of the 12857
Revised Code. 12858

~~(F)~~ (E) "Individualized education program team" or "IEP 12859

team" means a group of individuals composed of: 12860

(1) The parents of a child with a disability; 12861

(2) At least one regular education teacher of the child, 12862
if the child is or may be participating in the regular education 12863
environment; 12864

(3) At least one special education teacher, or where 12865
appropriate, at least one special education provider of the 12866
child; 12867

(4) A representative of the school district who meets all 12868
of the following: 12869

(a) Is qualified to provide, or supervise the provision 12870
of, specially designed instruction to meet the unique needs of 12871
children with disabilities; 12872

(b) Is knowledgeable about the general education 12873
curriculum; 12874

(c) Is knowledgeable about the availability of resources 12875
of the school district. 12876

(5) An individual who can interpret the instructional 12877
implications of evaluation results, who may be a member of the 12878
team as described in divisions ~~(F)~~(E)(2) to (4) of this section; 12879

(6) At the discretion of the parent or the school 12880
district, other individuals who have knowledge or special 12881
expertise regarding the child, including related services 12882
personnel as appropriate; 12883

(7) Whenever appropriate, the child with a disability. 12884

~~(G)~~(F) "Instruction in braille reading and writing" means 12885
the teaching of the system of reading and writing through touch 12886

commonly known as standard English braille. 12887

~~(H)~~ (G) "Other educational agency" means a department, 12888
division, bureau, office, institution, board, commission, 12889
committee, authority, or other state or local agency, which is 12890
not a city, local, or exempted village school district or an 12891
agency administered by the department of developmental 12892
disabilities, that provides or seeks to provide special 12893
education or related services to children with disabilities. The 12894
term "other educational agency" includes a joint vocational 12895
school district. 12896

~~(I)~~ (H) "Parent" of a child with a disability, except as 12897
used in sections 3323.09 and 3323.141 of the Revised Code, 12898
means: 12899

(1) A natural or adoptive parent of a child but not a 12900
foster parent of a child; 12901

(2) A guardian, but not the state if the child is a ward 12902
of the state; 12903

(3) An individual acting in the place of a natural or 12904
adoptive parent, including a grandparent, stepparent, or other 12905
relative, with whom the child lives, or an individual who is 12906
legally responsible for the child's welfare; 12907

(4) An individual assigned to be a surrogate parent, 12908
provided the individual is not prohibited by this chapter from 12909
serving as a surrogate parent for a child. 12910

~~(J)~~ (I) "Preschool child with a disability" means a child 12911
with a disability who is at least three years of age but is not 12912
of compulsory school age, as defined under section 3321.01 of 12913
the Revised Code, and who is not currently enrolled in 12914
kindergarten. 12915

~~(K)~~(J) "Related services" means transportation, and such 12916
developmental, corrective, and other supportive services 12917
(including speech-language pathology and audiology services, 12918
interpreting services, psychological services, physical and 12919
occupational therapy, recreation, including therapeutic 12920
recreation, school nurse services designed to enable a child 12921
with a disability to receive a free appropriate public education 12922
as described in the individualized education program of the 12923
child, counseling services, including rehabilitation counseling, 12924
orientation and mobility services, school health services, 12925
social work services in schools, and parent counseling and 12926
training, and medical services, except that such medical 12927
services shall be for diagnostic and evaluation purposes only) 12928
as may be required to assist a child with a disability to 12929
benefit from special education, and includes the early 12930
identification and assessment of disabling conditions in 12931
children. "Related services" does not include a medical device 12932
that is surgically implanted, or the replacement of such device. 12933

~~(L)~~(K) "School district" means a city, local, or exempted 12934
village school district. 12935

~~(M)~~(L) "School district of residence," as used in 12936
sections 3323.09, 3323.091, 3323.13, and 3323.14 of the Revised 12937
Code, means: 12938

(1) The school district in which the child's natural or 12939
adoptive parents reside; 12940

(2) If the school district specified in division ~~(M)~~(L) (1) 12941
of this section cannot be determined, the last school district 12942
in which the child's natural or adoptive parents are known to 12943
have resided if the parents' whereabouts are unknown; 12944

(3) If the school district specified in division (M) (2) of this section cannot be determined, the school district determined under section 2151.362 of the Revised Code, or if no district has been so determined, the school district as determined by the probate court of the county in which the child resides. 12945
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(4) Notwithstanding divisions (M) (1) to (3) of this section, if a school district is required by section 3313.65 of the Revised Code to pay tuition for a child, that district shall be the child's school district of residence. 12951
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~~(N)~~ (M) "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. "Special education" includes instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, including an early childhood education setting, and instruction in physical education. 12955
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~~(O)~~ (N) "Student with a visual impairment" means any person who is less than twenty-two years of age and who has a visual impairment as that term is defined in this section. 12962
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~~(P)~~ (O) "Transition services" means a coordinated set of activities for a child with a disability that meet all of the following: 12965
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(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education; vocational education; integrated employment (including supported employment); 12968
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continuing and adult education; adult services; independent living; or community participation; 12974
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(2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; 12976
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(3) Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. 12978
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"Transition services" for children with disabilities may be special education, if provided as specially designed instruction, or may be a related service, if required to assist a child with a disability to benefit from special education. 12982
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~~(Q)~~(P) "Visual impairment" for any individual means that one of the following applies to the individual: 12986
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(1) The individual has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision in the better eye such that the widest diameter subtends an angular distance of no greater than twenty degrees. 12988
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(2) The individual has a medically indicated expectation of meeting the requirements of division ~~(Q)~~(P) (1) of this section over a period of time. 12992
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(3) The individual has a medically diagnosed and medically uncorrectable limitation in visual functioning that adversely affects the individual's ability to read and write standard print at levels expected of the individual's peers of comparable ability and grade level. 12995
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~~(R)~~(Q) "Ward of the state" has the same meaning as in section 602(36) of the "Individuals with Disabilities Education 13000
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Improvement Act of 2004," 20 U.S.C. 1401(36). 13002

Sec. 3323.02. As used in this section, "IDEIA" means the 13003
"Individuals with Disabilities Education Improvement Act of 13004
2004," Pub. L. No. 108-446. 13005

It is the purpose of this chapter to ensure that all 13006
children with disabilities residing in this state who are at 13007
least three years of age and less than twenty-two years of age, 13008
including children with disabilities who have been suspended or 13009
expelled from school, have available to them a free appropriate 13010
public education. No school district, county ~~DD~~board_of 13011
developmental disabilities, or other educational agency shall 13012
receive state or federal funds for special education and related 13013
services unless those services for children with disabilities 13014
are provided in accordance with IDEIA and related provisions of 13015
the Code of Federal Regulations, the provisions of this chapter, 13016
rules and standards adopted by the state board of education, and 13017
any procedures or guidelines issued by the superintendent of 13018
public instruction. Any options or discretion provided to the 13019
state by IDEIA may be exercised in state law or in rules or 13020
standards adopted by the state board of education. 13021

The state board of education shall establish rules or 13022
standards for the provision of special education and related 13023
services for all children with disabilities who are at least 13024
three years of age and less than twenty-two years of age 13025
residing in the state, regardless of the severity of their 13026
disabilities, including children with disabilities who have been 13027
suspended or expelled from school. The state law and the rules 13028
or standards of the state board of education may impose 13029
requirements that are not required by IDEIA or related 13030
provisions of the Code of Federal Regulations. The school 13031

district of residence is responsible, in all instances, for 13032
ensuring that the requirements of Part B of IDEIA are met for 13033
every eligible child in its jurisdiction, regardless of whether 13034
services are provided by another school district, other 13035
educational agency, or other agency, department, or entity, 13036
unless IDEIA or related provisions of the Code of Federal 13037
Regulations, another section of this chapter, or a rule adopted 13038
by the state board of education specifies that another school 13039
district, other educational agency, or other agency, department, 13040
or entity is responsible for ensuring compliance with Part B of 13041
IDEIA. 13042

Notwithstanding division (A) (4) of section 3301.53 of the 13043
Revised Code and any rules adopted pursuant to that section and 13044
division (A) of section 3313.646 of the Revised Code, a board of 13045
education of a school district may provide special education and 13046
related services for preschool children with disabilities in 13047
accordance with this chapter and section 3301.52, divisions (A) 13048
(1) to (3) and (A) (5) and (6) of section 3301.53, and sections 13049
3301.54 to 3301.59 of the Revised Code. 13050

The superintendent of public instruction may require any 13051
state or local agency to provide documentation that special 13052
education and related services for children with disabilities 13053
provided by the agency are in compliance with the requirements 13054
of this chapter. 13055

Not later than the first day of February of each year the 13056
superintendent of public instruction shall furnish the 13057
chairpersons of the education committees of the house of 13058
representatives and the senate with a report on the status of 13059
implementation of special education and related services for 13060
children with disabilities required by this chapter. The report 13061

shall include but shall not be limited to the following items: 13062
the most recent available figures on the number of children 13063
identified as children with disabilities and the number of 13064
identified children receiving special education and related 13065
services. The information contained in these reports shall be 13066
public information. 13067

Sec. 3323.021. As used in this section, "participating 13068
county ~~DD~~board of developmental disabilities" means a county 13069
board of developmental disabilities electing to participate in 13070
the provision of or contracting for educational services for 13071
children under division (D) of section 5126.05 of the Revised 13072
Code. 13073

(A) When a school district, educational service center, or 13074
participating county ~~DD~~board of developmental disabilities 13075
enters into an agreement or contract with another school 13076
district, educational service center, or participating county 13077
~~DD~~board of developmental disabilities to provide educational 13078
services to a disabled child during a school year, both of the 13079
following shall apply: 13080

(1) Beginning with fiscal year 1999, if the provider of 13081
the services intends to increase the amount it charges for some 13082
or all of those services during the next school year or if the 13083
provider intends to cease offering all or part of those services 13084
during the next school year, the provider shall notify the 13085
entity for which the services are provided of these intended 13086
changes no later than the first day of March of the current 13087
fiscal year. 13088

(2) Beginning with fiscal year 1999, if the entity for 13089
which services are provided intends to cease obtaining those 13090
services from the provider for the next school year or intends 13091

to change the type or amount of services it obtains from the 13092
provider for the next school year, the entity shall notify the 13093
service provider of these intended changes no later than the 13094
first day of March of the current fiscal year. 13095

(B) School districts, educational service centers, 13096
participating county ~~DD~~boards of developmental disabilities, 13097
and other applicable governmental entities shall collaborate 13098
where possible to maximize federal sources of revenue to provide 13099
additional funds for special education related services for 13100
disabled children. Annually, each school district shall report 13101
to the department of education any amounts of such federal 13102
revenue the district received. 13103

(C) The state board of education, the department of 13104
developmental disabilities, and the department of medicaid shall 13105
develop working agreements for pursuing additional funds for 13106
services for disabled children. 13107

Sec. 3323.03. The state board of education shall, in 13108
consultation with the department of health, the department of 13109
mental health and addiction services, and the department of 13110
developmental disabilities, establish standards and procedures 13111
for the identification, location, and evaluation of all children 13112
with disabilities residing in the state, including children with 13113
disabilities who are homeless children or are wards of the state 13114
and children with disabilities attending nonpublic schools, 13115
regardless of the severity of their disabilities, and who are in 13116
need of special education and related services. The state board 13117
shall develop and implement a practical method to determine 13118
which children with disabilities are currently receiving needed 13119
special education and related services. 13120

In conducting the evaluation, the board of education of 13121

each school district shall use a variety of assessment tools and 13122
strategies to gather relevant functional, developmental, and 13123
academic information about the child, including information 13124
provided by the child's parent. The board of education of each 13125
school district, in consultation with the county ~~DD~~board_of 13126
developmental disabilities, the county family and children first 13127
council, and the board of alcohol, drug addiction, and mental 13128
health services of each county in which the school district has 13129
territory, shall identify, locate, and evaluate all children 13130
with disabilities residing within the district to determine 13131
which children with disabilities are not receiving appropriate 13132
special education and related services. In addition, the board 13133
of education of each school district, in consultation with such 13134
county boards or council, shall identify, locate, and evaluate 13135
all children with disabilities who are enrolled by their parents 13136
in nonpublic elementary and secondary schools located within the 13137
public school district, without regard to where those children 13138
reside in accordance with rules of the state board of education 13139
or guidelines of the superintendent of public instruction. 13140

Each county ~~DD~~board_of developmental disabilities, county 13141
family and children first council, and board of alcohol, drug 13142
addiction, and mental health services and the board's or 13143
council's contract agencies may transmit to boards of education 13144
the names and addresses of children with disabilities who are 13145
not receiving appropriate special education and related 13146
services. 13147

Sec. 3323.04. The state board of education, in 13148
consultation with the department of mental health and addiction 13149
services and the department of developmental disabilities, shall 13150
establish procedures and standards for the development of 13151
individualized education programs for children with 13152

disabilities. 13153

The state board shall require the board of education of 13154
each school district to develop an individualized education 13155
program for each child with a disability who is at least three 13156
years of age and less than twenty-two years of age residing in 13157
the district in a manner that is in accordance with rules of the 13158
state board. 13159

Prior to the placement of a child with a disability in a 13160
program operated under section 3323.09 of the Revised Code, the 13161
district board of education shall consult the county ~~DD~~ board of 13162
developmental disabilities of the county in which the child 13163
resides regarding the proposed placement. 13164

A child with a disability enrolled in a nonpublic school 13165
or facility shall be provided special education and related 13166
services, in accordance with an individualized education 13167
program, at no cost for those services, if the child is placed 13168
in, or referred to, that nonpublic school or facility by the 13169
department of education or a school district. 13170

The IEP team shall review the individualized education 13171
program of each child with a disability periodically, but at 13172
least annually, to determine whether the annual goals for the 13173
child are being achieved, and shall revise the individualized 13174
education program as appropriate. 13175

The state board shall establish procedures and standards 13176
to assure that to the maximum extent appropriate, children with 13177
disabilities, including children in public or private 13178
institutions or other care facilities, shall be educated with 13179
children who are not disabled. Special classes, separate 13180
schools, or other removal of children with disabilities from the 13181

regular educational environment shall be used only when the 13182
nature or severity of a child's disability is such that 13183
education in regular classes with supplementary aids and 13184
services cannot be achieved satisfactorily. 13185

If an agency directly affected by a placement decision 13186
objects to such decision, an impartial hearing officer, 13187
appointed by the department of education from a list prepared by 13188
the department, shall conduct a hearing to review the placement 13189
decision. The agencies that are parties to a hearing shall 13190
divide the costs of such hearing equally. The decision of the 13191
hearing officer shall be final, except that any party to the 13192
hearing who is aggrieved by the findings or the decision of the 13193
hearing officer may appeal the findings or decision in 13194
accordance with division (H) of section 3323.05 of the Revised 13195
Code or the parent of any child affected by such decision may 13196
present a complaint in accordance with that section. 13197

Sec. 3323.05. The state board of education shall establish 13198
procedures to ensure that children with disabilities and their 13199
parents are guaranteed procedural safeguards under this chapter 13200
with respect to a free appropriate public education. 13201

The procedures shall include, but need not be limited to: 13202

(A) An opportunity for the parents of a child with a 13203
disability to examine all records related to the child and to 13204
participate in meetings with respect to identification, 13205
evaluation, and educational placement of the child, and to 13206
obtain an independent educational evaluation of the child; 13207

(B) Procedures to protect the rights of the child whenever 13208
the parents of the child are not known, an agency after making 13209
reasonable efforts cannot find the parents, or the child is a 13210

ward of the state, including the assignment of an individual to 13211
act as a surrogate for the parents made by the school district 13212
or other educational agency responsible for educating the child 13213
or by the court with jurisdiction over the child's custody. Such 13214
assignment shall be made in accordance with section 3323.051 of 13215
the Revised Code. 13216

(C) Prior written notice to the child's parents of a 13217
school district's proposal or refusal to initiate or change the 13218
identification, evaluation, or educational placement of the 13219
child or the provision of a free appropriate education for the 13220
child. The procedures established under this division shall: 13221

(1) Be designed to ensure that the written prior notice is 13222
in the native language of the parents, unless it clearly is not 13223
feasible to do so. 13224

(2) Specify that the prior written notice shall include: 13225

(a) A description of the action proposed or refused by the 13226
district; 13227

(b) An explanation of why the district proposes or refuses 13228
to take the action and a description of each evaluation 13229
procedure, assessment, record, or report the district used as a 13230
basis for the proposed or refused action; 13231

(c) A statement that the parents of a child with a 13232
disability have protection under the procedural safeguards and, 13233
if the notice is not in regard to an initial referral for 13234
evaluation, the means by which a copy of a description of the 13235
procedural safeguards can be obtained; 13236

(d) Sources for parents to contact to obtain assistance in 13237
understanding the provisions of Part B of the "Individuals with 13238
Disabilities Education Improvement Act of 2004"; 13239

(e) A description of other options considered by the IEP team and the reason why those options were rejected; 13240
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(f) A description of the factors that are relevant to the agency's proposal or refusal. 13242
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(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. 13244
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Within twenty school days after receipt of a complaint, the district superintendent or the superintendent's designee, without undue delay and at a time and place convenient to all parties, shall review the case, may conduct an administrative review, and shall notify all parties in writing of the superintendent's or designee's decision. Where the child is placed in a program operated by a county ~~DD~~ board of developmental disabilities or other educational agency, the superintendent shall consult with the administrator of that ~~county DD~~ board or agency. 13250
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Any party aggrieved by the decision of the district superintendent or the superintendent's designee may file a complaint with the state board as provided under division (E) of this section, request mediation as provided under division (F) of this section, or present a due process complaint notice and request for a due process hearing in writing to the superintendent of the district, with a copy to the state board, as provided under division (G) of this section. 13260
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(E) An opportunity for a party to file a complaint with 13268

the state board of education with respect to the identification, 13269
evaluation, or educational placement of the child, or the 13270
provision of a free appropriate public education to such child. 13271
The department of education shall review and, where appropriate, 13272
investigate the complaint and issue findings. 13273

(F) An opportunity for parents and a school district to 13274
resolve through mediation disputes involving any matter. 13275

(1) The procedures established under this section shall 13276
ensure that the mediation process is voluntary on the part of 13277
the parties, is not used to deny or delay a parent's right to a 13278
due process hearing or to deny any other rights afforded under 13279
this chapter, and is conducted by a qualified and impartial 13280
mediator who is trained in effective mediation techniques. 13281

(2) A school district may establish procedures to offer to 13282
parents and schools that choose not to use the mediation 13283
process, an opportunity to meet, at a time and location 13284
convenient to the parents, with a disinterested party to 13285
encourage the use, and explain the benefits, of the mediation 13286
process to the parents. The disinterested party shall be an 13287
individual who is under contract with a parent training and 13288
information center or community parent resource center in the 13289
state or is under contract with an appropriate alternative 13290
dispute resolution entity. 13291

(3) The department shall maintain a list of individuals 13292
who are qualified mediators and knowledgeable in laws and 13293
regulations relating to the provision of special education and 13294
related services. 13295

(4) The department shall bear the cost of the mediation 13296
process, including the costs of meetings described in division 13297

(F) (2) of this section. 13298

(5) Each session in the mediation process shall be 13299
scheduled in a timely manner and shall be held in a location 13300
that is convenient to the parties to the dispute. 13301

(6) Discussions that occur during the mediation process 13302
shall be confidential and shall not be used as evidence in any 13303
subsequent due process hearing or civil proceeding. 13304

(7) In the case that a resolution is reached to resolve 13305
the complaint through the mediation process, the parties shall 13306
execute a legally binding agreement that sets forth the 13307
resolution and that: 13308

(a) States that all discussions that occurred during the 13309
mediation process shall be confidential and shall not be used as 13310
evidence in any subsequent due process hearing or civil 13311
proceeding; 13312

(b) Is signed by both the parent and a representative for 13313
the school district who has the authority to bind the district; 13314

(c) Is enforceable in any state court of competent 13315
jurisdiction or in a district court of the United States. 13316

(G) (1) An opportunity for parents or a school district to 13317
present a due process complaint and request for a due process 13318
hearing to the superintendent of the school district of the 13319
child's residence with respect to the identification, 13320
evaluation, or educational placement of the child, or the 13321
provision of a free appropriate public education to the child. 13322
The party presenting the due process complaint and request for a 13323
due process hearing shall provide due process complaint notice 13324
to the other party and forward a copy of the notice to the state 13325
board. The due process complaint notice shall include: 13326

(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; 13327
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(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; 13331
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(c) A proposed resolution of the problem to the extent known and available to the party at the time. 13334
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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. 13336
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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, 13340
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apply to due process complaint notices and requests for due 13357
process hearings and to due process hearings held under division 13358
(G) of this section, including, but not limited to, timelines 13359
for requesting hearings, requirements for sufficient complaint 13360
notices, resolution sessions, and sufficiency and hearing 13361
decisions. 13362

(2) Discussions that occur during a resolution session 13363
shall be confidential and shall not be used as evidence in any 13364
subsequent due process hearing or civil proceeding. If a 13365
resolution to the dispute is reached at a resolution session, 13366
the parties must execute a legally binding written settlement 13367
agreement which shall state that all discussions that occurred 13368
during the resolution process shall be confidential and shall 13369
not be used as evidence in any subsequent due process hearing or 13370
civil proceeding. 13371

(3) A party to a hearing under division (G) of this 13372
section shall be accorded: 13373

(a) The right to be accompanied and advised by counsel and 13374
by individuals with special knowledge or training with respect 13375
to the problems of children with disabilities; 13376

(b) The right to present evidence and confront, cross- 13377
examine, and compel the attendance of witnesses; 13378

(c) The right to a written or electronic verbatim record 13379
of the hearing; 13380

(d) The right to written findings of fact and decisions, 13381
which findings of fact and decisions shall be made available to 13382
the public consistent with the requirements relating to the 13383
confidentiality of personally identifiable data, information, 13384
and records collected and maintained by state educational 13385

agencies and local educational agencies; and shall be 13386
transmitted to the advisory panel established and maintained by 13387
the department for the purpose of providing policy guidance with 13388
respect to special education and related services for children 13389
with disabilities in the state. 13390

(H) An opportunity for any party aggrieved by the findings 13391
and decision rendered in a hearing under division (G) of this 13392
section to appeal within forty-five days of notification of the 13393
decision to the state board, which shall appoint a state level 13394
officer who shall review the case and issue a final order. The 13395
state level officer shall be appointed and shall review the case 13396
in accordance with standards and procedures adopted by the state 13397
board. 13398

Any party aggrieved by the final order of the state level 13399
officer may appeal the final order, in accordance with Chapter 13400
119. of the Revised Code, within forty-five days after 13401
notification of the order to the court of common pleas of the 13402
county in which the child's school district of residence is 13403
located, or to a district court of the United States within 13404
ninety days after the date of the decision of the state level 13405
review officer, as provided in section 615(i) (2) of the 13406
"Individuals with Disabilities Education Improvement Act of 13407
2004," 20 U.S.C. 1415(i) (2). 13408

Sec. 3323.09. (A) As used in this section: 13409

(1) "Home" has the meaning given in section 3313.64 of the 13410
Revised Code. 13411

(2) "Preschool child" means a child who is at least age 13412
three but under age six on the thirtieth day of September of an 13413
academic year. 13414

(B) Each county ~~DD~~ board of developmental disabilities 13415
shall establish special education programs for all children with 13416
disabilities who in accordance with section 3323.04 of the 13417
Revised Code have been placed in special education programs 13418
operated by the county board and for preschool children who are 13419
developmentally delayed or at risk of being developmentally 13420
delayed. The board annually shall submit to the department of 13421
education a plan for the provision of these programs. The 13422
superintendent of public instruction shall review the plan and 13423
approve or modify it in accordance with rules adopted by the 13424
state board of education under section 3301.07 of the Revised 13425
Code. The superintendent of public instruction shall compile the 13426
plans submitted by county boards and shall submit a 13427
comprehensive plan to the state board. 13428

A county ~~DD~~ board of developmental disabilities may 13429
combine transportation for children enrolled in classes funded 13430
under sections 3317.0213 or 3317.20 with transportation for 13431
children and adults enrolled in programs and services offered by 13432
the board under Chapter 5126. of the Revised Code. 13433

(C) A county ~~DD~~ board of developmental disabilities that 13434
during the school year provided special education pursuant to 13435
this section for any child with mental disabilities under 13436
twenty-two years of age shall prepare and submit the following 13437
reports and statements: 13438

(1) The board shall prepare a statement for each child who 13439
at the time of receiving such special education was a resident 13440
of a home and was not in the legal or permanent custody of an 13441
Ohio resident or a government agency in this state, and whose 13442
natural or adoptive parents are not known to have been residents 13443
of this state subsequent to the child's birth. The statement 13444

shall contain the child's name, the name of the child's school district of residence, the name of the county board providing the special education, and the number of months, including any fraction of a month, it was provided. Not later than the thirtieth day of June, the board shall forward a certified copy of such statement to both the director of developmental disabilities and to the home.

Within thirty days after its receipt of a statement, the home shall pay tuition to the county board computed in the manner prescribed by section 3323.141 of the Revised Code.

(2) The board shall prepare a report for each school district that is the school district of residence of one or more of such children for whom statements are not required by division (C)(1) of this section. The report shall contain the name of the county board providing special education, the name of each child receiving special education, the number of months, including fractions of a month, that the child received it, and the name of the child's school district of residence. Not later than the thirtieth day of June, the board shall forward certified copies of each report to the school district named in the report, the superintendent of public instruction, and the director of developmental disabilities.

Sec. 3323.091. (A) The department of mental health and addiction services, the department of developmental disabilities, the department of youth services, and the department of rehabilitation and correction shall establish and maintain special education programs for children with disabilities in institutions under their jurisdiction according to standards adopted by the state board of education.

(B) The superintendent of each state institution required

to provide services under division (A) of this section may apply 13475
to the department of education for special education and related 13476
services funding for children with disabilities other than 13477
preschool children with disabilities, calculated in accordance 13478
with section 3317.201 of the Revised Code. 13479

Each county ~~DD~~ board of developmental disabilities 13480
providing special education for children with disabilities other 13481
than preschool children with disabilities may apply to the 13482
department of education for opportunity funds and special 13483
education and related services funding calculated in accordance 13484
with section 3317.20 of the Revised Code. 13485

(C) In addition to the authorization to apply for state 13486
funding described in division (B) of this section, each state 13487
institution required to provide services under division (A) of 13488
this section is entitled to tuition payments calculated in the 13489
manner described in division (C) of this section. 13490

On or before the thirtieth day of June of each year, the 13491
superintendent of each institution that during the school year 13492
provided special education pursuant to this section shall 13493
prepare a statement for each child with a disability under 13494
twenty-two years of age who has received special education. The 13495
statement shall contain the child's data verification code 13496
assigned pursuant to division (D) (2) of section 3301.0714 of the 13497
Revised Code and the name of the child's school district of 13498
residence. Within sixty days after receipt of such statement, 13499
the department of education shall perform one of the following: 13500

(1) For any child except a preschool child with a 13501
disability described in division (C) (2) of this section, pay to 13502
the institution submitting the statement an amount equal to the 13503
tuition calculated under division (A) of section 3317.08 of the 13504

Revised Code for the period covered by the statement, and deduct 13505
the same from the amount of state funds, if any, payable under 13506
Chapter 3317. of the Revised Code, to the child's school 13507
district of residence or, if the amount of such state funds is 13508
insufficient, require the child's school district of residence 13509
to pay the institution submitting the statement an amount equal 13510
to the amount determined under this division. 13511

(2) For any preschool child with a disability, perform the 13512
following: 13513

(a) Pay to the institution submitting the statement an 13514
amount equal to the tuition calculated under division (B) of 13515
section 3317.08 of the Revised Code for the period covered by 13516
the statement, except that in calculating the tuition under that 13517
section the operating expenses of the institution submitting the 13518
statement under this section shall be used instead of the 13519
operating expenses of the school district of residence; 13520

(b) Deduct from the amount of state funds, if any, payable 13521
under Chapter 3317. of the Revised Code to the child's school 13522
district of residence an amount equal to the amount paid under 13523
division (C) (2) (a) of this section. 13524

Sec. 3323.12. The board of education of a school district 13525
shall provide home instruction for children with disabilities 13526
who are at least three years of age and less than twenty-two 13527
years of age and who are unable to attend school, even with the 13528
help of special transportation. The board may arrange for the 13529
provision of home instruction for a child by a cooperative 13530
agreement or contract with a county ~~DD~~board of developmental 13531
disabilities or other educational agency. For the purposes of 13532
determining formula ADM under section 3317.03 of the Revised 13533
Code, five hours of home instruction shall be equivalent to 13534

attendance for five school days. 13535

Sec. 3323.141. (A) When a child who is not in the legal or 13536
permanent custody of an Ohio resident or a government agency in 13537
this state and whose natural or adoptive parents are not known 13538
to have been residents of this state subsequent to the child's 13539
birth is a resident of a home as defined in section 3313.64 of 13540
the Revised Code and receives special education and related 13541
services from a school district or county ~~DD~~board of 13542
developmental disabilities, the home shall pay tuition to the 13543
board providing the special education. 13544

(B) In the case of a child described in division (A) of 13545
this section who receives special education and related services 13546
from a school district, tuition shall be the amount determined 13547
under division (B) (1) or (2) of this section. 13548

(1) For a child other than a child described in division 13549
(B) (2) of this section the tuition shall be an amount equal to 13550
the sum of the following: 13551

(a) Tuition as determined in the manner provided for by 13552
division (B) of section 3317.081 of the Revised Code for the 13553
district that provides the special education; 13554

(b) Such excess cost as is determined by using a formula 13555
established by rule of the department of education. The excess 13556
cost computed in this section shall not be used as excess cost 13557
computed under section 3323.14 of the Revised Code. 13558

(2) For a child who is a preschool child with a 13559
disability, the tuition shall be computed as follows: 13560

(a) Determine the amount of the tuition of the district 13561
providing the education for the child as calculated under 13562
division (B) of section 3317.08 of the Revised Code; 13563

(b) For each type of special education service included in 13564
the computation of the amount of tuition under division (B) (2) 13565
(a) of this section, divide the amount determined for that 13566
computation under division (B) (2) of section 3317.08 of the 13567
Revised Code by the total number of preschool children with 13568
disabilities used for that computation under division (B) (3) of 13569
section 3317.08 of the Revised Code; 13570

(c) Determine the sum of the quotients obtained under 13571
division (B) (2) (b) of this section; 13572

(d) Determine the sum of the amounts determined under 13573
divisions (B) (2) (a) and (c) of this section. 13574

(C) In the case of a child described in division (A) of 13575
this section who receives special education and related services 13576
from a county ~~DD~~ board of developmental disabilities, tuition 13577
shall be the amount determined under division (C) (1) or (2) of 13578
this section. 13579

(1) For a child other than a child described in division 13580
(C) (2) of this section, the tuition shall be an amount equal to 13581
such board's per capita cost of providing special education and 13582
related services for children at least three but less than 13583
twenty-two years of age as determined by using a formula 13584
established by rule of the department of developmental 13585
disabilities. 13586

(2) For a child who is a preschool child with a 13587
disability, the tuition shall equal the sum of the amounts of 13588
each such board's per capita cost of providing each of the 13589
special education or related service that the child receives. 13590
The calculation of tuition shall be made by using a formula 13591
established by rule of the department of developmental 13592

disabilities. The formula for the calculation of per capita 13593
costs under division (C) (2) of this section shall be based only 13594
on each such ~~DD~~-county board's cost of providing each type of 13595
special education or related service to preschool children with 13596
disabilities. 13597

(D) If a home fails to pay the tuition required under this 13598
section, the board of education or county ~~DD~~-board of 13599
developmental disabilities providing the education may recover 13600
in a civil action the tuition and the expenses incurred in 13601
prosecuting the action, including court costs and reasonable 13602
attorney's fees. If the prosecuting attorney or city director of 13603
law represents the board in such action, costs and reasonable 13604
attorney's fees awarded by the court, based upon the time spent 13605
preparing and presenting the case by the prosecuting attorney, 13606
director, or a designee of either, shall be deposited in the 13607
county or city general fund. 13608

Sec. 3323.142. As used in this section, "per pupil amount" 13609
for a preschool child with a disability included in such an 13610
approved unit means the amount determined by dividing the amount 13611
received for the classroom unit in which the child has been 13612
placed by the number of children in the unit. For any other 13613
child, "per pupil amount" means the amount paid for the child 13614
under section 3317.20 of the Revised Code. 13615

When a school district places or has placed a child with a 13616
county ~~DD~~-board of developmental disabilities for special 13617
education, but another district is responsible for tuition under 13618
section 3313.64 or 3313.65 of the Revised Code and the child is 13619
not a resident of the territory served by the county ~~DD~~-board of 13620
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 13628
disabilities. 13629

A school district board of education and the county 13630
~~DD~~board of developmental disabilities that serves the school 13631
district may negotiate and contract, at or after the time of 13632
placement, for payments by the board of education to the county 13633
~~DD~~board for additional services provided to a child placed with 13634
the county ~~DD~~board and whose individualized education program 13635
established pursuant to section 3323.08 of the Revised Code 13636
requires additional services that are not routinely provided 13637
children in the county ~~DD~~board's program but are necessary to 13638
maintain the child's enrollment and participation in the 13639
program. Additional services may include, but are not limited 13640
to, specialized supplies and equipment for the benefit of the 13641
child and instruction, training, or assistance provided by staff 13642
members other than staff members for which funding is received 13643
under Chapter 3317. of the Revised Code. 13644

Sec. 3701.881. (A) As used in this section: 13645

(1) "Applicant" means a person who is under final 13646
consideration for employment with a home health agency in a 13647
full-time, part-time, or temporary position that involves 13648
providing direct care to an individual or is referred to a home 13649
health agency by an employment service for such a position. 13650

(2) "Community-based long-term care provider" means a 13651
provider as defined in section 173.39 of the Revised Code. 13652

- (3) "Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code. 13653
13654
- (4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 13655
13656
- (5) "Direct care" means any of the following: 13657
- (a) Any service identified in divisions (A)(8)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home; 13658
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- (b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient; 13661
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13664
- (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. 13665
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13667
- (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. 13668
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13670
- (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. 13671
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- (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 13676
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13680

patient's home:	13681
(a) Skilled nursing care;	13682
(b) Physical therapy;	13683
(c) Speech-language pathology;	13684
(d) Occupational therapy;	13685
(e) Medical social services;	13686
(f) Home health aide services.	13687
(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:	13688 13689
(a) Hands-on bathing or assistance with a tub bath or shower;	13690 13691
(b) Assistance with dressing, ambulation, and toileting;	13692
(c) Catheter care but not insertion;	13693
(d) Meal preparation and feeding.	13694
(10) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	13695 13696 13697
(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	13698 13699 13700
(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	13701 13702
(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	13703 13704 13705

- (14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code. 13706
13707
- (15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code. 13708
13709
- (16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker. 13710
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13712
- (17) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code. 13713
13714
- (18) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code. 13715
13716
- (B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply: 13717
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13720
- (1) A review of the databases listed in division (D) of this section reveals any of the following: 13721
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- (a) That the applicant or employee is included in one or more of the databases listed in divisions (D) (1) to (5) of this section; 13723
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13725
- (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; 13726
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- (c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under 13732
13733

this section and the rules prohibit the home health agency from 13734
employing an applicant or continuing to employ an employee 13735
included in such a database in a position that involves 13736
providing direct care to an individual. 13737

(2) After the applicant or employee is provided, pursuant 13738
to division (E) (2) (a) of this section, a copy of the form 13739
prescribed pursuant to division (C) (1) of section 109.572 of the 13740
Revised Code and the standard impression sheet prescribed 13741
pursuant to division (C) (2) of that section, the applicant or 13742
employee fails to complete the form or provide the applicant's 13743
or employee's fingerprint impressions on the standard impression 13744
sheet. 13745

(3) Except as provided in rules adopted under this 13746
section, the applicant or employee is found by a criminal 13747
records check required by this section to have been convicted 13748
of, pleaded guilty to, or been found eligible for intervention 13749
in lieu of conviction for a disqualifying offense. 13750

(C) Except as provided by division (F) of this section, 13751
the chief administrator of a home health agency shall inform 13752
each applicant of both of the following at the time of the 13753
applicant's initial application for employment or referral to 13754
the home health agency by an employment service for a position 13755
that involves providing direct care to an individual: 13756

(1) That a review of the databases listed in division (D) 13757
of this section will be conducted to determine whether the home 13758
health agency is prohibited by division (B) (1) of this section 13759
from employing the applicant in the position; 13760

(2) That, unless the database review reveals that the 13761
applicant may not be employed in the position, a criminal 13762

records check of the applicant will be conducted and the 13763
applicant is required to provide a set of the applicant's 13764
fingerprint impressions as part of the criminal records check. 13765

(D) As a condition of employing any applicant in a 13766
position that involves providing direct care to an individual, 13767
the chief administrator of a home health agency shall conduct a 13768
database review of the applicant in accordance with rules 13769
adopted under this section. If rules adopted under this section 13770
so require, the chief administrator of a home health agency 13771
shall conduct a database review of an employee in accordance 13772
with the rules as a condition of continuing to employ the 13773
employee in a position that involves providing direct care to an 13774
individual. However, the chief administrator is not required to 13775
conduct a database review of an applicant or employee if 13776
division (F) of this section applies. A database review shall 13777
determine whether the applicant or employee is included in any 13778
of the following: 13779

(1) The excluded parties list system that is maintained by 13780
the United States general services administration pursuant to 13781
subpart 9.4 of the federal acquisition regulation and available 13782
at the federal web site known as the system for award 13783
management; 13784

(2) The list of excluded individuals and entities 13785
maintained by the office of inspector general in the United 13786
States department of health and human services pursuant to the 13787
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 13788
and 1320c-5; 13789

(3) The registry of ~~MR/DD~~ developmental disabilities 13790
employees established under section 5123.52 of the Revised Code; 13791

(4) The internet-based sex offender and child-victim
offender database established under division (A) (11) of section
2950.13 of the Revised Code; 13792
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13794

(5) The internet-based database of inmates established
under section 5120.66 of the Revised Code; 13795
13796

(6) The state nurse aide registry established under
section 3721.32 of the Revised Code; 13797
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(7) Any other database, if any, specified in rules adopted
under this section. 13799
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(E) (1) As a condition of employing any applicant in a
position that involves providing direct care to an individual,
the chief administrator of a home health agency shall request
the superintendent of the bureau of criminal identification and
investigation to conduct a criminal records check of the
applicant. If rules adopted under this section so require, the
chief administrator of a home health agency shall request the
superintendent to conduct a criminal records check of an
employee at times specified in the rules as a condition of
continuing to employ the employee in a position that involves
providing direct care to an individual. However, the chief
administrator is not required to request the criminal records
check of the applicant or the employee if division (F) of this
section applies or the home health agency is prohibited by
division (B) (1) of this section from employing the applicant or
continuing to employ the employee in a position that involves
providing direct care to an individual. If an applicant or
employee for whom a criminal records check request is required
by this section does not present proof of having been a resident
of this state for the five-year period immediately prior to the
date upon which the criminal records check is requested or does 13801
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not provide evidence that within that five-year period the 13822
superintendent has requested information about the applicant 13823
from the federal bureau of investigation in a criminal records 13824
check, the chief administrator shall request that the 13825
superintendent obtain information from the federal bureau of 13826
investigation as a part of the criminal records check. Even if 13827
an applicant or employee for whom a criminal records check 13828
request is required by this section presents proof that the 13829
applicant or employee has been a resident of this state for that 13830
five-year period, the chief administrator may request that the 13831
superintendent include information from the federal bureau of 13832
investigation in the criminal records check. 13833

(2) The chief administrator shall do all of the following: 13834

(a) Provide to each applicant and employee for whom a 13835
criminal records check request is required by this section a 13836
copy of the form prescribed pursuant to division (C)(1) of 13837
section 109.572 of the Revised Code and a standard impression 13838
sheet prescribed pursuant to division (C)(2) of that section; 13839

(b) Obtain the completed form and standard impression 13840
sheet from each applicant and employee; 13841

(c) Forward the completed form and standard impression 13842
sheet to the superintendent at the time the chief administrator 13843
requests the criminal records check. 13844

(3) A home health agency shall pay to the bureau of 13845
criminal identification and investigation the fee prescribed 13846
pursuant to division (C)(3) of section 109.572 of the Revised 13847
Code for each criminal records check the agency requests under 13848
this section. A home health agency may charge an applicant a fee 13849
not exceeding the amount the agency pays to the bureau under 13850

this section if both of the following apply: 13851

(a) The home health agency notifies the applicant at the 13852
time of initial application for employment of the amount of the 13853
fee and that, unless the fee is paid, the applicant will not be 13854
considered for employment. 13855

(b) The medicaid program does not reimburse the home 13856
health agency for the fee it pays to the bureau under this 13857
section. 13858

(F) Divisions (C) to (E) of this section do not apply with 13859
regard to an applicant or employee if the applicant or employee 13860
is referred to a home health agency by an employment service 13861
that supplies full-time, part-time, or temporary staff for 13862
positions that involve providing direct care to an individual 13863
and both of the following apply: 13864

(1) The chief administrator of the home health agency 13865
receives from the employment service confirmation that a review 13866
of the databases listed in division (D) of this section was 13867
conducted with regard to the applicant or employee. 13868

(2) The chief administrator of the home health agency 13869
receives from the employment service, applicant, or employee a 13870
report of the results of a criminal records check of the 13871
applicant or employee that has been conducted by the 13872
superintendent within the one-year period immediately preceding 13873
the following: 13874

(a) In the case of an applicant, the date of the 13875
applicant's referral by the employment service to the home 13876
health agency; 13877

(b) In the case of an employee, the date by which the home 13878
health agency would otherwise have to request a criminal records 13879

check of the employee under division (E) of this section. 13880

(G) (1) A home health agency may employ conditionally an 13881
applicant for whom a criminal records check request is required 13882
by this section before obtaining the results of the criminal 13883
records check if the agency is not prohibited by division (B) of 13884
this section from employing the applicant in a position that 13885
involves providing direct care to an individual and either of 13886
the following applies: 13887

(a) The chief administrator of the home health agency 13888
requests the criminal records check in accordance with division 13889
(E) of this section not later than five business days after the 13890
applicant begins conditional employment. 13891

(b) The applicant is referred to the home health agency by 13892
an employment service, the employment service or the applicant 13893
provides the chief administrator of the agency a letter that is 13894
on the letterhead of the employment service, the letter is dated 13895
and signed by a supervisor or another designated official of the 13896
employment service, and the letter states all of the following: 13897

(i) That the employment service has requested the 13898
superintendent to conduct a criminal records check regarding the 13899
applicant; 13900

(ii) That the requested criminal records check is to 13901
include a determination of whether the applicant has been 13902
convicted of, pleaded guilty to, or been found eligible for 13903
intervention in lieu of conviction for a disqualifying offense; 13904

(iii) That the employment service has not received the 13905
results of the criminal records check as of the date set forth 13906
on the letter; 13907

(iv) That the employment service promptly will send a copy 13908

of the results of the criminal records check to the chief 13909
administrator of the home health agency when the employment 13910
service receives the results. 13911

(2) If a home health agency employs an applicant 13912
conditionally pursuant to division (G)(1)(b) of this section, 13913
the employment service, on its receipt of the results of the 13914
criminal records check, promptly shall send a copy of the 13915
results to the chief administrator of the agency. 13916

(3) A home health agency that employs an applicant 13917
conditionally pursuant to division (G)(1)(a) or (b) of this 13918
section shall terminate the applicant's employment if the 13919
results of the criminal records check, other than the results of 13920
any request for information from the federal bureau of 13921
investigation, are not obtained within the period ending sixty 13922
days after the date the request for the criminal records check 13923
is made. Regardless of when the results of the criminal records 13924
check are obtained, if the results indicate that the applicant 13925
has been convicted of, pleaded guilty to, or been found eligible 13926
for intervention in lieu of conviction for a disqualifying 13927
offense, the home health agency shall terminate the applicant's 13928
employment unless circumstances specified in rules adopted under 13929
this section that permit the agency to employ the applicant 13930
exist and the agency chooses to employ the applicant. 13931
Termination of employment under this division shall be 13932
considered just cause for discharge for purposes of division (D) 13933
(2) of section 4141.29 of the Revised Code if the applicant 13934
makes any attempt to deceive the home health agency about the 13935
applicant's criminal record. 13936

(H) The report of any criminal records check conducted by 13937
the bureau of criminal identification and investigation in 13938

accordance with section 109.572 of the Revised Code and pursuant 13939
to a request made under this section is not a public record for 13940
the purposes of section 149.43 of the Revised Code and shall not 13941
be made available to any person other than the following: 13942

(1) The applicant or employee who is the subject of the 13943
criminal records check or the applicant's or employee's 13944
representative; 13945

(2) The home health agency requesting the criminal records 13946
check or its representative; 13947

(3) The administrator of any other facility, agency, or 13948
program that provides direct care to individuals that is owned 13949
or operated by the same entity that owns or operates the home 13950
health agency that requested the criminal records check; 13951

(4) The employment service that requested the criminal 13952
records check; 13953

(5) The director of health and the staff of the department 13954
of health who monitor a home health agency's compliance with 13955
this section; 13956

(6) The director of aging or the director's designee if 13957
either of the following apply: 13958

(a) In the case of a criminal records check requested by a 13959
home health agency, the home health agency also is a community- 13960
based long-term care provider or community-based long-term care 13961
subcontractor; 13962

(b) In the case of a criminal records check requested by 13963
an employment service, the employment service makes the request 13964
for an applicant or employee the employment service refers to a 13965
home health agency that also is a community-based long-term care 13966

provider or community-based long-term care subcontractor. 13967

(7) The medicaid director and the staff of the department 13968
of medicaid who are involved in the administration of the 13969
medicaid program if either of the following apply: 13970

(a) In the case of a criminal records check requested by a 13971
home health agency, the home health agency also is a waiver 13972
agency; 13973

(b) In the case of a criminal records check requested by 13974
an employment service, the employment service makes the request 13975
for an applicant or employee the employment service refers to a 13976
home health agency that also is a waiver agency. 13977

(8) Any court, hearing officer, or other necessary 13978
individual involved in a case dealing with any of the following: 13979

(a) A denial of employment of the applicant or employee; 13980

(b) Employment or unemployment benefits of the applicant 13981
or employee; 13982

(c) A civil or criminal action regarding the medicaid 13983
program. 13984

(I) In a tort or other civil action for damages that is 13985
brought as the result of an injury, death, or loss to person or 13986
property caused by an applicant or employee who a home health 13987
agency employs in a position that involves providing direct care 13988
to an individual, all of the following shall apply: 13989

(1) If the home health agency employed the applicant or 13990
employee in good faith and reasonable reliance on the report of 13991
a criminal records check requested under this section, the 13992
agency shall not be found negligent solely because of its 13993
reliance on the report, even if the information in the report is 13994

determined later to have been incomplete or inaccurate. 13995

(2) If the home health agency employed the applicant in 13996
good faith on a conditional basis pursuant to division (G) of 13997
this section, the agency shall not be found negligent solely 13998
because it employed the applicant prior to receiving the report 13999
of a criminal records check requested under this section. 14000

(3) If the home health agency in good faith employed the 14001
applicant or employee according to the personal character 14002
standards established in rules adopted under this section, the 14003
agency shall not be found negligent solely because the applicant 14004
or employee had been convicted of, pleaded guilty to, or been 14005
found eligible for intervention in lieu of conviction for a 14006
disqualifying offense. 14007

(J) The director of health shall adopt rules in accordance 14008
with Chapter 119. of the Revised Code to implement this section. 14009

(1) The rules may do the following: 14010

(a) Require employees to undergo database reviews and 14011
criminal records checks under this section; 14012

(b) If the rules require employees to undergo database 14013
reviews and criminal records checks under this section, exempt 14014
one or more classes of employees from the requirements; 14015

(c) For the purpose of division (D)(7) of this section, 14016
specify other databases that are to be checked as part of a 14017
database review conducted under this section. 14018

(2) The rules shall specify all of the following: 14019

(a) The procedures for conducting database reviews under 14020
this section; 14021

(b) If the rules require employees to undergo database 14022
reviews and criminal records checks under this section, the 14023
times at which the database reviews and criminal records checks 14024
are to be conducted; 14025

(c) If the rules specify other databases to be checked as 14026
part of the database reviews, the circumstances under which a 14027
home health agency is prohibited from employing an applicant or 14028
continuing to employ an employee who is found by a database 14029
review to be included in one or more of those databases; 14030

(d) Circumstances under which a home health agency may 14031
employ an applicant or employee who is found by a criminal 14032
records check required by this section to have been convicted 14033
of, pleaded guilty to, or been found eligible for intervention 14034
in lieu of conviction for a disqualifying offense but meets 14035
personal character standards. 14036

Sec. 3707.20. No person, who is suffering from a 14037
contagious or infectious disease, or who has been exposed to a 14038
contagious or infectious disease, may be sent or admitted to a 14039
prison~~;~~ jail~~;~~ workhouse~~;~~ infirmary~~;~~ children's home~~;~~ state 14040
hospital or institution for the blind, the mentally ill, or ~~the~~ 14041
~~mentally retarded, or a persons with intellectual disabilities;~~ 14042
school for the blind or deaf~~;~~ or other state or county 14043
benevolent institution without first making known the facts 14044
concerning the illness or exposure to the superintendent or 14045
other person in charge thereof. When a dangerous, contagious, or 14046
infectious disease is in a jail or prison and a prisoner in the 14047
jail or prison exposed to the disease is sentenced to a state 14048
correctional institution, the prisoner shall be confined and 14049
isolated in the jail or prison or other proper place, upon the 14050
order of the proper court, for any time that is necessary to 14051

establish the fact that ~~he~~ the prisoner has not contracted the disease. 14052
14053

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 14054
and 3721.99 of the Revised Code: 14055

(1) (a) "Home" means an institution, residence, or facility 14056
that provides, for a period of more than twenty-four hours, 14057
whether for a consideration or not, accommodations to three or 14058
more unrelated individuals who are dependent upon the services 14059
of others, including a nursing home, residential care facility, 14060
home for the aging, and a veterans' home operated under Chapter 14061
5907. of the Revised Code. 14062

(b) "Home" also means both of the following: 14063

(i) Any facility that a person, as defined in section 14064
3702.51 of the Revised Code, proposes for certification as a 14065
skilled nursing facility or nursing facility under Title XVIII 14066
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 14067
U.S.C.A. 301, as amended, and for which a certificate of need, 14068
other than a certificate to recategorize hospital beds as 14069
described in section 3702.521 of the Revised Code or division 14070
(R) (7) (d) of the version of section 3702.51 of the Revised Code 14071
in effect immediately prior to April 20, 1995, has been granted 14072
to the person under sections 3702.51 to 3702.62 of the Revised 14073
Code after August 5, 1989; 14074

(ii) A county home or district home that is or has been 14075
licensed as a residential care facility. 14076

(c) "Home" does not mean any of the following: 14077

(i) Except as provided in division (A) (1) (b) of this 14078
section, a public hospital or hospital as defined in section 14079
3701.01 or 5122.01 of the Revised Code; 14080

(ii) A residential facility as defined in section 5119.34	14081
of the Revised Code;	14082
(iii) A residential facility as defined in section 5123.19	14083
of the Revised Code;	14084
(iv) A community addiction services provider as defined in	14085
section 5119.01 of the Revised Code;	14086
(v) A facility licensed to provide methadone treatment	14087
under section 5119.391 of the Revised Code;	14088
(vi) A facility providing services under contract with the	14089
department of developmental disabilities under section 5123.18	14090
of the Revised Code;	14091
(vii) A facility operated by a hospice care program	14092
licensed under section 3712.04 of the Revised Code that is used	14093
exclusively for care of hospice patients;	14094
(viii) A facility operated by a pediatric respite care	14095
program licensed under section 3712.041 of the Revised Code that	14096
is used exclusively for care of pediatric respite care patients;	14097
(ix) A facility, infirmary, or other entity that is	14098
operated by a religious order, provides care exclusively to	14099
members of religious orders who take vows of celibacy and live	14100
by virtue of their vows within the orders as if related, and	14101
does not participate in the medicare program or the medicaid	14102
program if on January 1, 1994, the facility, infirmary, or	14103
entity was providing care exclusively to members of the	14104
religious order;	14105
(x) A county home or district home that has never been	14106
licensed as a residential care facility.	14107
(2) "Unrelated individual" means one who is not related to	14108

the owner or operator of a home or to the spouse of the owner or 14109
operator as a parent, grandparent, child, grandchild, brother, 14110
sister, niece, nephew, aunt, uncle, or as the child of an aunt 14111
or uncle. 14112

(3) "Mental impairment" does not mean mental illness, as 14113
defined in section 5122.01 of the Revised Code, or ~~mental-~~ 14114
~~retardation~~ developmental disability, as defined in section 14115
5123.01 of the Revised Code. 14116

(4) "Skilled nursing care" means procedures that require 14117
technical skills and knowledge beyond those the untrained person 14118
possesses and that are commonly employed in providing for the 14119
physical, mental, and emotional needs of the ill or otherwise 14120
incapacitated. "Skilled nursing care" includes, but is not 14121
limited to, the following: 14122

(a) Irrigations, catheterizations, application of 14123
dressings, and supervision of special diets; 14124

(b) Objective observation of changes in the patient's 14125
condition as a means of analyzing and determining the nursing 14126
care required and the need for further medical diagnosis and 14127
treatment; 14128

(c) Special procedures contributing to rehabilitation; 14129

(d) Administration of medication by any method ordered by 14130
a physician, such as hypodermically, rectally, or orally, 14131
including observation of the patient after receipt of the 14132
medication; 14133

(e) Carrying out other treatments prescribed by the 14134
physician that involve a similar level of complexity and skill 14135
in administration. 14136

- (5) (a) "Personal care services" means services including, 14137
but not limited to, the following: 14138
- (i) Assisting residents with activities of daily living; 14139
- (ii) Assisting residents with self-administration of 14140
medication, in accordance with rules adopted under section 14141
3721.04 of the Revised Code; 14142
- (iii) Preparing special diets, other than complex 14143
therapeutic diets, for residents pursuant to the instructions of 14144
a physician or a licensed dietitian, in accordance with rules 14145
adopted under section 3721.04 of the Revised Code. 14146
- (b) "Personal care services" does not include "skilled 14147
nursing care" as defined in division (A) (4) of this section. A 14148
facility need not provide more than one of the services listed 14149
in division (A) (5) (a) of this section to be considered to be 14150
providing personal care services. 14151
- (6) "Nursing home" means a home used for the reception and 14152
care of individuals who by reason of illness or physical or 14153
mental impairment require skilled nursing care and of 14154
individuals who require personal care services but not skilled 14155
nursing care. A nursing home is licensed to provide personal 14156
care services and skilled nursing care. 14157
- (7) "Residential care facility" means a home that provides 14158
either of the following: 14159
- (a) Accommodations for seventeen or more unrelated 14160
individuals and supervision and personal care services for three 14161
or more of those individuals who are dependent on the services 14162
of others by reason of age or physical or mental impairment; 14163
- (b) Accommodations for three or more unrelated 14164

individuals, supervision and personal care services for at least 14165
three of those individuals who are dependent on the services of 14166
others by reason of age or physical or mental impairment, and, 14167
to at least one of those individuals, any of the skilled nursing 14168
care authorized by section 3721.011 of the Revised Code. 14169

(8) "Home for the aging" means a home that provides 14170
services as a residential care facility and a nursing home, 14171
except that the home provides its services only to individuals 14172
who are dependent on the services of others by reason of both 14173
age and physical or mental impairment. 14174

The part or unit of a home for the aging that provides 14175
services only as a residential care facility is licensed as a 14176
residential care facility. The part or unit that may provide 14177
skilled nursing care beyond the extent authorized by section 14178
3721.011 of the Revised Code is licensed as a nursing home. 14179

(9) "County home" and "district home" mean a county home 14180
or district home operated under Chapter 5155. of the Revised 14181
Code. 14182

(B) The director of health may further classify homes. For 14183
the purposes of this chapter, any residence, institution, hotel, 14184
congregate housing project, or similar facility that meets the 14185
definition of a home under this section is such a home 14186
regardless of how the facility holds itself out to the public. 14187

(C) For purposes of this chapter, personal care services 14188
or skilled nursing care shall be considered to be provided by a 14189
facility if they are provided by a person employed by or 14190
associated with the facility or by another person pursuant to an 14191
agreement to which neither the resident who receives the 14192
services nor the resident's sponsor is a party. 14193

(D) Nothing in division (A) (4) of this section shall be 14194
construed to permit skilled nursing care to be imposed on an 14195
individual who does not require skilled nursing care. 14196

Nothing in division (A) (5) of this section shall be 14197
construed to permit personal care services to be imposed on an 14198
individual who is capable of performing the activity in question 14199
without assistance. 14200

(E) Division (A) (1) (c) (ix) of this section does not 14201
prohibit a facility, infirmary, or other entity described in 14202
that division from seeking licensure under sections 3721.01 to 14203
3721.09 of the Revised Code or certification under Title XVIII 14204
or XIX of the "Social Security Act." However, such a facility, 14205
infirmary, or entity that applies for licensure or certification 14206
must meet the requirements of those sections or titles and the 14207
rules adopted under them and obtain a certificate of need from 14208
the director of health under section 3702.52 of the Revised 14209
Code. 14210

(F) Nothing in this chapter, or rules adopted pursuant to 14211
it, shall be construed as authorizing the supervision, 14212
regulation, or control of the spiritual care or treatment of 14213
residents or patients in any home who rely upon treatment by 14214
prayer or spiritual means in accordance with the creed or tenets 14215
of any recognized church or religious denomination. 14216

Sec. 3763.06. As used in this section, "incompetent 14217
person" means a person who is so mentally impaired, as a result 14218
of a mental or physical illness or disability, ~~or mental~~ 14219
~~retardation~~ as a result of an intellectual disability, or as a 14220
result of chronic substance abuse, that the person is incapable 14221
of taking proper care of the person's self or property or fails 14222
to provide for the person's family or other persons for whom the 14223

person is charged by law to provide. 14224

The property, both real and personal, of a defendant 14225
against whom a judgment is rendered under sections 3763.01 to 14226
3763.08 of the Revised Code, for fines, costs, or to recover 14227
money or any other thing of value, lost or paid, shall be liable 14228
therefor without exemption, and such judgment shall be a lien 14229
thereon until paid. If the owner of the building in which the 14230
money was lost knowingly permits it to be used for gaming 14231
purposes, such building, and the real estate upon which it 14232
stands, shall be liable therefor in a like manner. The guardian 14233
or trustee of a minor or incompetent person, permitting property 14234
under the guardian's or trustee's charge to be used for gaming 14235
purposes and to become liable on account thereof, shall be 14236
liable to the guardian's or trustee's ward for such amount. 14237

Sec. 3791.031. (A) As used in this section, "place of 14238
public assembly" means: 14239

(1) Enclosed theatres, except the lobby; opera houses; 14240
auditoriums; classrooms; elevators; rooms in which persons are 14241
confined as a matter of health care, including but not limited 14242
to a hospital room and a room in a residential care facility 14243
serving as the residence of a person living in such residential 14244
care facility; 14245

(2) All buildings and other enclosed structures owned by 14246
the state, its agencies, or political subdivisions, including 14247
but not limited to hospitals and state institutions for ~~the~~ 14248
~~mentally retarded and the mentally ill~~ and persons with 14249
intellectual disabilities; university and college buildings, 14250
except rooms within those buildings used primarily as the 14251
residences of students or other persons affiliated with the 14252
university or college; office buildings; libraries; museums; and 14253

vehicles used in public transportation. That portion of a 14254
building or other enclosed structure that is owned by the state, 14255
a state agency, or a political subdivision and that is used 14256
primarily as a food service establishment is not a place of 14257
public assembly. 14258

(3) Each portion of a building or enclosed structure that 14259
is not included in division (A) (1) or (2) of this section is a 14260
place of public assembly if it has a seating capacity of fifty 14261
or more persons and is available to the public. Restaurants, 14262
food service establishments, dining rooms, cafes, cafeterias, or 14263
other rooms used primarily for the service of food, as well as 14264
bowling alleys and places licensed by the division of liquor 14265
control to sell intoxicating beverages for consumption on the 14266
premises, are not places of public assembly. 14267

(B) For the purpose of separating persons who smoke from 14268
persons who do not smoke for the comfort and health of persons 14269
not smoking, in every place of public assembly there shall be an 14270
area where smoking is not permitted, which shall be designated a 14271
no smoking area; provided that, no more than one-half of the 14272
rooms in any health care facility in which persons are confined 14273
as a matter of health care may be designated as smoking areas in 14274
their entirety. The designation shall be made before the place 14275
of public assembly is made available to the public. In places 14276
included in division (A) (1) of this section, the local fire 14277
authority having jurisdiction shall designate the no smoking 14278
area. In places included in division (A) (2) of this section that 14279
are owned by the state or its agencies, except the capitol 14280
square, the director of administrative services shall designate 14281
the area, and if the place is owned by a political subdivision, 14282
its legislative authority shall designate an officer who shall 14283
designate the area. The house rules committee shall designate 14284

the no smoking areas in all capitol square spaces used by the 14285
house of representatives; the senate rules committee shall 14286
designate the no smoking areas in all capitol square spaces used 14287
by the senate and the legislative service commission; the 14288
capitol square review and advisory board shall designate the no 14289
smoking areas in all other spaces in the capitol square. In 14290
places included in division (A) (3) of this section, the person 14291
having control of the operations of the place of public assembly 14292
shall designate the no smoking area. In places included in 14293
division (A) (2) of this section which are also included in 14294
division (A) (1) of this section, the officer who has authority 14295
to designate the area in places in division (A) (2) of this 14296
section shall designate the no smoking area. A no smoking area 14297
may include the entire place of public assembly. Designations 14298
shall be made by the placement of signs that are clearly visible 14299
and that state "no smoking." No person shall remove signs from 14300
areas designated as no smoking areas. 14301

(C) This section does not affect or modify the prohibition 14302
contained in division (B) of section 3313.751 of the Revised 14303
Code. 14304

(D) No person shall smoke in any area designated as a no 14305
smoking area in accordance with division (B) of this section. 14306

(E) Whoever violates this section is guilty of a minor 14307
misdemeanor. 14308

Sec. 3923.24. (A) Notwithstanding section 3901.71 of the 14309
Revised Code, every certificate furnished by an insurer in 14310
connection with, or pursuant to any provision of, any group 14311
sickness and accident insurance policy delivered, issued for 14312
delivery, renewed, or used in this state on or after January 1, 14313
1972, every policy of sickness and accident insurance delivered, 14314

issued for delivery, renewed, or used in this state on or after 14315
January 1, 1972, and every multiple employer welfare arrangement 14316
offering an insurance program, which provides that coverage of 14317
an unmarried dependent child of a parent or legal guardian will 14318
terminate upon attainment of the limiting age for dependent 14319
children specified in the contract shall also provide in 14320
substance both of the following: 14321

(1) Once an unmarried child has attained the limiting age 14322
for dependent children, as provided in the policy, upon the 14323
request of the insured, the insurer shall offer to cover the 14324
unmarried child until the child attains twenty-six years of age 14325
if all of the following are true: 14326

(a) The child is the natural child, stepchild, or adopted 14327
child of the insured. 14328

(b) The child is a resident of this state or a full-time 14329
student at an accredited public or private institution of higher 14330
education. 14331

(c) The child is not employed by an employer that offers 14332
any health benefit plan under which the child is eligible for 14333
coverage. 14334

(d) The child is not eligible for the medicaid program or 14335
the medicare program. 14336

(2) That attainment of the limiting age for dependent 14337
children shall not operate to terminate the coverage of a 14338
dependent child if the child is and continues to be both of the 14339
following: 14340

(a) Incapable of self-sustaining employment by reason of 14341
~~mental retardation~~ an intellectual disability or physical 14342
handicap; 14343

(b) Primarily dependent upon the policyholder or certificate holder for support and maintenance. 14344
14345

(B) Proof of such incapacity and dependence for purposes of division (A) (2) of this section shall be furnished by the policyholder or by the certificate holder to the insurer within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually after the two-year period following the child's attainment of the limiting age, the insurer may require proof satisfactory to it of the continuance of such incapacity and dependency. 14346
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(C) Nothing in this section shall require an insurer to cover a dependent child who ~~is mentally retarded or physically handicapped~~ has an intellectual disability or physical handicap if the contract is underwritten on evidence of insurability based on health factors set forth in the application, or if such dependent child does not satisfy the conditions of the contract as to any requirement for evidence of insurability or other provision of the contract, satisfaction of which is required for coverage thereunder to take effect. In any such case, the terms of the contract shall apply with regard to the coverage or exclusion of the dependent from such coverage. Nothing in this section shall apply to accidental death or dismemberment benefits provided by any such policy of sickness and accident insurance. 14354
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(D) Nothing in this section shall do any of the following: 14368

(1) Require that any policy offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy; 14369
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(2) Require an employer to pay for any part of the premium 14372

for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy;

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

(E) This section does not apply to any policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy that is less than twelve months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

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

(1) A public employee benefit plan;

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

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the Revised Code, any public employee benefit plan that provides that coverage of an unmarried dependent child will terminate upon attainment of the limiting age for dependent children specified in the plan shall also provide in substance both of the following:

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the plan, upon the

request of the employee, the public employee benefit plan shall 14402
offer to cover the unmarried child until the child attains 14403
twenty-six years of age if all of the following are true: 14404

(a) The child is the natural child, stepchild, or adopted 14405
child of the employee. 14406

(b) The child is a resident of this state or a full-time 14407
student at an accredited public or private institution of higher 14408
education. 14409

(c) The child is not employed by an employer that offers 14410
any health benefit plan under which the child is eligible for 14411
coverage. 14412

(d) The child is not eligible for the medicaid program or 14413
the medicare program. 14414

(2) That attainment of the limiting age for dependent 14415
children shall not operate to terminate the coverage of a 14416
dependent child if the child is and continues to be both of the 14417
following: 14418

(a) Incapable of self-sustaining employment by reason of 14419
~~mental retardation~~an intellectual disability or physical 14420
handicap; 14421

(b) Primarily dependent upon the plan member for support 14422
and maintenance. 14423

(B) Proof of incapacity and dependence for purposes of 14424
division (A) (2) of this section shall be furnished to the public 14425
employee benefit plan within thirty-one days of the child's 14426
attainment of the limiting age. Upon request, but not more 14427
frequently than annually, the public employee benefit plan may 14428
require proof satisfactory to it of the continuance of such 14429

incapacity and dependency.	14430
(C) Nothing in this section shall do any of the following:	14431
(1) Require that any public employee benefit plan offer	14432
coverage for dependent children or provide coverage for an	14433
unmarried dependent child's children as dependents on the public	14434
employee benefit plan;	14435
(2) Require an employer to pay for any part of the premium	14436
for an unmarried dependent child that has attained the limiting	14437
age for dependents, as provided in the plan;	14438
(3) Require an employer to offer health insurance coverage	14439
to the dependents of any employee.	14440
(D) This section does not apply to any public employee	14441
benefit plan covering only accident, credit, dental, disability	14442
income, long-term care, hospital indemnity, medicare supplement,	14443
specified disease, or vision care; coverage under a one-time-	14444
limited-duration policy that is less than twelve months;	14445
coverage issued as a supplement to liability insurance;	14446
insurance arising out of a workers' compensation or similar law;	14447
automobile medical-payment insurance; or insurance under which	14448
benefits are payable with or without regard to fault and which	14449
is statutorily required to be contained in any liability	14450
insurance policy or equivalent self-insurance.	14451
(E) As used in this section, "health benefit plan" has the	14452
same meaning as in section 3924.01 of the Revised Code and also	14453
includes both of the following:	14454
(1) A public employee benefit plan;	14455
(2) A health benefit plan as regulated under the "Employee	14456
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.	14457

Sec. 4112.01. (A) As used in this chapter:	14458
(1) "Person" includes one or more individuals,	14459
partnerships, associations, organizations, corporations, legal	14460
representatives, trustees, trustees in bankruptcy, receivers,	14461
and other organized groups of persons. "Person" also includes,	14462
but is not limited to, any owner, lessor, assignor, builder,	14463
manager, broker, salesperson, appraiser, agent, employee,	14464
lending institution, and the state and all political	14465
subdivisions, authorities, agencies, boards, and commissions of	14466
the state.	14467
(2) "Employer" includes the state, any political	14468
subdivision of the state, any person employing four or more	14469
persons within the state, and any person acting directly or	14470
indirectly in the interest of an employer.	14471
(3) "Employee" means an individual employed by any	14472
employer but does not include any individual employed in the	14473
domestic service of any person.	14474
(4) "Labor organization" includes any organization that	14475
exists, in whole or in part, for the purpose of collective	14476
bargaining or of dealing with employers concerning grievances,	14477
terms or conditions of employment, or other mutual aid or	14478
protection in relation to employment.	14479
(5) "Employment agency" includes any person regularly	14480
undertaking, with or without compensation, to procure	14481
opportunities to work or to procure, recruit, refer, or place	14482
employees.	14483
(6) "Commission" means the Ohio civil rights commission	14484
created by section 4112.03 of the Revised Code.	14485
(7) "Discriminate" includes segregate or separate.	14486

(8) "Unlawful discriminatory practice" means any act 14487
prohibited by section 4112.02, 4112.021, or 4112.022 of the 14488
Revised Code. 14489

(9) "Place of public accommodation" means any inn, 14490
restaurant, eating house, barbershop, public conveyance by air, 14491
land, or water, theater, store, other place for the sale of 14492
merchandise, or any other place of public accommodation or 14493
amusement of which the accommodations, advantages, facilities, 14494
or privileges are available to the public. 14495

(10) "Housing accommodations" includes any building or 14496
structure, or portion of a building or structure, that is used 14497
or occupied or is intended, arranged, or designed to be used or 14498
occupied as the home residence, dwelling, dwelling unit, or 14499
sleeping place of one or more individuals, groups, or families 14500
whether or not living independently of each other; and any 14501
vacant land offered for sale or lease. "Housing accommodations" 14502
also includes any housing accommodations held or offered for 14503
sale or rent by a real estate broker, salesperson, or agent, by 14504
any other person pursuant to authorization of the owner, by the 14505
owner, or by the owner's legal representative. 14506

(11) "Restrictive covenant" means any specification 14507
limiting the transfer, rental, lease, or other use of any 14508
housing accommodations because of race, color, religion, sex, 14509
military status, familial status, national origin, disability, 14510
or ancestry, or any limitation based upon affiliation with or 14511
approval by any person, directly or indirectly, employing race, 14512
color, religion, sex, military status, familial status, national 14513
origin, disability, or ancestry as a condition of affiliation or 14514
approval. 14515

(12) "Burial lot" means any lot for the burial of deceased 14516

persons within any public burial ground or cemetery, including, 14517
but not limited to, cemeteries owned and operated by municipal 14518
corporations, townships, or companies or associations 14519
incorporated for cemetery purposes. 14520

(13) "Disability" means a physical or mental impairment 14521
that substantially limits one or more major life activities, 14522
including the functions of caring for one's self, performing 14523
manual tasks, walking, seeing, hearing, speaking, breathing, 14524
learning, and working; a record of a physical or mental 14525
impairment; or being regarded as having a physical or mental 14526
impairment. 14527

(14) Except as otherwise provided in section 4112.021 of 14528
the Revised Code, "age" means at least forty years old. 14529

(15) "Familial status" means either of the following: 14530

(a) One or more individuals who are under eighteen years 14531
of age and who are domiciled with a parent or guardian having 14532
legal custody of the individual or domiciled, with the written 14533
permission of the parent or guardian having legal custody, with 14534
a designee of the parent or guardian; 14535

(b) Any person who is pregnant or in the process of 14536
securing legal custody of any individual who is under eighteen 14537
years of age. 14538

(16) (a) Except as provided in division (A) (16) (b) of this 14539
section, "physical or mental impairment" includes any of the 14540
following: 14541

(i) Any physiological disorder or condition, cosmetic 14542
disfigurement, or anatomical loss affecting one or more of the 14543
following body systems: neurological; musculoskeletal; special 14544
sense organs; respiratory, including speech organs; 14545

cardiovascular; reproductive; digestive; genito-urinary; hemic 14546
and lymphatic; skin; and endocrine; 14547

(ii) Any mental or psychological disorder, including, but 14548
not limited to, ~~mental retardation~~ intellectual disability, 14549
organic brain syndrome, emotional or mental illness, and 14550
specific learning disabilities; 14551

(iii) Diseases and conditions, including, but not limited 14552
to, orthopedic, visual, speech, and hearing impairments, 14553
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple 14554
sclerosis, cancer, heart disease, diabetes, human 14555
immunodeficiency virus infection, ~~mental retardation~~ 14556
intellectual disability, emotional illness, drug addiction, and 14557
alcoholism. 14558

(b) "Physical or mental impairment" does not include any 14559
of the following: 14560

(i) Homosexuality and bisexuality; 14561

(ii) Transvestism, transsexualism, pedophilia, 14562
exhibitionism, voyeurism, gender identity disorders not 14563
resulting from physical impairments, or other sexual behavior 14564
disorders; 14565

(iii) Compulsive gambling, kleptomania, or pyromania; 14566

(iv) Psychoactive substance use disorders resulting from 14567
the current illegal use of a controlled substance or the current 14568
use of alcoholic beverages. 14569

(17) "Dwelling unit" means a single unit of residence for 14570
a family of one or more persons. 14571

(18) "Common use areas" means rooms, spaces, or elements 14572
inside or outside a building that are made available for the use 14573

of residents of the building or their guests, and includes, but 14574
is not limited to, hallways, lounges, lobbies, laundry rooms, 14575
refuse rooms, mail rooms, recreational areas, and passageways 14576
among and between buildings. 14577

(19) "Public use areas" means interior or exterior rooms 14578
or spaces of a privately or publicly owned building that are 14579
made available to the general public. 14580

(20) "Controlled substance" has the same meaning as in 14581
section 3719.01 of the Revised Code. 14582

(21) "Disabled tenant" means a tenant or prospective 14583
tenant who is a person with a disability. 14584

(22) "Military status" means a person's status in "service 14585
in the uniformed services" as defined in section 5923.05 of the 14586
Revised Code. 14587

(23) "Aggrieved person" includes both of the following: 14588

(a) Any person who claims to have been injured by any 14589
unlawful discriminatory practice described in division (H) of 14590
section 4112.02 of the Revised Code; 14591

(b) Any person who believes that the person will be 14592
injured by, any unlawful discriminatory practice described in 14593
division (H) of section 4112.02 of the Revised Code that is 14594
about to occur. 14595

(B) For the purposes of divisions (A) to (F) of section 14596
4112.02 of the Revised Code, the terms "because of sex" and "on 14597
the basis of sex" include, but are not limited to, because of or 14598
on the basis of pregnancy, any illness arising out of and 14599
occurring during the course of a pregnancy, childbirth, or 14600
related medical conditions. Women affected by pregnancy, 14601

childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code shall be interpreted to permit otherwise. This division shall not be construed to require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or except where medical complications have arisen from the abortion, provided that nothing in this division precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

Sec. 4303.272. As used in this section, "incompetent person" means a person who is so mentally impaired, as a result of a mental or physical illness or disability, ~~or mental retardation~~ as a result of an 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.

Any permit holder whose permit premises are destroyed or made unusable for any cause, or whose tenancy is terminated for any cause, shall deliver the permit holder's permit to the division of liquor control for safekeeping until such time as the original permit premises are made available for occupancy or new premises are secured by the permit holder or until new premises are secured by the permit holder outside the precinct affected by a local option election.

Unless the permit is to be cancelled as the result of a

local option election held pursuant to section 4301.352 of the Revised Code, a permit holder whose permit is to be restricted or cancelled as the result of a local option election pursuant to sections 4301.32 to 4301.41 and 4305.14 of the Revised Code may, within the thirty-day period after the certification of the results of the election to the division, deliver the permit to the division for safekeeping subject to the renewal and transfer provision of this section. A permit holder whose permit is to be cancelled as the result of a local option election held pursuant to section 4301.352 of the Revised Code is not entitled to deliver the permit to the division for safekeeping.

If, as the result of the election, the use of a permit is made wholly unlawful and the permit holder does not deliver or is not entitled to deliver the permit to the division for safekeeping as provided in this section, the division shall forthwith cancel and pick up the permit.

During the period of time that a permit is held in safekeeping by the division, the permit holder shall be allowed to transfer the permit to other premises, subject to the provisions of Chapters 4301. and 4303. of the Revised Code.

If the expiration date of a permit occurs during the time it is held in safekeeping, the permit shall be renewed by the division if the permit holder complies with the other provisions of Chapters 4301. and 4303. of the Revised Code, pertaining to the renewal of a permit. The division shall issue and then retain the renewed permit until the original permit premises become available for occupancy by the permit holder or until the permit holder secures other premises. The division shall return to the permit holder a permit renewed while in safekeeping when the original permit premises are made available for occupancy or

new permit premises are secured by the permit holder, if the 14662
premises meet the requirements of Chapters 4301. and 4303. of 14663
the Revised Code. 14664

A permit renewed while in safekeeping shall be considered 14665
in full force and effect and may be transferred by the division. 14666

Should the permit holder be adjudged an incompetent person 14667
or die while the permit holder's permit is in safekeeping, the 14668
permit shall be transferred, upon application, by the division 14669
to the guardian, administrator, executor, or other fiduciary of 14670
the permit holder who shall have the same rights to the 14671
transfer, return, and renewal of the permit as is provided in 14672
this section for the permit holder. 14673

A permit held in safekeeping shall not be renewed more 14674
than once while so held, unless the building from which the 14675
permit was taken for safekeeping or the building to which the 14676
permit is to be transferred is under construction or 14677
reconstruction, in which event the permit shall be held in 14678
safekeeping and shall, upon the application of the permit 14679
holder, be renewed at each expiration date until the 14680
construction or reconstruction of the building is completed. 14681

Sec. 4399.05. As used in this section, "incompetent 14682
person" means a person who is so mentally impaired, as a result 14683
of a mental or physical illness or disability, ~~or mental~~ 14684
~~retardation as a result of an intellectual disability,~~ or as a 14685
result of chronic substance abuse, that the person is incapable 14686
of taking proper care of the person's self or property or fails 14687
to provide for the person's family or other persons for whom the 14688
person is charged by law to provide. 14689

If a person rents or leases to another a building or 14690

premises to be used or occupied, in whole or in part, for the 14691
sale of intoxicating liquors, or permits such building or 14692
premises to be so used or occupied, such building or premises 14693
shall be liable for and may be sold to pay all fines, costs, and 14694
damages assessed against a person occupying them. Proceedings 14695
may be had to subject them to the payment of such fine and costs 14696
assessed or judgment recovered, or part remaining unpaid, either 14697
before or after execution issues against the property of the 14698
person against whom such fine and costs or judgment have been 14699
adjudged or assessed. When execution issues against the property 14700
leased or rented, the officer shall proceed to satisfy it out of 14701
the building or premises so leased or occupied. 14702

If such building or premises belong to a minor or 14703
incompetent person, the guardian having control thereof shall be 14704
liable and account to the guardian's ward for all damages on 14705
account of such use and occupation, and the liabilities for such 14706
fines, costs, and damages. 14707

Sec. 4723.071. (A) As used in this section, "health- 14708
related activities," "~~MR/DD~~ developmental disabilities 14709
personnel," "prescribed medication," and "tube feeding" have the 14710
same meanings as in section 5123.41 of the Revised Code. 14711

(B) The board of nursing shall adopt rules as it considers 14712
necessary to govern nursing delegation as it applies to ~~MR/DD~~ 14713
developmental disabilities personnel who administer prescribed 14714
medications, perform health-related activities, and perform tube 14715
feedings pursuant to the authority granted under section 5123.42 14716
of the Revised Code. The board shall not establish in the rules 14717
any requirement that is inconsistent with the authority of ~~MR/DD~~ 14718
developmental disabilities personnel granted under that section. 14719
The rules shall be adopted in accordance with Chapter 119. of 14720

the Revised Code. 14721

(C) The board of nursing may accept complaints from any 14722
person or government entity regarding the performance or 14723
qualifications of ~~MR/DD-developmental disabilities~~ personnel who 14724
administer prescribed medications, perform health-related 14725
activities, and perform tube feedings pursuant to the authority 14726
granted under section 5123.42 of the Revised Code. The board 14727
shall refer all complaints received to the department of 14728
developmental disabilities. The board may participate in an 14729
investigation of a complaint being conducted by the department 14730
under section 5123.421 of the Revised Code. 14731

Sec. 4757.41. (A) This chapter shall not apply to the 14732
following: 14733

(1) A person certified by the state board of education 14734
under Chapter 3319. of the Revised Code while performing any 14735
services within the person's scope of employment by a board of 14736
education or by a private school meeting the standards 14737
prescribed by the state board of education under division (D) of 14738
section 3301.07 of the Revised Code or in a program operated 14739
under Chapter 5126. of the Revised Code for training individuals 14740
with ~~mental retardation or other~~ developmental disabilities; 14741

(2) Psychologists or school psychologists licensed under 14742
Chapter 4732. of the Revised Code; 14743

(3) Members of other professions licensed, certified, or 14744
registered by this state while performing services within the 14745
recognized scope, standards, and ethics of their respective 14746
professions; 14747

(4) Rabbis, priests, Christian science practitioners, 14748
clergy, or members of religious orders and other individuals 14749

participating with them in pastoral counseling when the 14750
counseling activities are within the scope of the performance of 14751
their regular or specialized ministerial duties and are 14752
performed under the auspices or sponsorship of an established 14753
and legally cognizable church, denomination, or sect or an 14754
integrated auxiliary of a church as defined in federal tax 14755
regulations, paragraph (g) (5) of 26 C.F.R. 1.6033-2 (1995), and 14756
when the individual rendering the service remains accountable to 14757
the established authority of that church, denomination, sect, or 14758
integrated auxiliary; 14759

(5) Any person who is not licensed under this chapter as a 14760
licensed professional clinical counselor, licensed professional 14761
counselor, independent social worker, or social worker and is 14762
employed in the civil service as defined in section 124.01 of 14763
the Revised Code while engaging in professional counseling or 14764
social work as a civil service employee, if on ~~the effective~~ 14765
~~date of this amendment~~ July 10, 2014, the person has at least 14766
two years of service in that capacity; 14767

(6) A student in an accredited educational institution 14768
while carrying out activities that are part of the student's 14769
prescribed course of study if the activities are supervised as 14770
required by the educational institution and if the student does 14771
not hold herself or himself out as a person licensed or 14772
registered under this chapter; 14773

(7) Individuals who hold a license or certificate under 14774
Chapter 4758. of the Revised Code who are acting within the 14775
scope of their license or certificate as members of the 14776
profession of chemical dependency counseling or alcohol and 14777
other drug prevention services; 14778

(8) Any person employed by the American red cross while 14779

engaging in activities relating to services for military 14780
families and veterans and disaster relief, as described in the 14781
"American National Red Cross Act," 33 Stat. 599 (1905), 36 14782
U.S.C.A. 1, as amended; 14783

(9) Members of labor organizations who hold union 14784
counselor certificates while performing services in their 14785
official capacity as union counselors; 14786

(10) Any person employed in a hospital as defined in 14787
section 3727.01 of the Revised Code or in a nursing home as 14788
defined in section 3721.01 of the Revised Code while providing 14789
as a hospital employee or nursing home employee, respectively, 14790
social services other than counseling and the use of 14791
psychosocial interventions and social psychotherapy; 14792

(11) A vocational rehabilitation professional who is 14793
providing rehabilitation services to individuals under section 14794
3304.17 of the Revised Code, or holds certification by the 14795
commission on rehabilitation counselor certification and is 14796
providing rehabilitation counseling services consistent with the 14797
commission's standards; 14798

(12) A caseworker not licensed under this chapter as an 14799
independent social worker or social worker who is employed by a 14800
public children services agency under section 5153.112 of the 14801
Revised Code. 14802

(B) Divisions (A) (5) and (10) of this section do not 14803
prevent a person described in those divisions from obtaining a 14804
license or certificate of registration under this chapter. 14805

(C) Except as provided in divisions (A) and (D) of this 14806
section, no employee in the service of the state, including 14807
public employees as defined by Chapter 4117. of the Revised 14808

Code, shall engage in the practice of professional counseling, 14809
social work, or marriage and family therapy without the 14810
appropriate license issued by the board. Failure to comply with 14811
this division constitutes nonfeasance under section 124.34 of 14812
the Revised Code or just cause under a collective bargaining 14813
agreement. Nothing in this division restricts the director of 14814
administrative services from developing new classifications 14815
related to this division or from reassigning affected employees 14816
to appropriate classifications based on the employee's duties 14817
and qualifications. 14818

(D) Except as provided in division (A) of this section, an 14819
employee who was engaged in the practice of professional 14820
counseling, social work, or marriage and family therapy in the 14821
service of the state prior to ~~the effective date of this~~ 14822
~~amendment July 10, 2014~~, including public employees as defined 14823
by Chapter 4117. of the Revised Code, shall comply with division 14824
(C) of this section within two years after ~~the effective date of~~ 14825
~~this amendment July 10, 2014~~. Any such employee who fails to 14826
comply shall be removed from employment. 14827

(E) Nothing in this chapter prevents a public children 14828
services agency from employing as a caseworker a person not 14829
licensed under this chapter as an independent social worker or 14830
social worker who has the qualifications specified in section 14831
5153.112 of the Revised Code. 14832

Sec. 4971.16. As used in this section, "incompetent 14833
person" means a person who is so mentally impaired, as a result 14834
of a mental or physical illness or disability, ~~or mental~~ 14835
~~retardation as a result of an intellectual disability~~, or as a 14836
result of chronic substance abuse, that the person is incapable 14837
of taking proper care of the person's self or property or fails 14838

to provide for the person's family or other persons for whom the 14839
person is charged by law to provide. 14840

Persons in interest who fail to become parties to the 14841
agreement within the four-month period referred to in section 14842
4971.14 of the Revised Code are entitled to the same rights, 14843
interest, estate, remedy, liens, and action, and none other, 14844
which parties in interest of like class and amount who signed 14845
the agreement obtained by and under it. If a person in interest 14846
fails for six years after the publication of the notice 14847
mentioned in such section to apply at the principal office of 14848
the company, either in person or by proxy, to become a party in 14849
interest in the agreement, such person, unless an infant or 14850
incompetent person, shall be barred of all interest, claim, 14851
right, or action under the agreement or otherwise. In case of 14852
such disability such rights shall be extended for two years 14853
after the termination of the disability. 14854

Sec. 5101.46. (A) As used in this section: 14855

(1) "Title XX" means Title XX of the "Social Security 14856
Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 14857

(2) "Respective local agency" means, with respect to the 14858
department of job and family services, a county department of 14859
job and family services; with respect to the department of 14860
mental health and addiction services, a board of alcohol, drug 14861
addiction, and mental health services; and with respect to the 14862
department of developmental disabilities, a county board of 14863
developmental disabilities. 14864

(3) "Federal poverty guidelines" means the poverty 14865
guidelines as revised annually by the United States department 14866
of health and human services in accordance with section 673(2) 14867

of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 14868
511, 42 U.S.C.A. 9902, as amended, for a family size equal to 14869
the size of the family of the person whose income is being 14870
determined. 14871

(B) The departments of job and family services, mental 14872
health, and developmental disabilities, with their respective 14873
local agencies, shall administer the provision of social 14874
services funded through grants made under Title XX. The social 14875
services furnished with Title XX funds shall be directed at the 14876
following goals: 14877

(1) Achieving or maintaining economic self-support to 14878
prevent, reduce, or eliminate dependency; 14879

(2) Achieving or maintaining self-sufficiency, including 14880
reduction or prevention of dependency; 14881

(3) Preventing or remedying neglect, abuse, or 14882
exploitation of children and adults unable to protect their own 14883
interests, or preserving, rehabilitating, or reuniting families; 14884

(4) Preventing or reducing inappropriate institutional 14885
care by providing for community-based care, home-based care, or 14886
other forms of less intensive care; 14887

(5) Securing referral or admission for institutional care 14888
when other forms of care are not appropriate, or providing 14889
services to individuals in institutions. 14890

(C) (1) All federal funds received under Title XX shall be 14891
appropriated as follows: 14892

(a) Seventy-two and one-half per cent to the department of 14893
job and family services; 14894

(b) Twelve and ninety-three one-hundredths per cent to the 14895

department of mental health and addiction services; 14896

(c) Fourteen and fifty-seven one-hundredths per cent to 14897
the department of developmental disabilities. 14898

(2) Each of the state departments shall, subject to the 14899
approval of the controlling board, develop a formula for the 14900
distribution of the Title XX funds appropriated to the 14901
department to its respective local agencies. The formula 14902
developed by each state department shall take into account all 14903
of the following for each of its respective local agencies: 14904

(a) The total population of the area that is served by the 14905
respective local agency; 14906

(b) The percentage of the population in the area served 14907
that falls below the federal poverty guidelines; 14908

(c) The respective local agency's history of and ability 14909
to utilize Title XX funds. 14910

(3) Each of the state departments shall expend for state 14911
administrative costs not more than three per cent of the Title 14912
XX funds appropriated to the department. 14913

Each state department shall establish for each of its 14914
respective local agencies the maximum percentage of the Title XX 14915
funds distributed to the respective local agency that the 14916
respective local agency may expend for local administrative 14917
costs. The percentage shall be established by rule and shall 14918
comply with federal law governing the use of Title XX funds. The 14919
rules shall be adopted in accordance with section 111.15 of the 14920
Revised Code as if they were internal management rules. 14921

(4) The department of job and family services shall expend 14922
for the training of the following not more than two per cent of 14923

the Title XX funds appropriated to the department: 14924

(a) Employees of county departments of job and family 14925
services; 14926

(b) Providers of services under contract with the state 14927
departments' respective local agencies; 14928

(c) Employees of a public children services agency 14929
directly engaged in providing Title XX services. 14930

(5) Title XX funds distributed for the purpose of 14931
providing family planning services shall be distributed by the 14932
respective local agencies according to the same order of 14933
priority that applies to the department of job and family 14934
services under section 5101.101 of the Revised Code. 14935

(D) The department of job and family services shall 14936
prepare an annual comprehensive Title XX social services plan on 14937
the intended use of Title XX funds. The department shall develop 14938
a method for obtaining public comment during the development of 14939
the plan and following its completion. 14940

For each federal fiscal year, the department of job and 14941
family services shall prepare a report on the actual use of 14942
Title XX funds. The department shall make the annual report 14943
available for public inspection. 14944

The departments of mental health and addiction services 14945
and developmental disabilities shall prepare and submit to the 14946
department of job and family services the portions of each 14947
annual plan and report that apply to services for mental health 14948
and ~~mental retardation and~~ developmental disabilities. Each 14949
respective local agency of the three state departments shall 14950
submit information as necessary for the preparation of annual 14951
plans and reports. 14952

(E) Each county department of job and family services 14953
shall adopt a county profile for the administration and 14954
provision of Title XX social services in the county. In 14955
developing its county profile, the county department shall take 14956
into consideration the comments and recommendations received 14957
from the public by the county family services planning committee 14958
pursuant to section 329.06 of the Revised Code. As part of its 14959
preparation of the county profile, the county department may 14960
prepare a local needs report analyzing the need for Title XX 14961
social services. 14962

The county department shall submit the county profile to 14963
the board of county commissioners for its review. Once the 14964
county profile has been approved by the board, the county 14965
department shall file a copy of the county profile with the 14966
department of job and family services. The department shall 14967
approve the county profile if the department determines the 14968
profile provides for the Title XX social services to meet the 14969
goals specified in division (B) of this section. 14970

(F) Any of the three state departments and their 14971
respective local agencies may require that an entity under 14972
contract to provide social services with Title XX funds submit 14973
to an audit on the basis of alleged misuse or improper 14974
accounting of funds. If an audit is required, the social 14975
services provider shall reimburse the state department or 14976
respective local agency for the cost it incurred in conducting 14977
the audit or having the audit conducted. 14978

If an audit demonstrates that a social services provider 14979
is responsible for one or more adverse findings, the provider 14980
shall reimburse the appropriate state department or its 14981
respective local agency the amount of the adverse findings. The 14982

amount shall not be reimbursed with Title XX funds received 14983
under this section. The three state departments and their 14984
respective local agencies may terminate or refuse to enter into 14985
a Title XX contract with a social services provider if there are 14986
adverse findings in an audit that are the responsibility of the 14987
provider. 14988

(G) Except with respect to the matters for which each of 14989
the state departments must adopt rules under division (C) (3) of 14990
this section, the department of job and family services may 14991
adopt any rules it considers necessary to implement and carry 14992
out the purposes of this section. Rules governing financial and 14993
operational matters of the department or matters between the 14994
department and county departments of job and family services 14995
shall be adopted as internal management rules in accordance with 14996
section 111.15 of the Revised Code. Rules governing eligibility 14997
for services, program participation, and other matters 14998
pertaining to applicants and participants shall be adopted in 14999
accordance with Chapter 119. of the Revised Code. 15000

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of 15001
the Revised Code: 15002

(A) (1) "Association" or "institution" includes all of the 15003
following: 15004

(a) Any incorporated or unincorporated organization, 15005
society, association, or agency, public or private, that 15006
receives or cares for children for two or more consecutive 15007
weeks; 15008

(b) Any individual, including the operator of a foster 15009
home, who, for hire, gain, or reward, receives or cares for 15010
children for two or more consecutive weeks, unless the 15011

individual is related to them by blood or marriage; 15012

(c) Any individual not in the regular employ of a court, 15013
or of an institution or association certified in accordance with 15014
section 5103.03 of the Revised Code, who in any manner becomes a 15015
party to the placing of children in foster homes, unless the 15016
individual is related to such children by blood or marriage or 15017
is the appointed guardian of such children. 15018

(2) "Association" or "institution" does not include any of 15019
the following: 15020

(a) Any organization, society, association, school, 15021
agency, child guidance center, detention or rehabilitation 15022
facility, or children's clinic licensed, regulated, approved, 15023
operated under the direction of, or otherwise certified by the 15024
department of education, a local board of education, the 15025
department of youth services, the department of mental health 15026
and addiction services, or the department of developmental 15027
disabilities; 15028

(b) Any individual who provides care for only a single- 15029
family group, placed there by their parents or other relative 15030
having custody; 15031

(c) A private, nonprofit therapeutic wilderness camp. 15032

(B) "Family foster home" means a foster home that is not a 15033
specialized foster home. 15034

(C) "Foster caregiver" means a person holding a valid 15035
foster home certificate issued under section 5103.03 of the 15036
Revised Code. 15037

(D) "Foster home" means a private residence in which 15038
children are received apart from their parents, guardian, or 15039

legal custodian, by an individual reimbursed for providing the 15040
children nonsecure care, supervision, or training twenty-four 15041
hours a day. "Foster home" does not include care provided for a 15042
child in the home of a person other than the child's parent, 15043
guardian, or legal custodian while the parent, guardian, or 15044
legal custodian is temporarily away. Family foster homes and 15045
specialized foster homes are types of foster homes. 15046

(E) "Medically fragile foster home" means a foster home 15047
that provides specialized medical services designed to meet the 15048
needs of children with intensive health care needs who meet all 15049
of the following criteria: 15050

(1) Under rules adopted by the medicaid director governing 15051
medicaid payments for long-term care services, the children 15052
require a skilled level of care. 15053

(2) The children require the services of a doctor of 15054
medicine or osteopathic medicine at least once a week due to the 15055
instability of their medical conditions. 15056

(3) The children require the services of a registered 15057
nurse on a daily basis. 15058

(4) The children are at risk of institutionalization in a 15059
hospital, skilled nursing facility, or intermediate care 15060
facility for individuals with intellectual disabilities. 15061

(F) "Private, nonprofit therapeutic wilderness camp" means 15062
a structured, alternative residential setting for children who 15063
are experiencing emotional, behavioral, moral, social, or 15064
learning difficulties at home or school in which all of the 15065
following are the case: 15066

(1) The children spend the majority of their time, 15067
including overnight, either outdoors or in a primitive 15068

structure.	15069
(2) The children have been placed there by their parents or another relative having custody.	15070 15071
(3) The camp accepts no public funds for use in its operations.	15072 15073
(G) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency that recommends that the department of job and family services take any of the following actions under section 5103.03 of the Revised Code regarding a foster home:	15074 15075 15076 15077 15078
(1) Issue a certificate;	15079
(2) Deny a certificate;	15080
(3) Renew a certificate;	15081
(4) Deny renewal of a certificate;	15082
(5) Revoke a certificate.	15083
(H) "Specialized foster home" means a medically fragile foster home or a treatment foster home.	15084 15085
(I) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, <u>who are</u> chemically dependent, mentally retarded, developmentally disabled <u>who have developmental</u> <u>disabilities</u> , or who otherwise have exceptional needs.	15086 15087 15088 15089 15090 15091 15092
Sec. 5119.44. As used in this section, "free clinic" has the same meaning as in section 2305.2341 of the Revised Code.	15093 15094
(A) The department of mental health and addiction services	15095

may provide certain goods and services for the department of 15096
mental health and addiction services, the department of 15097
developmental disabilities, the department of rehabilitation and 15098
correction, the department of youth services, and other state, 15099
county, or municipal agencies requesting such goods and services 15100
when the department of mental health and addiction services 15101
determines that it is in the public interest, and considers it 15102
advisable, to provide these goods and services. The department 15103
of mental health and addiction services also may provide goods 15104
and services to agencies operated by the United States 15105
government and to public or private nonprofit agencies, other 15106
than free clinics, that are funded in whole or in part by the 15107
state if the public or private nonprofit agencies are designated 15108
for participation in this program by the director of mental 15109
health and addiction services for community addiction services 15110
providers and community mental health services providers, the 15111
director of developmental disabilities for community ~~mental-~~ 15112
~~retardation and~~ developmental disabilities agencies, the 15113
director of rehabilitation and correction for community 15114
rehabilitation and correction agencies, or the director of youth 15115
services for community youth services agencies. 15116

Designated community agencies or services providers shall 15117
receive goods and services through the department of mental 15118
health and addiction services only in those cases where the 15119
designating state agency certifies that providing such goods and 15120
services to the agency or services provider will conserve public 15121
resources to the benefit of the public and where the provision 15122
of such goods and services is considered feasible by the 15123
department of mental health and addiction services. 15124

(B) The department of mental health and addiction services 15125
may permit free clinics to purchase certain goods and services 15126

to the extent the purchases fall within the exemption to the 15127
Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to 15128
nonprofit institutions, in 15 U.S.C. 13c, as amended. 15129

(C) The goods and services that may be provided by the 15130
department of mental health and addiction services under 15131
divisions (A) and (B) of this section may include: 15132

(1) Procurement, storage, processing, and distribution of 15133
food and professional consultation on food operations; 15134

(2) Procurement, storage, and distribution of medical and 15135
laboratory supplies, dental supplies, medical records, forms, 15136
optical supplies, and sundries, subject to section 5120.135 of 15137
the Revised Code; 15138

(3) Procurement, storage, repackaging, distribution, and 15139
dispensing of drugs, the provision of professional pharmacy 15140
consultation, and drug information services; 15141

(4) Other goods and services. 15142

(D) The department of mental health and addiction services 15143
may provide the goods and services designated in division (C) of 15144
this section to its institutions and to state-operated 15145
community-based mental health or addiction services providers. 15146

(E) After consultation with and advice from the director 15147
of developmental disabilities, the director of rehabilitation 15148
and correction, and the director of youth services, the 15149
department of mental health and addiction services may provide 15150
the goods and services designated in division (C) of this 15151
section to the department of developmental disabilities, the 15152
department of rehabilitation and correction, and the department 15153
of youth services. 15154

(F) The cost of administration of this section shall be 15155
determined by the department of mental health and addiction 15156
services and paid by the agencies, services providers, or free 15157
clinics receiving the goods and services to the department for 15158
deposit in the state treasury to the credit of the Ohio pharmacy 15159
services fund, which is hereby created. The fund shall be used 15160
to pay the cost of administration of this section to the 15161
department. 15162

(G) Whenever a state agency fails to make a payment for 15163
goods and services provided under this section within thirty-one 15164
days after the date the payment was due, the office of budget 15165
and management may transfer moneys from the state agency to the 15166
department of mental health and addiction services. The amount 15167
transferred shall not exceed the amount of overdue payments. 15168
Prior to making a transfer under this division, the office of 15169
budget and management shall apply any credits the state agency 15170
has accumulated in payments for goods and services provided 15171
under this section. 15172

(H) Purchases of goods and services under this section are 15173
not subject to section 307.86 of the Revised Code. 15174

Sec. 5120.051. The department of rehabilitation and 15175
correction shall provide for the needs of mentally ill persons 15176
and ~~mentally retarded~~ persons with intellectual disabilities who 15177
are incarcerated in state correctional institutions. The 15178
department may designate an institution or a unit within an 15179
institution for the custody, care, special training, treatment, 15180
and rehabilitation of mentally ill persons or ~~mentally retarded~~ 15181
persons with intellectual disabilities. 15182

Sec. 5120.11. Within the department of rehabilitation and 15183
correction, there shall be established and maintained a bureau 15184

of examination and classification. The bureau shall conduct or 15185
provide for sociological, psychological, and psychiatric 15186
examination of each inmate of the correctional institutions. The 15187
examination shall be made as soon as possible after each inmate 15188
is admitted to any of the institutions, and further examinations 15189
may be made, if it is advisable. If the inmate is determined to 15190
be a ~~mentally retarded or developmentally disabled person with a~~ 15191
developmental disability, as defined in section 5123.01 of the 15192
Revised Code, the bureau shall notify the sentencing court in 15193
writing of its determination within forty-five days after 15194
sentencing. 15195

The bureau shall collect such social and other information 15196
as will aid in the interpretation of its examinations. 15197

Subject to division (C) of section 5120.21 of the Revised 15198
Code, the bureau shall keep a record of the health, activities, 15199
and behavior of each inmate while the inmate is in the custody 15200
of the state. The records, including the findings and 15201
recommendations of the bureau, shall be made available to the 15202
adult parole authority for use in imposing post-release control 15203
sanctions under section 2967.28 of the Revised Code or any other 15204
section of the Revised Code, in granting parole, and in making 15205
parole, post-release, and rehabilitation plans for the inmate 15206
when the inmate leaves the institution, and to the department 15207
for its use in approving transfers of inmates from one 15208
institution to another. 15209

Sec. 5120.17. (A) As used in this section: 15210

(1) "Mental illness" means a substantial disorder of 15211
thought, mood, perception, orientation, or memory that grossly 15212
impairs judgment, behavior, capacity to recognize reality, or 15213
ability to meet the ordinary demands of life. 15214

(2) "Mentally ill person subject to hospitalization" means 15215
a mentally ill person to whom any of the following applies 15216
because of the person's mental illness: 15217

(a) The person represents a substantial risk of physical 15218
harm to the person as manifested by evidence of threats of, or 15219
attempts at, suicide or serious self-inflicted bodily harm. 15220

(b) The person represents a substantial risk of physical 15221
harm to others as manifested by evidence of recent homicidal or 15222
other violent behavior, evidence of recent threats that place 15223
another in reasonable fear of violent behavior and serious 15224
physical harm, or other evidence of present dangerousness. 15225

(c) The person represents a substantial and immediate risk 15226
of serious physical impairment or injury to the person as 15227
manifested by evidence that the person is unable to provide for 15228
and is not providing for the person's basic physical needs 15229
because of the person's mental illness and that appropriate 15230
provision for those needs cannot be made immediately available 15231
in the correctional institution in which the inmate is currently 15232
housed. 15233

(d) The person would benefit from treatment in a hospital 15234
for the person's mental illness and is in need of treatment in a 15235
hospital as manifested by evidence of behavior that creates a 15236
grave and imminent risk to substantial rights of others or the 15237
person. 15238

(3) "Psychiatric hospital" means all or part of a facility 15239
that is operated and managed by the department of mental health 15240
and addiction services to provide psychiatric hospitalization 15241
services in accordance with the requirements of this section 15242
pursuant to an agreement between the directors of rehabilitation 15243

and correction and mental health and addiction services or, is 15244
licensed by the department of mental health and addiction 15245
services pursuant to section 5119.33 of the Revised Code as a 15246
psychiatric hospital and is accredited by a health care 15247
accrediting organization approved by the department of mental 15248
health and addiction services and the psychiatric hospital is 15249
any of the following: 15250

(a) Operated and managed by the department of 15251
rehabilitation and correction within a facility that is operated 15252
by the department of rehabilitation and correction; 15253

(b) Operated and managed by a contractor for the 15254
department of rehabilitation and correction within a facility 15255
that is operated by the department of rehabilitation and 15256
correction; 15257

(c) Operated and managed in the community by an entity 15258
that has contracted with the department of rehabilitation and 15259
correction to provide psychiatric hospitalization services in 15260
accordance with the requirements of this section. 15261

(4) "Inmate patient" means an inmate who is admitted to a 15262
psychiatric hospital. 15263

(5) "Admitted" to a psychiatric hospital means being 15264
accepted for and staying at least one night at the psychiatric 15265
hospital. 15266

(6) "Treatment plan" means a written statement of 15267
reasonable objectives and goals for an inmate patient that is 15268
based on the needs of the inmate patient and that is established 15269
by the treatment team, with the active participation of the 15270
inmate patient and with documentation of that participation. 15271
"Treatment plan" includes all of the following: 15272

(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;	15273 15274
(b) The services to be provided to the inmate patient during the inmate patient's hospitalization;	15275 15276
(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.	15277 15278 15279 15280 15281
(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.	15282 15283 15284
(8) "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.	15285 15286 15287 15288
(9) <u>(8)</u> "Uncontested transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate has the mental capacity to, and has waived, the hearing required by division (B) of this section.	15289 15290 15291 15292
(10) <u>(9)</u> (a) "Independent decision-maker" means a person who is employed or retained by the department of rehabilitation and correction and is appointed by the chief or chief clinical officer of mental health services as a hospitalization hearing officer to conduct due process hearings.	15293 15294 15295 15296 15297
(b) An independent decision-maker who presides over any hearing or issues any order pursuant to this section shall be a psychiatrist, psychologist, or attorney, shall not be specifically associated with the institution in which the inmate	15298 15299 15300 15301

who is the subject of the hearing or order resides at the time 15302
of the hearing or order, and previously shall not have had any 15303
treatment relationship with nor have represented in any legal 15304
proceeding the inmate who is the subject of the order. 15305

(B) (1) Except as provided in division (C) of this section, 15306
if the warden of a state correctional institution or the 15307
warden's designee believes that an inmate should be transferred 15308
from the institution to a psychiatric hospital, the department 15309
shall hold a hearing to determine whether the inmate is a 15310
mentally ill person subject to hospitalization. The department 15311
shall conduct the hearing at the state correctional institution 15312
in which the inmate is confined, and the department shall 15313
provide qualified independent assistance to the inmate for the 15314
hearing. An independent decision-maker provided by the 15315
department shall preside at the hearing and determine whether 15316
the inmate is a mentally ill person subject to hospitalization. 15317

(2) Except as provided in division (C) of this section, 15318
prior to the hearing held pursuant to division (B) (1) of this 15319
section, the warden or the warden's designee shall give written 15320
notice to the inmate that the department is considering 15321
transferring the inmate to a psychiatric hospital, that it will 15322
hold a hearing on the proposed transfer at which the inmate may 15323
be present, that at the hearing the inmate has the rights 15324
described in division (B) (3) of this section, and that the 15325
department will provide qualified independent assistance to the 15326
inmate with respect to the hearing. The department shall not 15327
hold the hearing until the inmate has received written notice of 15328
the proposed transfer and has had sufficient time to consult 15329
with the person appointed by the department to provide 15330
assistance to the inmate and to prepare for a presentation at 15331
the hearing. 15332

(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 for observation and treatment for a period of not longer than thirty days. After the hearing, the independent decision-maker shall submit to the department a written decision that states one of the findings described in division (B)(4) of this section, the evidence that the decision-maker relied on in reaching that conclusion, and, if the decision is that the inmate should be transferred, the reasons for the transfer.

(C)(1) The department may transfer an inmate to a psychiatric hospital under an emergency transfer order if the chief clinical officer of mental health services of the department or that officer's designee and either a psychiatrist employed or retained by the department or, in the absence of a psychiatrist, a psychologist employed or retained by the

department determines that the inmate is mentally ill, presents 15364
an immediate danger to self or others, and requires hospital- 15365
level care. 15366

(2) The department may transfer an inmate to a psychiatric 15367
hospital under an uncontested transfer order if both of the 15368
following apply: 15369

(a) A psychiatrist employed or retained by the department 15370
determines all of the following apply: 15371

(i) The inmate has a mental illness or is a mentally ill 15372
person subject to hospitalization. 15373

(ii) The inmate requires hospital care to address the 15374
mental illness. 15375

(iii) The inmate has the mental capacity to make a 15376
reasoned choice regarding the inmate's transfer to a hospital. 15377

(b) The inmate agrees to a transfer to a hospital. 15378

(3) The written notice and the hearing required under 15379
divisions (B) (1) and (2) of this section are not required for an 15380
emergency transfer or uncontested transfer under division (C) (1) 15381
or (2) of this section. 15382

(4) After an emergency transfer under division (C) (1) of 15383
this section, the department shall hold a hearing for continued 15384
hospitalization within five working days after admission of the 15385
transferred inmate to the psychiatric hospital. The department 15386
shall hold subsequent hearings pursuant to division (F) of this 15387
section at the same intervals as required for inmate patients 15388
who are transported to a psychiatric hospital under division (B) 15389
(4) of this section. 15390

(5) After an uncontested transfer under division (C) (2) of 15391

this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B) (4) of this section.

(D) (1) If an independent decision-maker, pursuant to division (B) (4) of this section, orders an inmate transported to a psychiatric hospital or if an inmate is transferred pursuant to division (C) (1) or (2) of this section, the staff of the psychiatric hospital shall examine the inmate patient when admitted to the psychiatric hospital as soon as practicable after the inmate patient arrives at the hospital and no later than twenty-four hours after the time of arrival. The attending physician responsible for the inmate patient's care shall give the inmate patient all information necessary to enable the patient to give a fully informed, intelligent, and knowing consent to the treatment the inmate patient will receive in the hospital. The attending physician shall tell the inmate patient the expected physical and medical consequences of any proposed treatment and shall give the inmate patient the opportunity to consult with another psychiatrist at the hospital and with the inmate advisor.

(2) No inmate patient who is transported or transferred pursuant to division (B) (4) or (C) (1) or (2) of this section to a psychiatric hospital within a facility that is operated by the department of rehabilitation and correction shall be subjected to any of the following procedures:

(a) Convulsive therapy;	15422
(b) Major aversive interventions;	15423
(c) Any unusually hazardous treatment procedures;	15424
(d) Psychosurgery.	15425
(E) The department of rehabilitation and correction shall	15426
ensure that an inmate patient hospitalized pursuant to this	15427
section receives or has all of the following:	15428
(1) Receives sufficient professional care within twenty	15429
days of admission to ensure that an evaluation of the inmate	15430
patient's current status, differential diagnosis, probable	15431
prognosis, and description of the current treatment plan have	15432
been formulated and are stated on the inmate patient's official	15433
chart;	15434
(2) Has a written treatment plan consistent with the	15435
evaluation, diagnosis, prognosis, and goals of treatment;	15436
(3) Receives treatment consistent with the treatment plan;	15437
(4) Receives periodic reevaluations of the treatment plan	15438
by the professional staff at intervals not to exceed thirty	15439
days;	15440
(5) Is provided with adequate medical treatment for	15441
physical disease or injury;	15442
(6) Receives humane care and treatment, including, without	15443
being limited to, the following:	15444
(a) Access to the facilities and personnel required by the	15445
treatment plan;	15446
(b) A humane psychological and physical environment;	15447

(c) The right to obtain current information concerning the 15448
treatment program, the expected outcomes of treatment, and the 15449
expectations for the inmate patient's participation in the 15450
treatment program in terms that the inmate patient reasonably 15451
can understand; 15452

(d) Opportunity for participation in programs designed to 15453
help the inmate patient acquire the skills needed to work toward 15454
discharge from the psychiatric hospital; 15455

(e) The right to be free from unnecessary or excessive 15456
medication and from unnecessary restraints or isolation; 15457

(f) All other rights afforded inmates in the custody of 15458
the department consistent with rules, policy, and procedure of 15459
the department. 15460

(F) The department shall hold a hearing for the continued 15461
hospitalization of an inmate patient who is transported or 15462
transferred to a psychiatric hospital pursuant to division (B) 15463
(4) or (C)(1) of this section prior to the expiration of the 15464
initial thirty-day period of hospitalization. The department 15465
shall hold any subsequent hearings, if necessary, not later than 15466
ninety days after the first thirty-day hearing and then not 15467
later than each one hundred and eighty days after the 15468
immediately prior hearing. An independent decision-maker shall 15469
conduct the hearings at the psychiatric hospital in which the 15470
inmate patient is confined. The inmate patient shall be afforded 15471
all of the rights set forth in this section for the hearing 15472
prior to transfer to the psychiatric hospital. The department 15473
may not waive a hearing for continued commitment. A hearing for 15474
continued commitment is mandatory for an inmate patient 15475
transported or transferred to a psychiatric hospital pursuant to 15476
division (B)(4) or (C)(1) of this section unless the inmate 15477

patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C) (2) of this section and who has scheduled hearings after withdrawal of consent for hospitalization may waive any of the scheduled hearings if the inmate has the capacity to make a reasoned choice and executes a written waiver of the hearing.

If upon completion of the hearing the independent decision-maker does not find by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order the inmate patient's discharge from the psychiatric hospital. If the independent decision-maker finds by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order that the inmate patient remain at the psychiatric hospital for continued hospitalization until the next required hearing.

If at any time prior to the next required hearing for continued hospitalization, the medical director of the hospital or the attending physician determines that the treatment needs of the inmate patient could be met equally well in an available and appropriate less restrictive state correctional institution or unit, the medical director or attending physician may discharge the inmate to that facility.

(G) An inmate patient is entitled to the credits toward the reduction of the inmate patient's stated prison term pursuant to Chapters 2967. and 5120. of the Revised Code under the same terms and conditions as if the inmate patient were in any other institution of the department of rehabilitation and

correction. 15508

(H) The adult parole authority may place an inmate patient 15509
on parole or under post-release control directly from a 15510
psychiatric hospital. 15511

(I) If an inmate patient who is a mentally ill person 15512
subject to hospitalization is to be released from a psychiatric 15513
hospital because of the expiration of the inmate patient's 15514
stated prison term, the director of rehabilitation and 15515
correction or the director's designee, at least fourteen days 15516
before the expiration date, may file an affidavit under section 15517
5122.11 or 5123.71 of the Revised Code with the probate court in 15518
the county where the psychiatric hospital is located or the 15519
probate court in the county where the inmate will reside, 15520
alleging that the inmate patient is a mentally ill person 15521
subject to court order, as defined in section 5122.01 of the 15522
Revised Code, or a ~~mentally retarded~~ person with an intellectual 15523
disability subject to institutionalization by court order, as 15524
defined in section 5123.01 of the Revised Code, whichever is 15525
applicable. The proceedings in the probate court shall be 15526
conducted pursuant to Chapter 5122. or 5123. of the Revised Code 15527
except as modified by this division. 15528

Upon the request of the inmate patient, the probate court 15529
shall grant the inmate patient an initial hearing under section 15530
5122.141 of the Revised Code or a probable cause hearing under 15531
section 5123.75 of the Revised Code before the expiration of the 15532
stated prison term. After holding a full hearing, the probate 15533
court shall make a disposition authorized by section 5122.15 or 15534
5123.76 of the Revised Code before the date of the expiration of 15535
the stated prison term. No inmate patient shall be held in the 15536
custody of the department of rehabilitation and correction past 15537

the date of the expiration of the inmate patient's stated prison term. 15538
15539

(J) The department of rehabilitation and correction shall set standards for treatment provided to inmate patients. 15540
15541

(K) A certificate, application, record, or report that is made in compliance with this section and that directly or indirectly identifies an inmate or former inmate whose hospitalization has been sought under this section is confidential. No person shall disclose the contents of any certificate, application, record, or report of that nature or any other psychiatric or medical record or report regarding a mentally ill inmate unless one of the following applies: 15542
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15544
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(1) The person identified, or the person's legal guardian, if any, consents to disclosure, and the chief clinical officer or designee of mental health services of the department of rehabilitation and correction determines that disclosure is in the best interests of the person. 15550
15551
15552
15553
15554

(2) Disclosure is required by a court order signed by a judge. 15555
15556

(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. 15557
15558
15559
15560

(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 15561
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15563
15564
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15566

history, summary of course of treatment in the hospital, summary 15567
of treatment needs, and a discharge summary, if any. 15568

(5) An inmate patient's family member who is involved in 15569
planning, providing, and monitoring services to the inmate 15570
patient may receive medication information, a summary of the 15571
inmate patient's diagnosis and prognosis, and a list of the 15572
services and personnel available to assist the inmate patient 15573
and family if the attending physician determines that disclosure 15574
would be in the best interest of the inmate patient. No 15575
disclosure shall be made under this division unless the inmate 15576
patient is notified of the possible disclosure, receives the 15577
information to be disclosed, and does not object to the 15578
disclosure. 15579

(6) The department of rehabilitation and correction may 15580
exchange psychiatric hospitalization records, other mental 15581
health treatment records, and other pertinent information with 15582
county sheriffs' offices, hospitals, institutions, and 15583
facilities of the department of mental health and addiction 15584
services and with community mental health services providers and 15585
boards of alcohol, drug addiction, and mental health services 15586
with which the department of mental health and addiction 15587
services has a current agreement for patient care or services to 15588
ensure continuity of care. Disclosure under this division is 15589
limited to records regarding a mentally ill inmate's medication 15590
history, physical health status and history, summary of course 15591
of treatment, summary of treatment needs, and a discharge 15592
summary, if any. No office, department, agency, provider, or 15593
board shall disclose the records and other information unless 15594
one of the following applies: 15595

(a) The mentally ill inmate is notified of the possible 15596

disclosure and consents to the disclosure. 15597

(b) The mentally ill inmate is notified of the possible 15598
disclosure, an attempt to gain the consent of the inmate is 15599
made, and the office, department, agency, or board documents the 15600
attempt to gain consent, the inmate's objections, if any, and 15601
the reasons for disclosure in spite of the inmate's objections. 15602

(7) Information may be disclosed to staff members 15603
designated by the director of rehabilitation and correction for 15604
the purpose of evaluating the quality, effectiveness, and 15605
efficiency of services and determining if the services meet 15606
minimum standards. 15607

The name of an inmate patient shall not be retained with 15608
the information obtained during the evaluations. 15609

(L) The director of rehabilitation and correction may 15610
adopt rules setting forth guidelines for the procedures required 15611
under divisions (B), (C) (1), and (C) (2) of this section. 15612

Sec. 5120.173. Any person who is required to report abuse 15613
or neglect of a child under eighteen years of age that is 15614
reasonably suspected or believed to have occurred or the threat 15615
of which is reasonably suspected or believed to exist pursuant 15616
to division (A) of section 2151.421 of the Revised Code, any 15617
person who is permitted to report or cause a report to be made 15618
of reasonably suspected abuse or neglect of a child under 15619
eighteen years of age pursuant to division (B) of that section, 15620
any person who is required to report suspected abuse or neglect 15621
of a person with ~~mental retardation~~ or a developmental 15622
disability pursuant to division (C) of section 5123.61 of the 15623
Revised Code, and any person who is permitted to report 15624
suspected abuse or neglect of a person with ~~mental retardation~~ 15625

~~or~~a developmental disability pursuant to division (F) of that 15626
section and who makes or causes the report to be made, shall 15627
direct that report to the state highway patrol if the child or 15628
the person with ~~mental retardation or~~a developmental disability 15629
is an inmate in the custody of a state correctional institution. 15630
If the state highway patrol determines after receipt of the 15631
report that it is probable that abuse or neglect of the inmate 15632
occurred, the patrol shall report its findings to the department 15633
of rehabilitation and correction, to the court that sentenced 15634
the inmate for the offense for which the inmate is in the 15635
custody of the department, and to the chairperson and vice- 15636
chairperson of the correctional institution inspection committee 15637
established by section 103.71 of the Revised Code. 15638

Sec. 5121.04. (A) The department of developmental 15639
disabilities shall investigate the financial condition of the 15640
residents in institutions, residents whose care or treatment is 15641
being paid for in a private facility or home under the control 15642
of the department, and of the relatives named in section 5121.06 15643
of the Revised Code as liable for the support of such residents, 15644
in order to determine the ability of any resident or liable 15645
relatives to pay for the support of the resident and to provide 15646
suitable clothing as required by the superintendent of the 15647
institution. 15648

(B) The department shall follow the provisions of this 15649
division in determining the ability to pay of a resident or the 15650
resident's liable relatives and the amount to be charged such 15651
resident or liable relatives. 15652

(1) Subject to divisions (B)(10) and (11) of this section, 15653
a resident without dependents shall be liable for the full 15654
applicable cost. A resident without dependents who has a gross 15655

annual income equal to or exceeding the sum of the full 15656
applicable cost, plus fifty dollars per month, regardless of the 15657
source of such income, shall pay currently the full amount of 15658
the applicable cost; if the resident's gross annual income is 15659
less than such sum, not more than fifty dollars per month shall 15660
be kept for personal use by or on behalf of the resident, except 15661
as permitted in the state plan for providing medical assistance 15662
under Title XIX of the "Social Security Act," 49 Stat. 620 15663
(1935), 42 U.S.C. 301, as amended, and the balance shall be paid 15664
currently on the resident's support. Subject to divisions (B) 15665
(10) and (11) of this section, the estate of a resident without 15666
dependents shall pay currently any remaining difference between 15667
the applicable cost and the amounts prescribed in this section, 15668
or shall execute an agreement with the department for payment to 15669
be made at some future date under terms suitable to the 15670
department. However, no security interest, mortgage, or lien 15671
shall be taken, granted, or charged against any principal 15672
residence of a resident without dependents under an agreement or 15673
otherwise to secure support payments, and no foreclosure actions 15674
shall be taken on security interests, mortgages, or liens taken, 15675
granted, or charged against principal residences of residents 15676
prior to October 7, 1977. 15677

(2) The ability to pay of a resident with dependents, or 15678
of a liable relative of a resident either with or without 15679
dependents, shall be determined in accordance with the 15680
resident's or liable relative's income or other assets, the 15681
needs of others who are dependent on such income and other 15682
assets for support, and, if applicable, divisions (B) (10) and 15683
(11) of this section. 15684

For the first thirty days of care and treatment of each 15685
admission, but in no event for more than thirty days in any 15686

calendar year, the resident with dependents or the liable 15687
relative of a resident either with or without dependents shall 15688
be charged an amount equal to the percentage of the average 15689
applicable cost determined in accordance with the schedule of 15690
adjusted gross annual income contained after this paragraph. 15691
After such first thirty days of care and treatment, such 15692
resident or such liable relative shall be charged an amount 15693
equal to the percentage of a base support rate of four dollars 15694
per day for residents, as determined in accordance with the 15695
schedule of gross annual income contained after this paragraph, 15696
or in accordance with division (B) (5) of this section. Beginning 15697
January 1, 1978, the department shall increase the base rate 15698
when the consumer price index average is more than 4.0 for the 15699
preceding calendar year by not more than the average for such 15700
calendar year. 15701

Adjusted Gross Annual 15702
Income of Resident 15703
or Liable Relative (FN a) Number of Dependents (FN b) 15704

	Number of Dependents (FN b)								15705
	1	2	3	4	5	6	7	8 or more	
	Rate of Support (In Percentages)								15707
\$15,000 or less	--	--	--	--	--	--	--	--	15708
15,001 to 17,500	20	--	--	--	--	--	--	--	15709
17,501 to 20,000	25	20	--	--	--	--	--	--	15710
20,001 to 21,000	30	25	20	--	--	--	--	--	15711
21,001 to 22,000	35	30	25	20	--	--	--	--	15712
22,001 to 23,000	40	35	30	25	20	--	--	--	15713
23,001 to 24,000	45	40	35	30	25	20	--	--	15714
24,001 to 25,000	50	45	40	35	30	25	20	--	15715
25,001 to 26,000	55	50	45	40	35	30	25	20	15716
26,001 to 27,000	60	55	50	45	40	35	30	25	15717

27,001 to 28,000	70	60	55	50	45	40	35	30	15718
28,001 to 30,000	80	70	60	55	50	45	40	35	15719
30,001 to 40,000	90	80	70	60	55	50	45	40	15720
40,001 and over	100	90	80	70	60	55	50	45	15721

Footnote a. The resident or relative shall furnish a copy 15722
of the resident's or relative's federal income tax return as 15723
evidence of gross annual income. 15724

Footnote b. The number of dependents includes the liable 15725
relative but excludes a resident in an institution. "Dependent" 15726
includes any person who receives more than half the person's 15727
support from the resident or the resident's liable relative. 15728

(3) A resident or liable relative having medical, funeral, 15729
or related expenses in excess of four per cent of the adjusted 15730
gross annual income, which expenses were not covered by 15731
insurance, may adjust such gross annual income by reducing the 15732
adjusted gross annual income by the full amount of such 15733
expenses. Proof of such expenses satisfactory to the department 15734
must be furnished. 15735

(4) Additional dependencies may be claimed if: 15736

(a) The liable relative is blind; 15737

(b) The liable relative is over sixty-five; 15738

(c) A child is a college student with expenses in excess 15739
of fifty dollars per month; 15740

(d) The services of a housekeeper, costing in excess of 15741
fifty dollars per month, are required if the person who normally 15742
keeps house for minor children is the resident. 15743

(5) If with respect to any resident with dependents there 15744
is chargeable under division (B) (2) of this section less than 15745

fifty per cent of the applicable cost or, if the base support 15746
rate was used, less than fifty per cent of the amount determined 15747
by use of the base support rate, and if with respect to such 15748
resident there is a liable relative who has an estate having a 15749
value in excess of fifteen thousand dollars or if such resident 15750
has a dependent and an estate having a value in excess of 15751
fifteen thousand dollars, there shall be paid with respect to 15752
such resident a total of fifty per cent of the applicable cost 15753
or the base support rate amount, as the case may be, on a 15754
current basis or there shall be executed with respect to such 15755
resident an agreement with the department for payment to be made 15756
at some future date under terms suitable to the department. 15757

(6) When a person has been a resident for fifteen years 15758
and the support charges for which a relative is liable have been 15759
paid for the fifteen-year period, the liable relative shall be 15760
relieved of any further support charges. 15761

(7) The department shall accept voluntary payments from 15762
residents or liable relatives whose incomes are below the 15763
minimum shown in the schedule set forth in this division. The 15764
department also shall accept voluntary payments in excess of 15765
required amounts from both liable and nonliable relatives. 15766

(8) If a resident is covered by an insurance policy, or 15767
other contract that provides for payment of expenses for care 15768
and treatment for ~~mental retardation or other a~~ developmental 15769
disability at or from an institution or facility (including a 15770
community service unit under the jurisdiction of the 15771
department), the other provisions of this section, except 15772
divisions (B) (8), (10), and (11) of this section, and of section 15773
5121.01 of the Revised Code shall be suspended to the extent 15774
that such insurance policy or other contract is in force, and 15775

such resident shall be charged the full amount of the applicable 15776
cost. Any insurance carrier or other third party payor providing 15777
coverage for such care and treatment shall pay for this support 15778
obligation in an amount equal to the lesser of either the 15779
applicable cost or the benefits provided under the policy or 15780
other contract. Whether or not an insured, owner of, or other 15781
person having an interest in such policy or other contract is 15782
liable for support payments under other provisions of this 15783
chapter, the insured, policy owner, or other person shall assign 15784
payment directly to the department of all assignable benefits 15785
under the policy or other contract and shall pay over to the 15786
department, within ten days of receipt, all insurance or other 15787
benefits received as reimbursement or payment for expenses 15788
incurred by the resident or for any other reason. If the 15789
insured, policy owner, or other person refuses to assign such 15790
payment to the department or refuses to pay such received 15791
reimbursements or payments over to the department within ten 15792
days of receipt, the insured's, policy owners', or other 15793
person's total liability for the services equals the applicable 15794
statutory liability for payment for the services as determined 15795
under other provisions of this chapter, plus the amounts payable 15796
under the terms of the policy or other contract. In no event 15797
shall this total liability exceed the full amount of the 15798
applicable cost. Upon its request, the department is entitled to 15799
a court order that compels the insured, owner of, or other 15800
person having an interest in the policy or other contract to 15801
comply with the assignment requirements of this division or that 15802
itself serves as a legally sufficient assignment in compliance 15803
with such requirements. Notwithstanding section 5123.89 of the 15804
Revised Code and any other law relating to confidentiality of 15805
records, the managing officer of the institution or facility 15806
where a person is or has been a resident shall disclose 15807

pertinent medical information concerning the resident to the insurance carrier or other third party payor in question, in order to effect collection from the carrier or payor of the state's claim for care and treatment under this division. For such disclosure, the managing officer is not subject to any civil or criminal liability.

(9) The rate to be charged for pre-admission care, after-care, day-care, or routine consultation and treatment services shall be based upon the ability of the resident or the resident's liable relatives to pay. When it is determined by the department that a charge shall be made, such charge shall be computed as provided in divisions (B) (1) and (2) of this section.

(10) If a resident with or without dependents is the beneficiary of a trust created pursuant to section 5815.28 of the Revised Code, then, notwithstanding any contrary provision of this chapter or of a rule adopted pursuant to this chapter, divisions (C) and (D) of that section shall apply in determining the assets or resources of the resident, the resident's estate, the settlor, or the settlor's estate and to claims arising under this chapter against the resident, the resident's estate, the settlor, or the settlor's estate.

(11) If the department waives the liability of an individual and the individual's liable relatives pursuant to section 5123.194 of the Revised Code, the liability of the individual and relative ceases in accordance with the waiver's terms.

(C) The department may enter into agreements with a resident or a liable relative for support payments to be made in the future. However, no security interest, mortgage, or lien

shall be taken, granted, or charged against any principal family 15838
residence of a resident with dependents or a liable relative 15839
under an agreement or otherwise to secure support payments, and 15840
no foreclosure actions shall be taken on security interests, 15841
mortgages or liens taken, granted, or charged against principal 15842
residences of residents or liable relatives prior to October 7, 15843
1977. 15844

(D) The department shall make all investigations and 15845
determinations required by this section within ninety days after 15846
a resident is admitted to an institution under the department's 15847
control and immediately shall notify by mail the persons liable 15848
of the amount to be charged. 15849

(E) All actions to enforce the collection of payments 15850
agreed upon or charged by the department shall be commenced 15851
within six years after the date of default of an agreement to 15852
pay support charges or the date such payment becomes delinquent. 15853
If a payment is made pursuant to an agreement which is in 15854
default, a new six-year period for actions to enforce the 15855
collection of payments under such agreement shall be computed 15856
from the date of such payment. For purposes of this division an 15857
agreement is in default or a payment is delinquent if a payment 15858
is not made within thirty days after it is incurred or a 15859
payment, pursuant to an agreement, is not made within thirty 15860
days after the date specified for such payment. In all actions 15861
to enforce the collection of payment for the liability for 15862
support, every court of record shall receive into evidence the 15863
proof of claim made by the state together with all debts and 15864
credits, and it shall be prima-facie evidence of the facts 15865
contained in it. 15866

Sec. 5122.01. As used in this chapter and Chapter 5119. of 15867

the Revised Code: 15868

(A) "Mental illness" means a substantial disorder of 15869
thought, mood, perception, orientation, or memory that grossly 15870
impairs judgment, behavior, capacity to recognize reality, or 15871
ability to meet the ordinary demands of life. 15872

(B) "Mentally ill person subject to court order" means a 15873
mentally ill person who, because of the person's illness: 15874

(1) Represents a substantial risk of physical harm to self 15875
as manifested by evidence of threats of, or attempts at, suicide 15876
or serious self-inflicted bodily harm; 15877

(2) Represents a substantial risk of physical harm to 15878
others as manifested by evidence of recent homicidal or other 15879
violent behavior, evidence of recent threats that place another 15880
in reasonable fear of violent behavior and serious physical 15881
harm, or other evidence of present dangerousness; 15882

(3) Represents a substantial and immediate risk of serious 15883
physical impairment or injury to self as manifested by evidence 15884
that the person is unable to provide for and is not providing 15885
for the person's basic physical needs because of the person's 15886
mental illness and that appropriate provision for those needs 15887
cannot be made immediately available in the community; ~~or~~ 15888

(4) Would benefit from treatment for the person's mental 15889
illness and is in need of such treatment as manifested by 15890
evidence of behavior that creates a grave and imminent risk to 15891
substantial rights of others or the person; 15892

(5) (a) Would benefit from treatment as manifested by 15893
evidence of behavior that indicates all of the following: 15894

(i) The person is unlikely to survive safely in the 15895

community without supervision, based on a clinical 15896
determination. 15897

(ii) The person has a history of lack of compliance with 15898
treatment for mental illness and one of the following applies: 15899

(I) At least twice within the thirty-six months prior to 15900
the filing of an affidavit seeking court-ordered treatment of 15901
the person under section 5122.111 of the Revised Code, the lack 15902
of compliance has been a significant factor in necessitating 15903
hospitalization in a hospital or receipt of services in a 15904
forensic or other mental health unit of a correctional facility, 15905
provided that the thirty-six-month period shall be extended by 15906
the length of any hospitalization or incarceration of the person 15907
that occurred within the thirty-six-month period. 15908

(II) Within the forty-eight months prior to the filing of 15909
an affidavit seeking court-ordered treatment of the person under 15910
section 5122.111 of the Revised Code, the lack of compliance 15911
resulted in one or more acts of serious violent behavior toward 15912
self or others or threats of, or attempts at, serious physical 15913
harm to self or others, provided that the forty-eight-month 15914
period shall be extended by the length of any hospitalization or 15915
incarceration of the person that occurred within the forty- 15916
eight-month period. 15917

(iii) The person, as a result of the person's mental 15918
illness, is unlikely to voluntarily participate in necessary 15919
treatment. 15920

(iv) In view of the person's treatment history and current 15921
behavior, the person is in need of treatment in order to prevent 15922
a relapse or deterioration that would be likely to result in 15923
substantial risk of serious harm to the person or others. 15924

(b) An individual who meets only the criteria described in 15925
division (B) (5) (a) of this section is not subject to 15926
hospitalization. 15927

(C) (1) "Patient" means, subject to division (C) (2) of this 15928
section, a person who is admitted either voluntarily or 15929
involuntarily to a hospital or other place under section 15930
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code 15931
subsequent to a finding of not guilty by reason of insanity or 15932
incompetence to stand trial or under this chapter, who is under 15933
observation or receiving treatment in such place. 15934

(2) "Patient" does not include a person admitted to a 15935
hospital or other place under section 2945.39, 2945.40, 15936
2945.401, or 2945.402 of the Revised Code to the extent that the 15937
reference in this chapter to patient, or the context in which 15938
the reference occurs, is in conflict with any provision of 15939
sections 2945.37 to 2945.402 of the Revised Code. 15940

(D) "Licensed physician" means a person licensed under the 15941
laws of this state to practice medicine or a medical officer of 15942
the government of the United States while in this state in the 15943
performance of the person's official duties. 15944

(E) "Psychiatrist" means a licensed physician who has 15945
satisfactorily completed a residency training program in 15946
psychiatry, as approved by the residency review committee of the 15947
American medical association, the committee on post-graduate 15948
education of the American osteopathic association, or the 15949
American osteopathic board of neurology and psychiatry, or who 15950
on July 1, 1989, has been recognized as a psychiatrist by the 15951
Ohio state medical association or the Ohio osteopathic 15952
association on the basis of formal training and five or more 15953
years of medical practice limited to psychiatry. 15954

(F) "Hospital" means a hospital or inpatient unit licensed 15955
by the department of mental health and addiction services under 15956
section 5119.33 of the Revised Code, and any institution, 15957
hospital, or other place established, controlled, or supervised 15958
by the department under Chapter 5119. of the Revised Code. 15959

(G) "Public hospital" means a facility that is tax- 15960
supported and under the jurisdiction of the department of mental 15961
health and addiction services. 15962

(H) "Community mental health services provider" means an 15963
agency, association, corporation, individual, or program that 15964
provides community mental health services that are certified by 15965
the director of mental health and addiction services under 15966
section 5119.36 of the Revised Code. 15967

(I) "Licensed clinical psychologist" means a person who 15968
holds a current valid psychologist license issued under section 15969
4732.12 of the Revised Code, and in addition, meets the 15970
educational requirements set forth in division (B) of section 15971
4732.10 of the Revised Code and has a minimum of two years' 15972
full-time professional experience, or the equivalent as 15973
determined by rule of the state board of psychology, at least 15974
one year of which shall be a predoctoral internship, in clinical 15975
psychological work in a public or private hospital or clinic or 15976
in private practice, diagnosing and treating problems of mental 15977
illness or ~~mental retardation~~ intellectual disability under the 15978
supervision of a psychologist who is licensed or who holds a 15979
diploma issued by the American board of professional psychology, 15980
or whose qualifications are substantially similar to those 15981
required for licensure by the state board of psychology when the 15982
supervision has occurred prior to enactment of laws governing 15983
the practice of psychology. 15984

(J) "Health officer" means any public health physician; 15985
public health nurse; or other person authorized ~~by~~ or designated 15986
by a city ~~health district; a~~ or general health district, or a 15987
board of alcohol, drug addiction, and mental health services to 15988
perform the duties of a health officer under this chapter. 15989

(K) "Chief clinical officer" means the medical director of 15990
a hospital, ~~or a~~ community mental health services provider, or a 15991
board of alcohol, drug addiction, and mental health services, 15992
or, if there is no medical director, the licensed physician 15993
responsible for the treatment provided by a hospital or 15994
community mental health services provider ~~provides~~. The chief 15995
clinical officer may delegate to the attending physician 15996
responsible for a patient's care the duties imposed on the chief 15997
clinical officer by this chapter. Within a community mental 15998
health services provider, the chief clinical officer shall be 15999
designated by the governing body of the services provider and 16000
shall be a licensed physician or licensed clinical psychologist 16001
who supervises diagnostic and treatment services. A licensed 16002
physician or licensed clinical psychologist designated by the 16003
chief clinical officer may perform the duties and accept the 16004
responsibilities of the chief clinical officer in the chief 16005
clinical officer's absence. 16006

(L) "Working day" or "court day" means Monday, Tuesday, 16007
Wednesday, Thursday, and Friday, except when such day is a 16008
holiday. 16009

(M) "Indigent" means unable without deprivation of 16010
satisfaction of basic needs to provide for the payment of an 16011
attorney and other necessary expenses of legal representation, 16012
including expert testimony. 16013

(N) "Respondent" means the person whose detention, 16014

commitment, hospitalization, continued hospitalization or 16015
commitment, or discharge is being sought in any proceeding under 16016
this chapter. 16017

(O) "Ohio protection and advocacy system" has the same 16018
meaning as in section 5123.60 of the Revised Code. 16019

(P) "Independent expert evaluation" means an evaluation 16020
conducted by a licensed clinical psychologist, psychiatrist, or 16021
licensed physician who has been selected by the respondent or 16022
the respondent's counsel and who consents to conducting the 16023
evaluation. 16024

(Q) "Court" means the probate division of the court of 16025
common pleas. 16026

(R) "Expunge" means: 16027

(1) The removal and destruction of court files and 16028
records, originals and copies, and the deletion of all index 16029
references; 16030

(2) The reporting to the person of the nature and extent 16031
of any information about the person transmitted to any other 16032
person by the court; 16033

(3) Otherwise insuring that any examination of court files 16034
and records in question shall show no record whatever with 16035
respect to the person; 16036

(4) That all rights and privileges are restored, and that 16037
the person, the court, and any other person may properly reply 16038
that no such record exists, as to any matter expunged. 16039

(S) "Residence" means a person's physical presence in a 16040
county with intent to remain there, except that: 16041

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health and addiction services for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(T) "Admission" to a hospital or other place means that a patient is accepted for and stays at least one night at the hospital or other place.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) (1) "Treatment plan" means a written statement of reasonable objectives and goals for an individual established by

the treatment team, with specific criteria to evaluate progress 16071
towards achieving those objectives. 16072

(2) The active participation of the patient in 16073
establishing the objectives and goals shall be documented. The 16074
treatment plan shall be based on patient needs and include 16075
services to be provided to the patient while the patient is 16076
hospitalized, after the patient is discharged, or in an 16077
outpatient setting. The treatment plan shall address services to 16078
be provided. In the establishment of the treatment plan, 16079
consideration should be given to the availability of services, 16080
which may include but are not limited to all of the following: 16081

(a) Community psychiatric supportive treatment; 16082

(b) Assertive community treatment; 16083

(c) Medications; 16084

(d) Individual or group therapy; 16085

(e) Peer support services; 16086

(f) Financial services; 16087

(g) Housing or supervised living services; 16088

(h) Alcohol or substance abuse treatment; 16089

(i) Any other services prescribed to treat the patient's 16090
mental illness and to either assist the patient in living and 16091
functioning in the community or to help prevent a relapse or a 16092
deterioration of the patient's current condition. 16093

(3) If the person subject to the treatment plan has 16094
executed an advanced directive for mental health treatment, the 16095
treatment team shall consider any directions included in such 16096
advanced directive in developing the treatment plan. 16097

(W) "Community control sanction" has the same meaning as 16098
in section 2929.01 of the Revised Code. 16099

(X) "Post-release control sanction" has the same meaning 16100
as in section 2967.01 of the Revised Code. 16101

(Y) "Local correctional facility" has the same meaning as 16102
in section 2903.13 of the Revised Code. 16103

Sec. 5123.01. As used in this chapter: 16104

(A) "Chief medical officer" means the licensed physician 16105
appointed by the managing officer of an institution for ~~the~~ 16106
~~mentally retarded persons with intellectual disabilities~~ with 16107
the approval of the director of developmental disabilities to 16108
provide medical treatment for residents of the institution. 16109

(B) "Chief program director" means a person with special 16110
training and experience in the diagnosis and management of ~~the~~ 16111
~~mentally retarded persons with developmental disabilities,~~ 16112
certified according to division (C) of this section in at least 16113
one of the designated fields, and appointed by the managing 16114
officer of an institution for ~~the mentally retarded persons with~~ 16115
~~intellectual disabilities~~ with the approval of the director to 16116
provide habilitation and care for residents of the institution. 16117

(C) "Comprehensive evaluation" means a study, including a 16118
sequence of observations and examinations, of a person leading 16119
to conclusions and recommendations formulated jointly, with 16120
dissenting opinions if any, by a group of persons with special 16121
training and experience in the diagnosis and management of 16122
persons with ~~mental retardation or a developmental~~ 16123
~~disability~~disabilities, which group shall include individuals 16124
who are professionally qualified in the fields of medicine, 16125
psychology, and social work, together with such other 16126

specialists as the individual case may require. 16127

(D) "Education" means the process of formal training and 16128
instruction to facilitate the intellectual and emotional 16129
development of residents. 16130

(E) "Habilitation" means the process by which the staff of 16131
the institution assists the resident in acquiring and 16132
maintaining those life skills that enable the resident to cope 16133
more effectively with the demands of the resident's own person 16134
and of the resident's environment and in raising the level of 16135
the resident's physical, mental, social, and vocational 16136
efficiency. Habilitation includes but is not limited to programs 16137
of formal, structured education and training. 16138

(F) "Health officer" means any public health physician, 16139
public health nurse, or other person authorized or designated by 16140
a city or general health district. 16141

(G) "Home and community-based services" means medicaid- 16142
funded home and community-based services specified in division 16143
(A) (1) of section 5166.20 of the Revised Code provided under the 16144
medicaid waiver components the department of developmental 16145
disabilities administers pursuant to section 5166.21 of the 16146
Revised Code. Except as provided in section 5123.0412 of the 16147
Revised Code, home and community-based services provided under 16148
the medicaid waiver component known as the transitions 16149
developmental disabilities waiver are to be considered to be 16150
home and community-based services for the purposes of this 16151
chapter, and Chapters 5124. and 5126. of the Revised Code, only 16152
to the extent, if any, provided by the contract required by 16153
section 5166.21 of the Revised Code regarding the waiver. 16154

(H) "ICF/IID" has the same meaning as in section 5124.01 16155

of the Revised Code. 16156

(I) "Indigent person" means a person who is unable, 16157
without substantial financial hardship, to provide for the 16158
payment of an attorney and for other necessary expenses of legal 16159
representation, including expert testimony. 16160

(J) "Institution" means a public or private facility, or a 16161
part of a public or private facility, that is licensed by the 16162
appropriate state department and is equipped to provide 16163
residential habilitation, care, and treatment ~~for the mentally~~ 16164
~~retarded~~ persons with intellectual disabilities. 16165

(K) "Licensed physician" means a person who holds a valid 16166
certificate issued under Chapter 4731. of the Revised Code 16167
authorizing the person to practice medicine and surgery or 16168
osteopathic medicine and surgery, or a medical officer of the 16169
government of the United States while in the performance of the 16170
officer's official duties. 16171

(L) "Managing officer" means a person who is appointed by 16172
the director of developmental disabilities to be in executive 16173
control of an institution ~~for the mentally retarded~~ under the 16174
jurisdiction of the department of developmental disabilities. 16175

(M) "Medicaid case management services" means case 16176
management services provided to an individual with ~~mental~~ 16177
~~retardation or other~~ a developmental disability that the state 16178
medicaid plan requires. 16179

(N) ~~"Mentally retarded person"~~ "Intellectual disability" 16180
means a ~~person~~ disability characterized by having significantly 16181
subaverage general intellectual functioning existing 16182
concurrently with deficiencies in adaptive behavior, manifested 16183
during the developmental period. 16184

(O) ~~"Mentally retarded person~~ Person with an intellectual 16185
disability subject to institutionalization by court order" means 16186
a person eighteen years of age or older ~~who is~~ with at least 16187
~~moderately mentally retarded~~ a moderate level of intellectual 16188
disability and in relation to whom, because of the person's 16189
~~retardation~~ disability, either of the following conditions 16190
~~exist~~ exists: 16191

(1) The person represents a very substantial risk of 16192
physical impairment or injury to self as manifested by evidence 16193
that the person is unable to provide for and is not providing 16194
for the person's most basic physical needs and that provision 16195
for those needs is not available in the community; 16196

(2) The person needs and is susceptible to significant 16197
habilitation in an institution. 16198

(P) ~~"A person who is at least moderately mentally~~ 16199
~~retarded~~ Moderate level of intellectual disability" means the 16200
condition in which a person ~~who is found~~, following a 16201
comprehensive evaluation, is found to be impaired in adaptive 16202
~~behavior to a~~ have at least moderate degree and to be 16203
~~functioning at the moderate level of~~ deficits in overall 16204
intellectual functioning, as indicated by a full-scale 16205
intelligence quotient test score of fifty-five or below, and at 16206
least moderate deficits in adaptive behavior, as determined in 16207
accordance with ~~standard measurements as recorded in the most~~ 16208
~~current revision of the manual of terminology and classification~~ 16209
~~in mental retardation~~ the criteria established in the fifth 16210
edition of the diagnostic and statistical manual of mental 16211
disorders published by the American psychiatric association ~~on~~ 16212
~~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
common pleas. 16332
16333

~~(Z)~~(Y) "Supported living" and "residential services" have
the same meanings as in section 5126.01 of the Revised Code. 16334
16335

Sec. 5123.012. (A) As used in this section, "preschool
child with a disability" has the same meaning as in section
3323.01 of the Revised Code. 16336
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(B) Except as provided in division (C) of this section,
the department of developmental disabilities shall make
eligibility determinations in accordance with the definition of
"developmental disability" contained in section 5123.01 of the
Revised Code. The department may adopt rules in accordance with
Chapter 119. of the Revised Code establishing eligibility for
programs and services for any preschool child with a disability
eligible for services under section 3323.02 of the Revised Code
whose disability is not attributable solely to mental illness,
as defined in section 5122.01 of the Revised Code. 16339
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(C) (1) The department shall make determinations of
eligibility for protective services in accordance with sections
5123.55 to 5123.59 of the Revised Code. 16349
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(2) Determinations of whether a ~~mentally retarded~~ person
with an intellectual disability is subject to
institutionalization by court order shall be made in accordance
with sections 5123.71 to 5123.76 of the Revised Code and shall
be based on the definition of "~~mentally retarded~~ person with an
intellectual disability subject to institutionalization by court
order" contained in section 5123.01 of the Revised Code. 16352
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(3) All persons who were eligible for services and
enrolled in programs offered by the department of developmental 16359
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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 intellectual 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 intellectual 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 intellectual 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 16435
institutionalizations are made according to law. 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
intellectual 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 director of budget and management certifying how the department spent the money in the ~~ODDD administration and oversight~~ fund for the purposes specified in division (B) of this section.

Sec. 5123.0413. The department of developmental disabilities, in consultation with the department of ~~job and family services~~ medicaid, office of budget and management, and county boards of developmental disabilities, shall adopt rules in accordance with Chapter 119. of the Revised Code to establish both of the following in the event a county property tax levy for services for individuals with ~~mental retardation or other developmental disability~~ disabilities fails:

(A) A method of paying for home and community-based services;

(B) A method of reducing the number of individuals a county board would otherwise be required by section 5126.0512 of the Revised Code to ensure are enrolled in home and community-based services.

Sec. 5123.0417. (A) The director of developmental disabilities shall establish one or more programs for individuals under twenty-two years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section 5166.21 of the Revised Code. The programs may do one or more of the following:

(1) Establish models that incorporate elements common to effective intervention programs and evidence-based practices in services for children with intensive behavioral needs;

(2) Design a template for individualized education ~~plans~~ programs and individual service plans that provide consistent intervention programs and evidence-based practices for the care and treatment of children with intensive behavioral needs;

(3) Disseminate best practice guidelines for use by families of children with intensive behavioral needs and professionals working with such families;

(4) Develop a transition planning model for effectively mainstreaming school-age children with intensive behavioral needs to their public school district;

(5) Contribute to the field of early and effective identification and intervention programs for children with intensive behavioral needs by providing financial support for scholarly research and publication of clinical findings.

(B) The director of developmental disabilities shall collaborate with the medicaid director and consult with the executive director of the Ohio center for autism and low incidence and university-based programs that specialize in services for individuals with developmental disabilities when establishing programs under this section.

Sec. 5123.0418. (A) In addition to other authority granted the director of developmental disabilities for use of funds appropriated to the department of developmental disabilities, the director may use such funds for the following purposes:

(1) All of the following to assist persons with ~~mental-retardation or a developmental disability~~ disabilities remain in the community and avoid institutionalization:

(a) Behavioral and short-term interventions;

(b) Residential services;	16652
(c) Supported living.	16653
(2) Respite care services;	16654
(3) Staff training to help the following personnel serve persons with mental retardation or a developmental disability <u>disabilities</u> in the community:	16655
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	16657
(a) Employees of, and personnel under contract with, county boards of developmental disabilities;	16658
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(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 for the purposes specified in division (A) of this section. The director shall use the funds in a manner consistent with the appropriations that authorize the director to use the funds and all other state and federal laws governing the use of the funds.	16663
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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 appointment to or employment with the department of developmental disabilities or a county board of developmental disabilities;	16670
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(ii) A person who is being transferred to the department or a county board;	16674
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(iii) An employee who is being recalled to or reemployed by the department or a county board after a layoff;	16676
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- (iv) A person under final consideration for a direct services position with a provider or subcontractor. 16678
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- (b) Neither of the following is an applicant: 16680
- (i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this section and either is being considered for a different position with the responsible entity or is returning after a leave of absence or seasonal break in employment, unless the responsible entity has reason to believe that the person has committed a disqualifying offense; 16681
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- (ii) A person who is to provide only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with ~~mental retardation or a~~ developmental disability who is to receive the respite care selects the person. 16688
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- (2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 16693
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- (3) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals with ~~mental retardation or a~~ developmental disability disabilities. 16695
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- (4) "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. 16700
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- (5) (a) "Employee" means either of the following: 16703
- (i) A person appointed to or employed by the department of developmental disabilities or a county board of developmental 16704
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disabilities; 16706

(ii) A person employed in a direct services position by a provider or subcontractor. 16707
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(b) "Employee" does not mean a person who provides only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with ~~mental retardation or a~~ developmental disability who receives the respite care selected the person. 16709
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(6) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code. 16714
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(7) "Provider" means a person that provides specialized services to individuals with ~~mental retardation or a~~ developmental ~~disability~~ disabilities and employs one or more persons in direct services positions. 16716
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(8) "Responsible entity" means the following: 16720

(a) The department of developmental disabilities in the case of either of the following: 16721
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(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
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(ii) A person who is an employee because the person is appointed to or employed by the department. 16727
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(b) A county board of developmental disabilities in the case of either of the following: 16729
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(i) A person who is an applicant because the person is under final consideration for appointment to or employment with 16731
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the county board, being transferred to the county board, or 16733
being recalled to or reemployed by the county board after a 16734
layoff; 16735

(ii) A person who is an employee because the person is 16736
appointed to or employed by the county board. 16737

(c) A provider in the case of either of the following: 16738

(i) A person who is an applicant because the person is 16739
under final consideration for a direct services position with 16740
the provider; 16741

(ii) A person who is an employee because the person is 16742
employed in a direct services position by the provider. 16743

(d) A subcontractor in the case of either of the 16744
following: 16745

(i) A person who is an applicant because the person is 16746
under final consideration for a direct services position with 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 16923
entity has obtained reports under this section may submit a 16924
written request to the responsible entity to have copies of the 16925
reports sent to any state agency, entity of local government, or 16926
private entity. The applicant or employee shall specify in the 16927
request the agencies or entities to which the copies are to be 16928
sent. On receiving the request, the responsible entity shall 16929
send copies of the reports to the agencies or entities 16930
specified. 16931

(3) A responsible entity may request that a state agency, 16932
entity of local government, or private entity send copies to the 16933
responsible entity of any report regarding a records check or 16934
criminal records check that the agency or entity possesses, if 16935
the responsible entity obtains the written consent of the 16936

individual who is the subject of the report. 16937

(4) A responsible entity shall provide each applicant and 16938
employee with a copy of any report obtained about the applicant 16939
or employee under this section. 16940

(J) The director of developmental disabilities shall adopt 16941
rules in accordance with Chapter 119. of the Revised Code to 16942
implement this section. 16943

(1) The rules may do the following: 16944

(a) Require employees to undergo criminal records checks 16945
under this section; 16946

(b) Require responsible entities to obtain the driving 16947
records of employees under this section; 16948

(c) If the rules require employees to undergo criminal 16949
records checks, require responsible entities to obtain the 16950
driving records of employees, or both, exempt one or more 16951
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 17216
individual involved in a case dealing with any of the following: 17217

(i) The denial of a supported living certificate or 17218
refusal to renew a supported living certificate; 17219

(ii) The denial, suspension, or revocation of a 17220
certificate under section 5123.45 of the Revised Code; 17221

(iii) A civil or criminal action regarding the medicaid 17222
program. 17223

(2) An applicant for whom the director has obtained 17224
reports under this section may submit a written request to the 17225
director to have copies of the reports sent to any person or 17226
state or local government entity. The applicant shall specify in 17227
the request the person or entities to which the copies are to be 17228

sent. On receiving the request, the director shall send copies 17229
of the reports to the persons or entities specified. 17230

(3) The director may request that a person or state or 17231
local government entity send copies to the director of any 17232
report regarding a records check or criminal records check that 17233
the person or entity possesses, if the director obtains the 17234
written consent of the individual who is the subject of the 17235
report. 17236

(4) The director shall provide each applicant with a copy 17237
of any report obtained about the applicant under this section. 17238

Sec. 5123.17. The department of developmental disabilities 17239
may provide for the custody, supervision, control, treatment, 17240
and training of persons with ~~mental retardation or a~~ 17241
developmental ~~disability~~ disabilities elsewhere than within the 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 director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(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 17389
residential facility for any violation specified in rules 17390
adopted under division (G) (2) of this section. The director 17391
shall lift the order when the director determines that the 17392
violation that formed the basis for the order has been 17393
corrected. 17394

(5) When the director initiates license revocation 17395
proceedings, no opportunity for submitting a plan of correction 17396
shall be given. The director shall notify the licensee by letter 17397
of the initiation of the proceedings. The letter shall list the 17398
deficiencies of the residential facility and inform the licensee 17399
that no plan of correction will be accepted. The director shall 17400
also send a copy of the letter to the county board of 17401
developmental disabilities. Except in the case of a licensee 17402

that is an ICF/IID, the county board shall send a copy of the 17403
letter to each of the following: 17404

(a) Each resident who receives services from the licensee; 17405

(b) The guardian of each resident who receives services 17406
from the licensee if the resident has a guardian; 17407

(c) The parent or guardian of each resident who receives 17408
services from the licensee if the resident is a minor. 17409

(6) Pursuant to rules which shall be adopted in accordance 17410
with Chapter 119. of the Revised Code, the director may order 17411
the immediate removal of residents from a residential facility 17412
whenever conditions at the facility present an immediate danger 17413
of physical or psychological harm to the residents. 17414

(7) In determining whether a residential facility is being 17415
operated in compliance with a provision of this chapter that 17416
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 suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(F) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is five years after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(G) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules for residential facilities that are ICFs/IID may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify

for each license when it is issued or renewed;	17489
(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;	17490 17491 17492 17493 17494
(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;	17495 17496 17497
(4) Procedures for surveying residential facilities;	17498
(5) Classifications for the various types of residential facilities;	17499 17500
(6) The maximum number of persons <u>individuals</u> who may be served in a particular type of residential facility;	17501 17502
(7) Uniform procedures for admission of persons <u>individuals</u> to and transfers and discharges of persons <u>individuals</u> from residential facilities;	17503 17504 17505
(8) Other standards for the operation of residential facilities and the services provided at residential facilities;	17506 17507
(9) Procedures for waiving any provision of any rule adopted under this section.	17508 17509
(H) (1) Before issuing a license, the director shall conduct a survey of the residential facility for which application is made. The director shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its	17510 17511 17512 17513 17514 17515 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 shall approve or disapprove the plan. If the plan of correction is approved, a copy of the approved plan shall be provided, not later than five business days after it is approved, to any person or government entity who requests it and made available on the internet web site maintained by the department of developmental disabilities. If the plan of correction is not approved and the director initiates a proceeding to revoke the license, a copy of the survey report shall be provided to any person or government entity that requests it and shall be made available on the internet web site maintained by the department.

(6) The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.197 of the Revised Code.

(J) (1) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

(2) Pursuant to rules, which shall be adopted in

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 who are under the control of the 17788
department. If the trust so provides, the money or property may 17789
be used for any work which the department is authorized to 17790
undertake. 17791

The department shall keep such gift, grant, devise, or 17792
bequest as a distinct property or fund and, if it is in money, 17793
shall invest it in the manner provided by law. The department 17794
may deposit in a proper trust company or savings bank any money 17795
left in trust during a specified life or lives and shall adopt 17796
rules governing the deposit, transfer, withdrawal, or investment 17797
of the money and the income from it. 17798

The department shall, in the manner prescribed by the 17799
director of budget and management pursuant to section 126.21 of 17800
the Revised Code, account for all money or property received or 17801
expended under this section. The records, together with a 17802
statement certified by the depository showing the money 17803
deposited there to the credit of the trust, shall be open to 17804
public inspection. The director of budget and management may 17805
require the department to file a report with the director on any 17806
particular portion, or the whole, of any trust property received 17807
or expended by it. 17808

The department shall, upon the expiration of any trust 17809
according to its terms, dispose of the money or property held 17810

under the trust in the manner provided in the instrument 17811
creating the trust. If the instrument creating the trust failed 17812
to make any terms of disposition, or if no trust was in 17813
evidence, the decedent resident's money, saving or commercial 17814
deposits, dividends or distributions, bonds, or any other 17815
interest-bearing debt certificate or stamp issued by the United 17816
States government shall escheat to the state. All such unclaimed 17817
intangible personal property of a former resident shall be 17818
retained by the managing officer in such institution for the 17819
period of one year, during which time every possible effort 17820
shall be made to find the former resident or the former 17821
resident's legal representative. 17822

If after a period of one year from the time the resident 17823
has left the institution or has died, the managing officer has 17824
been unable to locate the person or the person's legal 17825
representative, then, upon proper notice of that fact, the 17826
director shall at that time formulate in writing a method of 17827
disposition on the minutes of the department authorizing the 17828
managing officer to convert such intangible personal property to 17829
cash to be paid into the state treasury to the credit of the 17830
general revenue fund. 17831

The department shall include in its annual report a 17832
statement of all such money and property and the terms and 17833
conditions relating to them. 17834

Sec. 5123.34. This chapter attempts to do all of the 17835
following: 17836

(A) Provide humane and scientific treatment and care and 17837
the highest attainable degree of individual development for 17838
persons with ~~mental retardation or a developmental~~ 17839
disabilitydisabilities; 17840

(B) Promote the study of the causes of ~~mental retardation~~ and developmental disabilities, with a view to ultimate prevention; 17841
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(C) Secure by uniform and systematic management the highest attainable degree of economy in the administration of the institutions under the control of the department of developmental disabilities. 17844
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Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall be liberally construed to attain these purposes. 17848
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Sec. 5123.35. (A) There is hereby created the Ohio developmental disabilities council, which shall serve as an advocate for all persons with developmental disabilities. The council shall act in accordance with the "Developmental Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 (1984), 42 U.S.C. 6001, as amended. The governor shall appoint the members of the council in accordance with 42 U.S.C. 6024. 17851
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(B) The ~~Ohio developmental disabilities~~ council shall develop the state plan required by federal law as a condition of receiving federal assistance under 42 U.S.C. 6021 to 6030. The department of developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance. 17858
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(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for 17867
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~~developmentally disabled persons with developmental~~ 17870
~~disabilities.~~ The ~~Ohio developmental disabilities~~ council may 17871
award the grants or enter into the contracts. 17872

(D) The ~~Ohio developmental disabilities~~ council may award 17873
grants to or enter into contracts with a member of the council 17874
or an entity that the member represents if all of the following 17875
apply: 17876

(1) The member serves on the council as a representative 17877
of one of the principal state agencies concerned with services 17878
for persons with developmental disabilities as specified in 42 17879
U.S.C. 6024(b)(3), a representative of a university affiliated 17880
program as defined in 42 U.S.C. 6001(18), or a representative of 17881
the ~~legal rights service created under Ohio protection and~~ 17882
~~advocacy system, as defined in section 5123.60 of the Revised~~ 17883
Code. 17884

(2) The council determines that the member or the entity 17885
the member represents is capable of providing the goods or 17886
services specified under the terms of the grant or contract. 17887

(3) The member has not taken part in any discussion or 17888
vote of the council related to awarding the grant or entering 17889
into the contract, including service as a member of a review 17890
panel established by the council to award grants or enter into 17891
contracts or to make recommendations with regard to awarding 17892
grants or entering into contracts. 17893

(E) A member of the ~~Ohio developmental disabilities~~ 17894
council is not in violation of Chapter 102. or section 2921.42 17895
of the Revised Code with regard to receiving a grant or entering 17896
into a contract under this section if the requirements of 17897
division (D) of this section have been met. 17898

(F) (1) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by interactive video conference and all of the following apply:

(a) A primary meeting location that is open and accessible to the public is established for the meeting of the council;

(b) A clear video and audio connection is established that enables all meeting participants at the primary meeting location to witness the participation of each member;

(c) A roll call vote is recorded for each vote taken;

(d) The minutes of the council identify which members participated by interactive video conference.

(2) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by teleconference and all of the following apply:

(a) The council has determined its membership does not have access to and the council cannot provide access to the equipment needed to conduct interactive video conferencing;

(b) A primary meeting location that is open and accessible to the public is established for the meeting of the council;

(c) A clear audio connection is established that enables all meeting participants at the primary meeting location to hear the participation of each member;

(d) A roll call vote is recorded for each vote taken;

(e) The minutes of the council identify which members participated by teleconference.	17926 17927
(3) The Ohio developmental disabilities council shall adopt any rules the council considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. At a minimum, the rules shall do all of the following:	17928 17929 17930 17931 17932
(a) Authorize council members to remotely attend a council meeting by interactive video conference or teleconference in lieu of attending the meeting in person;	17933 17934 17935
(b) Establish a minimum number of members required to be physically present in person at the primary meeting location if the council conducts a meeting by interactive video conference or teleconference;	17936 17937 17938 17939
(c) Establish geographic restrictions for participation in meetings by interactive video conference or teleconference;	17940 17941
(d) Establish a policy for distributing and circulating necessary documents to council members, the public, and the media in advance of a meeting at which members are permitted to attend by interactive video conference or teleconference;	17942 17943 17944 17945
(e) Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference.	17946 17947
Sec. 5123.351. The director of developmental disabilities, with respect to the eligibility for state reimbursement of expenses incurred by facilities and programs established and operated under Chapter 5126. of the Revised Code for persons with mental retardation or a developmental disability <u>disabilities</u> , shall do all of the following:	17948 17949 17950 17951 17952 17953

(A) Make rules that may be necessary to carry out the 17954
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 17955
5123.36 of the Revised Code; 17956

(B) Define minimum standards for qualifications of 17957
personnel, professional services, and in-service training and 17958
educational leave programs; 17959

(C) Review and evaluate community programs and make 17960
recommendations for needed improvements to county boards of 17961
developmental disabilities and to program directors; 17962

(D) Withhold state reimbursement, in whole or in part, 17963
from any county or combination of counties for failure to comply 17964
with Chapter 5126. or section 5123.35 or 5123.351 of the Revised 17965
Code or rules of the department of developmental disabilities; 17966

(E) Withhold state funds from an agency, corporation, or 17967
association denying or rendering service on the basis of race, 17968
color, sex, religion, ancestry, national origin, disability as 17969
defined in section 4112.01 of the Revised Code, or inability to 17970
pay; 17971

(F) Provide consultative staff service to communities to 17972
assist in ascertaining needs and in planning and establishing 17973
programs. 17974

Sec. 5123.36. (A) To the extent funds are available and on 17975
application by a county board of developmental disabilities or 17976
private nonprofit agency incorporated to provide ~~mental-~~ 17977
~~retardation or~~ developmental disability services, the director 17978
of developmental disabilities may enter into an agreement with 17979
the county board or agency to assist the county board or agency 17980
with a ~~mental-retardation or~~ developmental disability 17981
construction project. Except as provided by division (B) of this 17982

section, the director may provide up to ninety per cent of the total project cost where circumstances warrant. The director may, where circumstances warrant, use existing facilities or other in-kind match for the local share of the communities' share of the cost.

(B) Upon the recommendation of the director, for projects of the highest priority of the department of developmental disabilities, the controlling board may authorize the director to provide more than ninety per cent of the total cost of a project under this section.

(C) A county board is eligible for funds under this section for a project bid on or after January 1, 1992, under either section 153.07 or 307.86 of the Revised Code, as long as all other applicable requirements were followed.

(D) A private nonprofit agency that receives funds pursuant to this section for the construction of a single-family home, including, where appropriate, the acquisition and 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 18012
before the terms of the agreement expire for the purpose of 18013
acquiring a replacement facility to be used to provide ~~mental-~~ 18014
~~retardation or~~ developmental disability services to individuals 18015
the county board or agency serves. The application shall be made 18016
on a form the director shall prescribe. The county board or 18017
agency shall include in the application the specific purpose for 18018
which the replacement facility is to be used. The director may 18019
refuse to approve the application if the director determines 18020
that any of the following apply: 18021

(A) The application is incomplete or indicates that the 18022
county board or agency is unable to purchase a replacement 18023
facility. 18024

(B) The replacement facility would not be used to continue 18025
to provide ~~mental retardation or~~ developmental disability 18026
services that the director determines are appropriate for the 18027
individuals the county board or agency serves. 18028

(C) The county board or agency has failed to comply with a 18029
provision of Chapter 5123. or 5126. of the Revised Code or a 18030
rule adopted by the director. 18031

(D) Approving the application would be inconsistent with 18032
the plans and priorities of the department of developmental 18033
disabilities. 18034

Sec. 5123.374. (A) The director of developmental 18035
disabilities may rescind approval of an application submitted 18036
under section 5123.37 of the Revised Code if either of the 18037
following occurs: 18038

(1) The county board of developmental disabilities or 18039
private, nonprofit agency that submitted the application fails, 18040

on or before the deadline or, if any, the last extended deadline 18041
established under section 5123.372 of the Revised Code for the 18042
county board or agency, to notify the director that the county 18043
board or agency is ready to acquire the replacement facility. 18044

(2) The county board or agency at any time notifies the 18045
director that the county board or agency no longer intends to 18046
acquire a replacement facility. 18047

(B) If the director rescinds approval of an application, 18048
the director shall use any funds the county board or agency paid 18049
to the director under section 5123.371 of the Revised Code to 18050
assist ~~mental retardation or~~ developmental disabilities 18051
construction projects under section 5123.36 of the Revised Code. 18052

Sec. 5123.375. The developmental disabilities community 18053
capital replacement facilities fund is hereby created in the 18054
state treasury. The director of developmental disabilities shall 18055
credit all amounts paid to the director under section 5123.371 18056
of the Revised Code to the fund. The director shall use the 18057
money in the fund as follows: 18058

(A) To make payments to county boards of developmental 18059
disabilities and private, nonprofit agencies pursuant to 18060
agreements entered into under section 5123.373 of the Revised 18061
Code; 18062

(B) To provide, pursuant to section 5123.374 of the 18063
Revised Code, assistance for ~~mental retardation or~~ developmental 18064
disabilities construction projects under section 5123.36 of the 18065
Revised Code. 18066

Sec. 5123.40. There is hereby created in the state 18067
treasury the services fund for individuals with ~~mental-~~ 18068
~~retardation and~~ developmental disabilities. On the death of the 18069

beneficiary of a trust created pursuant to section 5815.28 of 18070
the Revised Code, the portion of the remaining assets of the 18071
trust specified in the trust instrument shall be deposited to 18072
the credit of the fund. 18073

Money credited to the fund shall be used for individuals 18074
with ~~mental retardation and~~ developmental disabilities. In 18075
accordance with Chapter 119. of the Revised Code, the department 18076
of developmental disabilities may adopt any rules necessary to 18077
implement this section. 18078

Sec. 5123.41. As used in this section and sections 5123.42 18079
to 5123.47 of the Revised Code: 18080

(A) "Adult services" has the same meaning as in section 18081
5126.01 of the Revised Code. 18082

(B) "Certified supported living provider" means a person 18083
or government entity certified under section 5123.161 of the 18084
Revised Code. 18085

(C) "Drug" has the same meaning as in section 4729.01 of 18086
the Revised Code. 18087

(D) "Family support services" has the same meaning as in 18088
section 5126.01 of the Revised Code. 18089

(E) "Health-related activities" means the following: 18090

(1) Taking vital signs; 18091

(2) Application of clean dressings that do not require 18092
health assessment; 18093

(3) Basic measurement of bodily intake and output; 18094

(4) Oral suctioning; 18095

(5) Use of glucometers; 18096

(6) External urinary catheter care;	18097
(7) Emptying and replacing colostomy bags;	18098
(8) Collection of specimens by noninvasive means.	18099
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	18100 18101 18102
(G) " MR/DD <u>Developmental disabilities</u> personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. " MR/DD <u>Developmental disabilities</u> personnel" includes those who provide the services as follows:	18103 18104 18105 18106 18107
(1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities;	18108 18109 18110
(2) Through an entity under contract with the department of developmental disabilities or a county board of developmental disabilities;	18111 18112 18113
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	18114 18115 18116
(H) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task.	18117 18118 18119 18120 18121 18122 18123
(I) "Prescribed medication" means a drug that is to be	18124

administered according to the instructions of a licensed health professional authorized to prescribe drugs. 18125
18126

(J) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code. 18127
18128

(K) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code. 18129
18130

(L) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube. 18131
18132

Sec. 5123.42. (A) ~~Beginning nine months after March 31, 2003, MR/DD~~ Developmental disabilities personnel who are not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, or perform tube feedings may do so pursuant to this section as part of the specialized services the ~~MR/DD~~ developmental disabilities personnel provide to individuals with ~~mental retardation and~~ developmental disabilities in the following categories: 18133
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(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code; 18142
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(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code; 18145
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(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code; 18147
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(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; 18150
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(5) Recipients of residential support services from 18153
certified home and community-based services providers, if the 18154
services are received in a community living arrangement that 18155
includes not more than four individuals with ~~mental retardation~~ 18156
~~and~~ developmental disabilities and the services are offered or 18157
provided pursuant to this chapter or Chapter 5126. of the 18158
Revised Code; 18159

(6) Recipients of services not included in divisions (A) 18160
(1) to (5) of this section that are offered or provided pursuant 18161
to this chapter or Chapter 5126. of the Revised Code; 18162

(7) Residents of a residential facility with five or fewer 18163
resident beds; 18164

(8) Residents of a residential facility with at least six 18165
but not more than sixteen resident beds; 18166

(9) Residents of a residential facility with seventeen or 18167
more resident beds who are on a field trip from the facility, if 18168
all of the following are the case: 18169

(a) The field trip is sponsored by the facility for 18170
purposes of complying with federal medicaid statutes and 18171
regulations, state medicaid statutes and rules, or other federal 18172
or state statutes, regulations, or rules that require the 18173
facility to provide habilitation, community integration, or 18174
normalization services to its residents. 18175

(b) Not more than ten field trip participants are 18176
residents who have health needs requiring the administration of 18177
prescribed medications, excluding participants who self- 18178
administer prescribed medications or receive assistance with 18179
self-administration of prescribed medications. 18180

(c) The facility staffs the field trip with ~~MR/DD~~ 18181

developmental disabilities personnel in such a manner that one 18182
person will administer prescribed medications, perform health- 18183
related activities, or perform tube feedings for not more than 18184
four participants if one or more of those participants have 18185
health needs requiring the person to administer prescribed 18186
medications through a gastrostomy or jejunostomy tube. 18187

(d) According to the instructions of a health care 18188
professional acting within the scope of the professional's 18189
practice, the health needs of the participants who require 18190
administration of prescribed medications by ~~MR/DD~~ developmental 18191
disabilities personnel are such that the participants must 18192
receive the medications during the field trip to avoid 18193
jeopardizing their health and safety. 18194

(B) (1) In the case of recipients of early intervention, 18195
preschool, and school-age services, as specified in division (A) 18196
(1) of this section, all of the following apply: 18197

(a) With nursing delegation, ~~MR/DD~~ developmental 18198
disabilities personnel may perform health-related activities. 18199

(b) With nursing delegation, ~~MR/DD~~ developmental 18200
disabilities personnel may administer oral and topical 18201
prescribed medications. 18202

(c) With nursing delegation, ~~MR/DD~~ developmental 18203
disabilities personnel may administer prescribed medications 18204
through gastrostomy and jejunostomy tubes, if the tubes being 18205
used are stable and labeled. 18206

(d) With nursing delegation, ~~MR/DD~~ developmental 18207
disabilities personnel may perform routine tube feedings, if the 18208
gastrostomy and jejunostomy tubes being used are stable and 18209
labeled. 18210

(2) In the case of recipients of adult services, as 18211
specified in division (A) (2) of this section, all of the 18212
following apply: 18213

(a) With nursing delegation, ~~MR/DD-developmental~~ 18214
disabilities personnel may perform health-related activities. 18215

(b) With nursing delegation, ~~MR/DD-developmental~~ 18216
disabilities personnel may administer oral and topical 18217
prescribed medications. 18218

(c) With nursing delegation, ~~MR/DD-developmental~~ 18219
disabilities personnel may administer prescribed medications 18220
through gastrostomy and jejunostomy tubes, if the tubes being 18221
used are stable and labeled. 18222

(d) With nursing delegation, ~~MR/DD-developmental~~ 18223
disabilities personnel may perform routine tube feedings, if the 18224
gastrostomy and jejunostomy tubes being used are stable and 18225
labeled. 18226

(3) In the case of recipients of family support services, 18227
as specified in division (A) (3) of this section, all of the 18228
following apply: 18229

(a) Without nursing delegation, ~~MR/DD-developmental~~ 18230
disabilities personnel may perform health-related activities. 18231

(b) Without nursing delegation, ~~MR/DD-developmental~~ 18232
disabilities personnel may administer oral and topical 18233
prescribed medications. 18234

(c) With nursing delegation, ~~MR/DD-developmental~~ 18235
disabilities personnel may administer prescribed medications 18236
through gastrostomy and jejunostomy tubes, if the tubes being 18237
used are stable and labeled. 18238

- (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. 18239
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- (e) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps. 18243
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- (4) In the case of recipients of services from certified supported living providers, as specified in division (A)(4) of this section, all of the following apply: 18246
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- (a) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may perform health-related activities. 18249
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- (b) Without nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer oral and topical prescribed medications. 18251
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18253
- (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. 18254
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- (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. 18258
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- (e) With nursing delegation, ~~MR/DD-developmental~~ disabilities personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps. 18262
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- (5) In the case of recipients of residential support services from certified home and community-based services 18265
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providers, as specified in division (A) (5) of this section, all 18267
of the following apply: 18268

(a) Without nursing delegation, ~~MR/DD-developmental~~ 18269
disabilities personnel may perform health-related activities. 18270

(b) Without nursing delegation, ~~MR/DD-developmental~~ 18271
disabilities personnel may administer oral and topical 18272
prescribed medications. 18273

(c) With nursing delegation, ~~MR/DD-developmental~~ 18274
disabilities personnel may administer prescribed medications 18275
through gastrostomy and jejunostomy tubes, if the tubes being 18276
used are stable and labeled. 18277

(d) With nursing delegation, ~~MR/DD-developmental~~ 18278
disabilities personnel may perform routine tube feedings, if the 18279
gastrostomy and jejunostomy tubes being used are stable and 18280
labeled. 18281

(e) With nursing delegation, ~~MR/DD-developmental~~ 18282
disabilities personnel may administer routine doses of insulin 18283
through subcutaneous injections and insulin pumps. 18284

(6) In the case of recipients of services not included in 18285
divisions (A) (1) to (5) of this section, as specified in 18286
division (A) (6) of this section, all of the following apply: 18287

(a) With nursing delegation, ~~MR/DD-developmental~~ 18288
disabilities personnel may perform health-related activities. 18289

(b) With nursing delegation, ~~MR/DD-developmental~~ 18290
disabilities personnel may administer oral and topical 18291
prescribed medications. 18292

(c) With nursing delegation, ~~MR/DD-developmental~~ 18293
disabilities personnel may administer prescribed medications 18294

through gastrostomy and jejunostomy tubes, if the tubes being 18295
used are stable and labeled. 18296

(d) With nursing delegation, ~~MR/DD-developmental~~ 18297
disabilities personnel may perform routine tube feedings, if the 18298
gastrostomy and jejunostomy tubes being used are stable and 18299
labeled. 18300

(7) In the case of residents of a residential facility 18301
with five or fewer beds, as specified in division (A) (7) of this 18302
section, all of the following apply: 18303

(a) Without nursing delegation, ~~MR/DD-developmental~~ 18304
disabilities personnel may perform health-related activities. 18305

(b) Without nursing delegation, ~~MR/DD-developmental~~ 18306
disabilities personnel may administer oral and topical 18307
prescribed medications. 18308

(c) With nursing delegation, ~~MR/DD-developmental~~ 18309
disabilities personnel may administer prescribed medications 18310
through gastrostomy and jejunostomy tubes, if the tubes being 18311
used are stable and labeled. 18312

(d) With nursing delegation, ~~MR/DD-developmental~~ 18313
disabilities personnel may perform routine tube feedings, if the 18314
gastrostomy and jejunostomy tubes being used are stable and 18315
labeled. 18316

(e) With nursing delegation, ~~MR/DD-developmental~~ 18317
disabilities personnel may administer routine doses of insulin 18318
through subcutaneous injections and insulin pumps. 18319

(8) In the case of residents of a residential facility 18320
with at least six but not more than sixteen resident beds, as 18321
specified in division (A) (8) of this section, all of the 18322

following apply: 18323

(a) With nursing delegation, ~~MR/DD-developmental~~
disabilities personnel may perform health-related activities. 18324
18325

(b) With nursing delegation, ~~MR/DD-developmental~~
disabilities personnel may administer oral and topical 18326
prescribed medications. 18327
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(c) With nursing delegation, ~~MR/DD-developmental~~
disabilities personnel may administer prescribed medications 18329
through gastrostomy and jejunostomy tubes, if the tubes being 18330
used are stable and labeled. 18331
18332

(d) With nursing delegation, ~~MR/DD-developmental~~
disabilities personnel may perform routine tube feedings, if the 18333
gastrostomy and jejunostomy tubes being used are stable and 18334
labeled. 18335
18336

(9) In the case of residents of a residential facility 18337
with seventeen or more resident beds who are on a field trip 18338
from the facility, all of the following apply during the field 18339
trip, subject to the limitations specified in division (A) (9) of 18340
this section: 18341

(a) With nursing delegation, ~~MR/DD-developmental~~
disabilities personnel may perform health-related activities. 18342
18343

(b) With nursing delegation, ~~MR/DD-developmental~~
disabilities personnel may administer oral and topical 18344
prescribed medications. 18345
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(c) With nursing delegation, ~~MR/DD-developmental~~
disabilities personnel may administer prescribed medications 18347
through gastrostomy and jejunostomy tubes, if the tubes being 18348
used are stable and labeled. 18349
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(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.

(C) The authority of ~~MR/DD-developmental disabilities~~ personnel to administer prescribed medications, perform health-related activities, and perform tube feedings pursuant to this section is subject to all of the following:

(1) To administer prescribed medications, perform health-related activities, or perform tube feedings for individuals in the categories specified under divisions (A) (1) to (8) of this section, ~~MR/DD-developmental disabilities~~ personnel shall obtain the certificate or certificates required by the department of developmental disabilities and issued under section 5123.45 of the Revised Code. ~~MR/DD-Developmental disabilities~~ personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the certificate or certificates held.

(2) To administer prescribed medications, perform health-related activities, or perform tube feedings for individuals in the category specified under division (A) (9) of this section, ~~MR/DD-developmental disabilities~~ personnel shall successfully complete the training course or courses developed under section 5123.43 of the Revised Code for the ~~MR/DD-developmental~~ disabilities personnel. ~~MR/DD-Developmental disabilities~~ personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the training completed.

(3) If nursing delegation is required under division (B) of this section, ~~MR/DD-developmental disabilities~~ personnel

shall not act without nursing delegation or in a manner that is 18381
inconsistent with the delegation. 18382

(4) The employer of ~~MR/DD~~developmental disabilities 18383
personnel shall ensure that ~~MR/DD~~developmental disabilities 18384
personnel have been trained specifically with respect to each 18385
individual for whom they administer prescribed medications, 18386
perform health-related activities, or perform tube feedings. 18387
~~MR/DD~~Developmental disabilities personnel shall not administer 18388
prescribed medications, perform health-related activities, or 18389
perform tube feedings for any individual for whom they have not 18390
been specifically trained. 18391

(5) If the employer of ~~MR/DD~~developmental disabilities 18392
personnel believes that ~~MR/DD~~developmental disabilities 18393
personnel have not or will not safely administer prescribed 18394
medications, perform health-related activities, or perform tube 18395
feedings, the employer shall prohibit the action from continuing 18396
or commencing. ~~MR/DD~~Developmental disabilities personnel shall 18397
not engage in the action or actions subject to an employer's 18398
prohibition. 18399

(D) In accordance with section 5123.46 of the Revised 18400
Code, the department of developmental disabilities shall adopt 18401
rules governing its implementation of this section. The rules 18402
shall include the following: 18403

(1) Requirements for documentation of the administration 18404
of prescribed medications, performance of health-related 18405
activities, and performance of tube feedings by ~~MR/DD~~ 18406
developmental disabilities personnel pursuant to the authority 18407
granted under this section; 18408

(2) Procedures for reporting errors that occur in the 18409

administration of prescribed medications, performance of health- 18410
related activities, and performance of tube feedings by ~~MR/DD-~~ 18411
developmental disabilities personnel pursuant to the authority 18412
granted under this section; 18413

(3) Other standards and procedures the department 18414
considers necessary for implementation of this section. 18415

Sec. 5123.421. The department of developmental 18416
disabilities shall accept complaints from any person or 18417
government entity regarding the administration of prescribed 18418
medications, performance of health-related activities, and 18419
performance of tube feedings by ~~MR/DD-~~developmental disabilities 18420
personnel pursuant to the authority granted under section 18421
5123.42 of the Revised Code. The department shall conduct 18422
investigations of complaints as it considers appropriate. The 18423
department shall adopt rules in accordance with section 5123.46 18424
of the Revised Code establishing procedures for accepting 18425
complaints and conducting investigations under this section. 18426

Sec. 5123.422. ~~MR/DD-~~Developmental disabilities personnel 18427
who administer prescribed medications, perform health-related 18428
activities, or perform tube feedings pursuant to the authority 18429
granted under section 5123.42 of the Revised Code are not liable 18430
for any injury caused by administering the medications, 18431
performing the health-related activities, or performing the tube 18432
feedings, if both of the following apply: 18433

(A) The ~~MR/DD-~~developmental disabilities personnel acted 18434
in accordance with the methods taught in training completed in 18435
compliance with section 5123.42 of the Revised Code; 18436

(B) The ~~MR/DD-~~developmental disabilities personnel did not 18437
act in a manner that constitutes wanton or reckless misconduct. 18438

Sec. 5123.43. (A) The department of developmental 18439
disabilities shall develop courses for the training of ~~MR/DD-~~ 18440
developmental disabilities personnel in the administration of 18441
prescribed medications, performance of health-related 18442
activities, and performance of tube feedings pursuant to the 18443
authority granted under section 5123.42 of the Revised Code. The 18444
department may develop separate or combined training courses for 18445
the administration of prescribed medications, performance of 18446
health-related activities, and performance of tube feedings. 18447
Training in the administration of prescribed medications through 18448
gastrostomy and jejunostomy tubes may be included in a course 18449
providing training in tube feedings. Training in the 18450
administration of insulin may be developed as a separate course 18451
or included in a course providing training in the administration 18452
of other prescribed medications. 18453

(B) (1) The department shall adopt rules in accordance with 18454
section 5123.46 of the Revised Code that specify the content and 18455
length of the training courses developed under this section. The 18456
rules may include any other standards the department considers 18457
necessary for the training courses. 18458

(2) In adopting rules that specify the content of a 18459
training course or part of a training course that trains ~~MR/DD-~~ 18460
developmental disabilities personnel in the administration of 18461
prescribed medications, the department shall ensure that the 18462
content includes all of the following: 18463

(a) Infection control and universal precautions; 18464

(b) Correct and safe practices, procedures, and techniques 18465
for administering prescribed medication; 18466

(c) Assessment of drug reaction, including known side 18467

effects, interactions, and the proper course of action if a side effect occurs; 18468
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(d) The requirements for documentation of medications administered to each individual; 18470
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(e) The requirements for documentation and notification of medication errors; 18472
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(f) Information regarding the proper storage and care of medications; 18474
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(g) Information about proper receipt of prescriptions and transcription of prescriptions into an individual's medication administration record, except when the ~~MR/DD-developmental~~ disabilities personnel being trained will administer prescribed medications only to residents of a residential facility with seventeen or more resident beds who are participating in a field trip, as specified in division (A) (9) of section 5123.42 of the Revised Code; 18476
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(h) Course completion standards that require successful demonstration of proficiency in administering prescribed medications; 18484
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(i) Any other material or course completion standards that the department considers relevant to the administration of prescribed medications by ~~MR/DD-developmental~~ disabilities personnel. 18487
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Sec. 5123.44. The department of developmental disabilities shall develop courses that train registered nurses to provide the ~~MR/DD-developmental~~ disabilities personnel training courses developed under section 5123.43 of the Revised Code. The department may develop courses that train registered nurses to provide all of the courses developed under section 5123.43 of 18491
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the Revised Code or any one or more of the courses developed 18497
under that section. 18498

The department shall adopt rules in accordance with 18499
section 5123.46 of the Revised Code that specify the content and 18500
length of the training courses. The rules may include any other 18501
standards the department considers necessary for the training 18502
courses. 18503

Sec. 5123.441. (A) Each ~~MR/DD~~ developmental disabilities 18504
personnel training course developed under section 5123.43 of the 18505
Revised Code shall be provided by a registered nurse. 18506

(B) (1) Except as provided in division (B) (2) of this 18507
section, to provide a training course or courses to ~~MR/DD~~ 18508
developmental disabilities personnel, a registered nurse shall 18509
obtain the certificate or certificates required by the 18510
department and issued under section 5123.45 of the Revised Code. 18511
The registered nurse shall provide only the training course or 18512
courses authorized by the certificate or certificates the 18513
registered nurse holds. 18514

(2) A registered nurse is not required to obtain a 18515
certificate to provide a training course to ~~MR/DD~~ developmental 18516
disabilities personnel if the only ~~MR/DD~~ personnel to whom the 18517
course or courses are provided are those who administer 18518
prescribed medications, perform health-related activities, or 18519
perform tube feedings for residents of a residential facility 18520
with seventeen or more resident beds who are on a field trip 18521
from the facility, as specified in division (A) (9) of section 18522
5123.42 of the Revised Code. To provide the training course or 18523
courses, the registered nurse shall successfully complete the 18524
training required by the department through the courses it 18525
develops under section 5123.44 of the Revised Code. The 18526

registered nurse shall provide only the training courses 18527
authorized by the training the registered nurse completes. 18528

Sec. 5123.45. (A) The department of developmental 18529
disabilities shall establish a program under which the 18530
department issues certificates to the following: 18531

(1) ~~MR/DD-Developmental disabilities~~ personnel, for 18532
purposes of meeting the requirement of division (C) (1) of 18533
section 5123.42 of the Revised Code to obtain a certificate or 18534
certificates to administer prescribed medications, perform 18535
health-related activities, and perform tube feedings; 18536

(2) Registered nurses, for purposes of meeting the 18537
requirement of division (B) (1) of section 5123.441 of the 18538
Revised Code to obtain a certificate or certificates to provide 18539
the ~~MR/DD-developmental disabilities~~ personnel training courses 18540
developed under section 5123.43 of the Revised Code. 18541

(B) (1) Except as provided in division (B) (2) of this 18542
section, to receive a certificate issued under this section, 18543
~~MR/DD-developmental disabilities~~ personnel and registered nurses 18544
shall successfully complete the applicable training course or 18545
courses and meet all other applicable requirements established 18546
in rules adopted pursuant to this section. The department shall 18547
issue the appropriate certificate or certificates to ~~MR/DD-~~ 18548
~~developmental disabilities~~ personnel and registered nurses who 18549
meet the requirements for the certificate or certificates. 18550

(2) The department shall include provisions in the program 18551
for issuing certificates to ~~MR/DD-~~ personnel and registered 18552
nurses who were required to be included in the certificate 18553
program pursuant to division (B) (2) of this section as that 18554
division existed immediately before ~~the effective date of this-~~ 18555

~~amendment September 29, 2011. MR/DD personnel~~ Personnel who 18556
receive a certificate under division (B) (2) of this section 18557
shall not administer insulin until they have been trained by a 18558
registered nurse who has received a certificate under this 18559
section that allows the registered nurse to provide training 18560
courses to ~~MR/DD~~ personnel in the administration of insulin. A 18561
registered nurse who receives a certificate under division (B) 18562
(2) of this section shall not provide training courses to ~~MR/DD~~ 18563
personnel in the administration of insulin unless the registered 18564
nurse completes a course developed under section 5123.44 of the 18565
Revised Code that enables the registered nurse to receive a 18566
certificate to provide training courses to ~~MR/DD~~ personnel in 18567
the administration of insulin. 18568

(C) Certificates issued to ~~MR/DD~~ developmental 18569
disabilities personnel are valid for one year and may be 18570
renewed. Certificates issued to registered nurses are valid for 18571
two years and may be renewed. 18572

To be eligible for renewal, ~~MR/DD~~ developmental 18573
disabilities personnel and registered nurses shall meet the 18574
applicable continued competency requirements and continuing 18575
education requirements specified in rules adopted under division 18576
(D) of this section. In the case of registered nurses, 18577
continuing nursing education completed in compliance with the 18578
license renewal requirements established under Chapter 4723. of 18579
the Revised Code may be counted toward meeting the continuing 18580
education requirements established in the rules adopted under 18581
division (D) of this section. 18582

(D) In accordance with section 5123.46 of the Revised 18583
Code, the department shall adopt rules that establish all of the 18584
following: 18585

(1) Requirements that ~~MR/DD-developmental disabilities~~ personnel and registered nurses must meet to be eligible to take a training course; 18586
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(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background; 18589
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(3) Procedures to be followed in applying for a certificate and issuing a certificate; 18592
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(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; 18594
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(5) Standards and procedures for suspending or revoking a certificate; 18600
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(6) Standards and procedures for suspending a certificate without a hearing pending the outcome of an investigation; 18602
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(7) Any other standards or procedures the department considers necessary to administer the certification program. 18604
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Sec. 5123.451. The department of developmental disabilities shall establish and maintain a registry that lists all ~~MR/DD-developmental disabilities~~ personnel and registered nurses holding valid certificates issued under section 5123.45 of the Revised Code. The registry shall specify the type of certificate held and any limitations that apply to a certificate holder. The department shall make the information in the registry available to the public in computerized form or any other manner that provides continuous access to the information 18606
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in the registry. 18615

Sec. 5123.47. (A) As used in this section: 18616

(1) "In-home care" means the supportive services provided 18617
within the home of an individual with ~~mental retardation or a~~ 18618
developmental disability who receives funding for the services 18619
through a county board of developmental disabilities, including 18620
any recipient of residential services funded as home and 18621
community-based services, family support services provided under 18622
section 5126.11 of the Revised Code, or supported living 18623
provided in accordance with sections 5126.41 to 5126.47 of the 18624
Revised Code. "In-home care" includes care that is provided 18625
outside an individual's home in places incidental to the home, 18626
and while traveling to places incidental to the home, except 18627
that "in-home care" does not include care provided in the 18628
facilities of a county board of developmental disabilities or 18629
care provided in schools. 18630

(2) "Parent" means either parent of a child, including an 18631
adoptive parent but not a foster parent. 18632

(3) "Unlicensed in-home care worker" means an individual 18633
who provides in-home care but is not a health care professional. 18634

(4) "Family member" means a parent, sibling, spouse, son, 18635
daughter, grandparent, aunt, uncle, cousin, or guardian of the 18636
individual with ~~mental retardation or a~~ developmental disability 18637
if the individual with ~~mental retardation or a~~ developmental 18638
~~disabilities~~ disability lives with the person and is dependent 18639
on the person to the extent that, if the supports were 18640
withdrawn, another living arrangement would have to be found. 18641

(5) "Health care professional" means any of the following: 18642

(a) A dentist who holds a valid license issued under 18643

Chapter 4715. of the Revised Code;	18644
(b) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code;	18645
(c) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code;	18647
(d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;	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;	18651
(f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code;	18655
(g) An occupational therapist or occupational therapy assistant or a physical therapist or physical therapist assistant who holds a valid license issued under Chapter 4755. of the Revised Code;	18657
(h) A respiratory care professional who holds a valid license issued under Chapter 4761. of the Revised Code.	18661
(6) "Health care task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional's practice.	18663
(B) Except as provided in division (E) of this section, a family member of an individual with mental retardation or a developmental disability may authorize an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks as part of the	18667
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in-home care the worker provides to the individual, if all of 18672
the following apply: 18673

(1) The family member is the primary supervisor of the 18674
care. 18675

(2) The unlicensed in-home care worker has been selected 18676
by the family member or the individual receiving care and is 18677
under the direct supervision of the family member. 18678

(3) The unlicensed in-home care worker is providing the 18679
care through an employment or other arrangement entered into 18680
directly with the family member and is not otherwise employed by 18681
or under contract with a person or government entity to provide 18682
services to individuals with ~~mental retardation and~~ 18683
developmental disabilities. 18684

(C) A family member shall obtain a prescription, if 18685
applicable, and written instructions from a health care 18686
professional for the care to be provided to the individual. The 18687
family member shall authorize the unlicensed in-home care worker 18688
to provide the care by preparing a written document granting the 18689
authority. The family member shall provide the unlicensed in- 18690
home care worker with appropriate training and written 18691
instructions in accordance with the instructions obtained from 18692
the health care professional. 18693

(D) A family member who authorizes an unlicensed in-home 18694
care worker to administer oral and topical prescribed 18695
medications or perform other health care tasks retains full 18696
responsibility for the health and safety of the individual 18697
receiving the care and for ensuring that the worker provides the 18698
care appropriately and safely. No entity that funds or monitors 18699
the provision of in-home care may be held liable for the results 18700

of the care provided under this section by an unlicensed in-home care worker, including such entities as the county board of developmental disabilities and the department of developmental disabilities.

An unlicensed in-home care worker who is authorized under this section by a family member to provide care to an individual may not be held liable for any injury caused in providing the care, unless the worker provides the care in a manner that is not in accordance with the training and instructions received or the worker acts in a manner that constitutes wanton or reckless misconduct.

(E) A county board of developmental disabilities may evaluate the authority granted by a family member under this section to an unlicensed in-home care worker at any time it considers necessary and shall evaluate the authority on receipt of a complaint. If the board determines that a family member has acted in a manner that is inappropriate for the health and safety of the individual receiving the care, the authorization granted by the family member to an unlicensed in-home care worker is void, and the family member may not authorize other unlicensed in-home care workers to provide the care. In making such a determination, the board shall use appropriately licensed health care professionals and shall provide the family member an opportunity to file a complaint under section 5126.06 of the Revised Code.

Sec. 5123.50. As used in sections 5123.50 to 5123.542 of the Revised Code:

(A) "Abuse" means all of the following:

(1) The use of physical force that can reasonably be

expected to result in physical harm or serious physical harm;	18730
(2) Sexual abuse;	18731
(3) Verbal abuse.	18732
(B) "Misappropriation" means depriving, defrauding, or	18733
otherwise obtaining the real or personal property of an	18734
individual by any means prohibited by the Revised Code,	18735
including violations of Chapter 2911. or 2913. of the Revised	18736
Code.	18737
(C) " MR/DD <u>Developmental disabilities</u> employee" means all	18738
of the following:	18739
(1) An employee of the department of developmental	18740
disabilities;	18741
(2) An employee of a county board of developmental	18742
disabilities;	18743
(3) An employee in a position that includes providing	18744
specialized services to an individual with mental retardation or	18745
another <u>a</u> developmental disability;	18746
(4) An independent provider as defined in section 5123.16	18747
of the Revised Code.	18748
(D) "Neglect" means, when there is a duty to do so,	18749
failing to provide an individual with any treatment, care,	18750
goods, or services that are necessary to maintain the health and	18751
safety of the individual.	18752
(E) "Offense of violence" has the same meaning as in	18753
section 2901.01 of the Revised Code.	18754
(F) "Physical harm" and "serious physical harm" have the	18755
same meanings as in section 2901.01 of the Revised Code.	18756

(G) "Prescribed medication" has the same meaning as in section 5123.41 of the Revised Code. 18757
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(H) "Sexual abuse" means unlawful sexual conduct or sexual contact. 18759
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(I) "Specialized services" means any program or service designed and operated to serve primarily individuals with ~~mental-retardation or a developmental disability~~ disabilities, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. A program or service available to the general public is not a specialized service. 18761
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(J) "Verbal abuse" means purposely using words to threaten, coerce, intimidate, harass, or humiliate an individual. 18768
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(K) "Sexual conduct," "sexual contact," and "spouse" have the same meanings as in section 2907.01 of the Revised Code. 18771
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Sec. 5123.51. (A) In addition to any other action required by sections 5123.61 and 5126.31 of the Revised Code, the department of developmental disabilities shall review each report the department receives of abuse or neglect of an individual with ~~mental-retardation or a developmental disability~~ or misappropriation of an individual's property that includes an allegation that ~~an MR/DD~~ a developmental disabilities employee committed or was responsible for the abuse, neglect, or misappropriation. The department shall review a report it receives from a public children services agency only after the agency completes its investigation pursuant to section 2151.421 of the Revised Code. On receipt of a notice under section 2930.061 or 5123.541 of the Revised Code, the department shall 18773
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review the notice. 18786

(B) The department shall do both of the following: 18787

(1) Investigate the allegation or adopt the findings of an 18788
investigation or review of the allegation conducted by another 18789
person or government entity and determine whether there is a 18790
reasonable basis for the allegation; 18791

(2) If the department determines that there is a 18792
reasonable basis for the allegation, conduct an adjudication 18793
pursuant to Chapter 119. of the Revised Code. 18794

(C) (1) The department shall appoint an independent hearing 18795
officer to conduct any hearing conducted pursuant to division 18796
(B) (2) of this section, except that, if the hearing is regarding 18797
an employee of the department who is represented by a union, the 18798
department and a representative of the union shall jointly 18799
select the hearing officer. 18800

(2) (a) Except as provided in division (C) (2) (b) of this 18801
section, no hearing shall be conducted under division (B) (2) of 18802
this section until any criminal proceeding or collective 18803
bargaining arbitration concerning the same allegation has 18804
concluded. 18805

(b) The department may conduct a hearing pursuant to 18806
division (B) (2) of this section before a criminal proceeding 18807
concerning the same allegation is concluded if both of the 18808
following are the case: 18809

(i) The department notifies the prosecutor responsible for 18810
the criminal proceeding that the department proposes to conduct 18811
a hearing. 18812

(ii) The prosecutor consents to the hearing. 18813

- (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~~;
- (iv) Knowingly abused such an individual;
- (v) Recklessly abused or neglected such an individual, with resulting physical harm;
- (vi) Negligently abused or neglected such an individual, with resulting serious physical harm;
- (vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;
- (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
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disabilities employee's spouse and for whom the ~~MR/DD~~ 18842
developmental disabilities employee was employed or under a 18843
contract to provide care; 18844

(ix) Unreasonably failed to make a report pursuant to 18845
division (C) of section 5123.61 of the Revised Code when the 18846
employee knew or should have known that the failure would result 18847
in a substantial risk of harm to an individual with ~~mental~~ 18848
~~retardation or~~ a developmental disability; 18849

(x) Been convicted of or entered a plea of guilty to any 18850
of the following if the victim of the offense is an individual 18851
with ~~mental retardation or~~ a developmental disability: an 18852
offense of violence, a violation of a section contained in 18853
Chapter 2907. or Chapter 2913. of the Revised Code, or a 18854
violation of section 2903.16, 2903.34, 2903.341, or 2919.22 of 18855
the Revised Code. 18856

(b) Give weight to the decision in any collective 18857
bargaining arbitration regarding the same allegation; 18858

(c) Give weight to any relevant facts presented at the 18859
hearing. 18860

(D) (1) Unless the director of developmental disabilities 18861
determines that there are extenuating circumstances and except 18862
as provided in division (E) of this section, if the director, 18863
after considering all of the factors listed in division (C) (3) 18864
of this section, finds that there is clear and convincing 18865
evidence that ~~an MR/DD~~ a developmental disabilities employee has 18866
done one or more of the things described in division (C) (3) (a) 18867
of this section the director shall include the name of the 18868
employee in the registry established under section 5123.52 of 18869
the Revised Code. 18870

(2) Extenuating circumstances the director must consider 18871
include the use of physical force by ~~an MR/DD~~ a developmental 18872
disabilities employee that was necessary as self-defense. 18873

(3) If the director includes ~~an MR/DD~~ a developmental 18874
disabilities employee in the registry established under section 18875
5123.52 of the Revised Code, the director shall notify the 18876
employee, the person or government entity that employs or 18877
contracts with the employee, the individual with ~~mental~~ 18878
~~retardation or~~ a developmental disability who was the subject of 18879
the report and that individual's legal guardian, if any, the 18880
attorney general, and the prosecuting attorney or other law 18881
enforcement agency. If the ~~MR/DD~~ developmental disabilities 18882
employee holds a license, certificate, registration, or other 18883
authorization to engage in a profession issued pursuant to Title 18884
XLVII of the Revised Code, the director shall notify the 18885
appropriate agency, board, department, or other entity 18886
responsible for regulating the employee's professional practice. 18887

(4) If an individual whose name appears on the registry is 18888
involved in a court proceeding or arbitration arising from the 18889
same facts as the allegation resulting in the individual's 18890
placement on the registry, the disposition of the proceeding or 18891
arbitration shall be noted in the registry next to the 18892
individual's name. 18893

(E) In the case of an allegation concerning an employee of 18894
the department, after the hearing conducted pursuant to division 18895
(B) (2) of this section, the director of health or that 18896
director's designee shall review the decision of the hearing 18897
officer to determine whether the standard described in division 18898
(C) (3) of this section has been met. If the director or designee 18899
determines that the standard has been met and that no 18900

extenuating circumstances exist, the director or designee shall 18901
notify the director of developmental disabilities that the ~~MR/DD-~~ 18902
developmental disabilities employee is to be included in the 18903
registry established under section 5123.52 of the Revised Code. 18904
If the director of developmental disabilities receives such 18905
notification, the director shall include the ~~MR/DD-~~developmental 18906
disabilities employee in the registry and shall provide the 18907
notification described in division (D) (3) of this section. 18908

(F) If the department is required by Chapter 119. of the 18909
Revised Code to give notice of an opportunity for a hearing and 18910
the ~~MR/DD-~~developmental disabilities employee subject to the 18911
notice does not timely request a hearing in accordance with 18912
section 119.07 or 5123.0414 of the Revised Code, the department 18913
is not required to hold a hearing. 18914

(G) Files and records of investigations conducted pursuant 18915
to this section are not public records as defined in section 18916
149.43 of the Revised Code, but, on request, the department 18917
shall provide copies of those files and records to the attorney 18918
general, a prosecuting attorney, or a law enforcement agency. 18919

Sec. 5123.52. (A) The department of developmental 18920
disabilities shall establish a registry of ~~MR/DD-~~developmental 18921
disabilities employees consisting of the names of ~~MR/DD-~~ 18922
~~employees~~individuals included in the registry pursuant to 18923
section 5123.51 of the Revised Code. 18924

(B) Before a person or government entity hires, contracts 18925
with, or employs an individual as an ~~MR/DD-~~a developmental 18926
disabilities employee, the person or government entity shall 18927
inquire whether the individual is included in the registry. 18928

(C) When it receives an inquiry regarding whether an 18929

individual is included in the registry, the department shall 18930
inform the person making the inquiry whether the individual is 18931
included in the registry. 18932

(D) (1) Except as otherwise provided in a collective 18933
bargaining agreement entered into under Chapter 4117. of the 18934
Revised Code that is in effect on November 22, 2000, no person 18935
or government entity shall hire, contract with, or employ as ~~an~~ 18936
~~MR/DD-a developmental disabilities~~ employee an individual who is 18937
included in the registry. Notwithstanding sections 4117.08 and 18938
4117.10 of the Revised Code, no agreement entered into under 18939
Chapter 4117. of the Revised Code after November 22, 2000, may 18940
contain any provision that in any way limits the effect or 18941
operation of this section. 18942

(2) Neither the department nor any county board of 18943
developmental disabilities may enter into a new contract or 18944
renew a contract with a person or government entity that fails 18945
to comply with division (D) (1) of this section until the 18946
department or board is satisfied that the person or government 18947
entity will comply. 18948

(3) A person or government entity that fails to hire or 18949
retain as ~~an MR/DD-a developmental disabilities~~ employee a- 18950
~~person-an individual~~ because the ~~person-individual~~ is included 18951
in the registry shall not be liable in damages in a civil action 18952
brought by the employee or applicant for employment. Termination 18953
of employment pursuant to division (D) (1) of this section 18954
constitutes a discharge for just cause for the purposes of 18955
section 4141.29 of the Revised Code. 18956

(E) Information contained in the registry is a public 18957
record for the purposes of section 149.43 of the Revised Code 18958
and is subject to inspection and copying under section 1347.08 18959

of the Revised Code. 18960

Sec. 5123.541. (A) No ~~MR/DD-developmental disabilities~~ 18961
employee shall engage in any sexual conduct or have any sexual 18962
contact with an individual with ~~mental retardation or another a~~ 18963
~~developmental disability~~ for whom the ~~MR/DD-developmental~~ 18964
~~disabilities~~ employee is employed or under a contract to provide 18965
care unless the individual is the ~~MR/DD-developmental~~ 18966
~~disabilities~~ employee's spouse. 18967

(B) Any ~~MR/DD-developmental disabilities~~ employee who 18968
violates division (A) of this section shall be eligible to be 18969
included in the registry regarding misappropriation, abuse, 18970
neglect, or other specified misconduct by ~~MR/DD-developmental~~ 18971
~~disabilities~~ employees established under section 5123.52 of the 18972
Revised Code, in addition to any other sanction or penalty 18973
authorized or required by law. 18974

(C) (1) Any person listed in division (C) (2) of section 18975
5123.61 of the Revised Code who has reason to believe that ~~an~~ 18976
~~MR/DD-a developmental disabilities~~ employee has violated 18977
division (A) of this section shall immediately report that 18978
belief to the department of developmental disabilities. 18979

(2) Any person who has reason to believe that ~~an MR/DD a~~ 18980
~~developmental disabilities~~ employee has violated division (A) of 18981
this section may report that belief to the department of 18982
developmental disabilities. 18983

Sec. 5123.542. (A) Each of the following shall annually 18984
provide a written notice to each of its ~~MR/DD-developmental~~ 18985
~~disabilities~~ employees explaining the conduct for which ~~an MR/DD-~~ 18986
~~a developmental disabilities~~ employee may be included in the 18987
registry established under section 5123.52 of the Revised Code: 18988

(1) The department of developmental disabilities;	18989
(2) Each county board of developmental disabilities;	18990
(3) Each provider and subcontractor, as defined in section 5123.081 of the Revised Code;	18991 18992
(4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code;	18993 18994 18995
(5) Each owner, operator, or administrator of a program certified by the department to provide supported living.	18996 18997
(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 <u>developmental disabilities</u> employee who is an independent provider, as defined in section 5123.16 of the Revised Code.	18998 18999 19000 19001 19002
(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.	19003 19004 19005 19006 19007
(C) (D) The fact that an MR/DD-a <u>developmental disabilities</u> 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.	19008 19009 19010 19011
Sec. 5123.55. As used in sections 5123.55 to 5123.59 of the Revised Code:	19012 19013
(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	19014 19015 19016

Revised Code. 19017

(B) "Trustee" means a trustee appointed by and accountable 19018
to the probate court, in lieu of a guardian and without a 19019
judicial determination of incompetency, with respect to an 19020
estate of ten thousand dollars or less. 19021

(C) "Protector" means an agency under contract with the 19022
department of developmental disabilities acting with or without 19023
court appointment to provide guidance, service, and 19024
encouragement in the development of maximum self-reliance to a 19025
person with ~~mental retardation or a~~ developmental disability, 19026
independent of any determination of incompetency. 19027

(D) "Protective service" means performance of the duties 19028
of a guardian, trustee, or conservator, or acting as a 19029
protector, with respect to a person with ~~mental retardation or a~~ 19030
developmental disability. 19031

(E) "Conservator" means a conservator of the person 19032
pursuant to an appointment by a probate court under Chapter 19033
2111. of the Revised Code. 19034

Sec. 5123.57. No guardianship or trusteeship appointment 19035
shall be made under sections 5123.55 to 5123.59 of the Revised 19036
Code and no person shall be accepted for service by a protector 19037
under those sections unless a comprehensive evaluation has been 19038
made in a clinic or other facility approved by the department of 19039
developmental disabilities. The evaluation shall include a 19040
medical, psychological, social, and educational evaluation, and 19041
a copy of the evaluation shall be filed with the department. 19042

Any agency that is appointed as a guardian, trustee, or 19043
conservator under sections 5123.55 to 5123.59 of the Revised 19044
Code or accepted as a protector under those sections shall 19045

provide for a review at least once each year in writing of the physical, mental, and social condition of each ~~mentally retarded~~ or ~~developmentally disabled~~ person with a developmental disability for whom it is acting as guardian, trustee, or protector. An agency providing protective services under contract with the department shall file these reports with the department of developmental disabilities. Any record of the department or agency pertaining to a ~~mentally retarded or developmentally disabled~~ person with a developmental disability shall not be a public record under section 149.43 of the Revised Code. Information contained in those records shall not be disclosed publicly in such a manner as to identify individuals, but may be made available to persons approved by the director of developmental disabilities or the court.

Sec. 5123.58. An agency providing protective services under contract with the department of developmental disabilities may be nominated under any of the following conditions as guardian, trustee, protector, conservator, or as trustee and protector of a ~~mentally retarded or developmentally disabled~~ person with a developmental disability:

(A) The person who needs or believes the person needs protective service may make application in writing.

(B) Any interested person may make application in writing on behalf of a ~~mentally retarded or developmentally disabled~~ person with a developmental disability.

(C) A parent may name the department or agency as guardian or successor guardian in a will.

(D) A parent may name the department or agency as guardian, trustee, or protector, to assume such duties during

the parent's lifetime. 19075

If the results of the comprehensive evaluation required 19076
under section 5123.57 of the Revised Code indicate that the 19077
person named in the nomination is in need of protective 19078
services, the agency or service either shall reject or accept 19079
the nomination as guardian, trustee, or conservator, subject to 19080
appointment by the probate court, or reject or accept the 19081
nomination as protector, or trustee and protector. 19082

At the time the nomination is accepted or when an 19083
appointment is made by the court, ~~the mentally retarded or~~ 19084
~~developmentally disabled~~ person with a developmental disability 19085
and any person who made application for service on ~~the mentally~~ 19086
~~retarded or developmentally disabled person's behalf~~ of the 19087
person with a developmental disability under this section shall 19088
be informed by the agency, service, or court of the procedure 19089
for terminating the appointment or service. The agency or 19090
service shall cease to provide protective service as a protector 19091
pursuant to nomination under division (A), (B), or (D) of this 19092
section when a written request for termination is received by 19093
the agency from or on behalf of ~~the mentally retarded or~~ 19094
~~developmentally disabled~~ person with a developmental disability. 19095
If the agency or service believes the person to be in need of 19096
protective service, the agency or service may file an 19097
application for guardianship, trusteeship, or protectorship with 19098
the probate court. Termination of any court appointment as 19099
guardian, trustee, or protector shall be by order of the probate 19100
court. 19101

Sec. 5123.601. (A) The Ohio protection and advocacy system 19102
staff, and attorneys designated by the system to represent 19103
persons detained, hospitalized, or institutionalized under this 19104

chapter or Chapter 5122. of the Revised Code shall have ready 19105
access to all of the following: 19106

(1) During normal business hours and at other reasonable 19107
times, all records, except records of community residential 19108
facilities and records of contract agencies of county boards of 19109
developmental disabilities and boards of alcohol, drug 19110
addiction, and mental health services, relating to expenditures 19111
of state and federal funds or to the commitment, care, 19112
treatment, and habilitation of all persons represented by the 19113
Ohio protection and advocacy system, including those who may be 19114
represented pursuant to division (D) of this section, or persons 19115
detained, hospitalized, institutionalized, or receiving services 19116
under this chapter or Chapter 340., 5119., 5122., or 5126. of 19117
the Revised Code that are records maintained by the following 19118
entities providing services for those persons: departments; 19119
institutions; hospitals; boards of alcohol, drug addiction, and 19120
mental health services; county boards of developmental 19121
disabilities; and any other entity providing services to persons 19122
who may be represented by the Ohio protection and advocacy 19123
system pursuant to division (D) of this section; 19124

(2) Any records maintained in computerized data banks of 19125
the departments or boards or, in the case of persons who may be 19126
represented by the Ohio protection and advocacy system pursuant 19127
to division (D) of this section, any other entity that provides 19128
services to those persons; 19129

(3) During their normal working hours, personnel of the 19130
departments, facilities, boards, agencies, institutions, 19131
hospitals, and other service-providing entities; 19132

(4) At any time, all persons detained, hospitalized, or 19133
institutionalized; persons receiving services under this chapter 19134

or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 19135
persons who may be represented by the Ohio protection and 19136
advocacy system pursuant to division (D) of this section. 19137

(5) Records of a community residential facility, a 19138
contract agency of a board of alcohol, drug addiction, and 19139
mental health services, or a contract agency of a county board 19140
of developmental disabilities with one of the following 19141
consents: 19142

(a) The consent of the person, including when the person 19143
is a minor or has been adjudicated incompetent; 19144

(b) The consent of the person's guardian of the person, if 19145
any, or the parent if the person is a minor; 19146

(c) No consent, if the person is unable to consent for any 19147
reason, and the guardian of the person, if any, or the parent of 19148
the minor, has refused to consent or has not responded to a 19149
request for consent and either of the following has occurred: 19150

(i) A complaint regarding the person has been received by 19151
the Ohio protection and advocacy system; 19152

(ii) The Ohio protection and advocacy system has 19153
determined that there is probable cause to believe that such 19154
person has been subjected to abuse or neglect. 19155

(B) All records received or maintained by the Ohio 19156
protection and advocacy system in connection with any 19157
investigation, representation, or other activity under this 19158
section shall be confidential and shall not be disclosed except 19159
as authorized by the person represented by the Ohio protection 19160
and advocacy system or, subject to any privilege, a guardian of 19161
the person or parent of the minor. Relationships between 19162
personnel and the agents of the Ohio protection and advocacy 19163

system and its clients shall be fiduciary relationships, and all 19164
communications shall be privileged as if between attorney and 19165
client. 19166

(C) The Ohio protection and advocacy system may compel by 19167
subpoena the appearance and sworn testimony of any person the 19168
Ohio protection and advocacy system reasonably believes may be 19169
able to provide information or to produce any documents, books, 19170
records, papers, or other information necessary to carry out its 19171
duties. On the refusal of any person to produce or authenticate 19172
any requested documents, the Ohio protection and advocacy system 19173
may apply to the Franklin county court of common pleas to compel 19174
the production or authentication of requested documents. If the 19175
court finds that failure to produce or authenticate any 19176
requested documents was improper, the court may hold the person 19177
in contempt as in the case of disobedience of the requirements 19178
of a subpoena issued from the court, or a refusal to testify in 19179
the court. 19180

(D) In addition to providing services to ~~mentally ill,~~ 19181
~~mentally retarded,~~ persons with mental illness or 19182
~~developmentally disabled~~ persons with developmental 19183
disabilities, when a grant authorizing the provision of services 19184
to other individuals is accepted by the Ohio protection and 19185
advocacy system, the Ohio protection and advocacy system may 19186
provide advocacy to those other individuals and exercise any 19187
other authority granted by this section on behalf of those 19188
individuals. Determinations of whether an individual is eligible 19189
for services under this division shall be made by the Ohio 19190
protection and advocacy system. 19191

Sec. 5123.61. (A) As used in this section: 19192

(1) "Law enforcement agency" means the state highway 19193

patrol, the police department of a municipal corporation, or a county sheriff. 19194
19195

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section. 19196
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(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code. 19199
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(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents. 19201
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(C) (1) Any person listed in division (C) (2) of this section, having reason to believe that ~~a person an individual~~ with ~~mental retardation or~~ a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that ~~person~~ individual, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident of a facility operated by the department of developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns 19209
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any act or omission of an employee of a county board of 19224
developmental disabilities, the report immediately shall be made 19225
to the department and to the county board. 19226

(2) All of the following persons are required to make a 19227
report under division (C)(1) of this section: 19228

(a) Any physician, including a hospital intern or 19229
resident, any dentist, podiatrist, chiropractor, practitioner of 19230
a limited branch of medicine as specified in section 4731.15 of 19231
the Revised Code, hospital administrator or employee of a 19232
hospital, nurse licensed under Chapter 4723. of the Revised 19233
Code, employee of an ambulatory health facility as defined in 19234
section 5101.61 of the Revised Code, employee of a home health 19235
agency, employee of a residential facility licensed under 19236
section 5119.34 of the Revised Code that provides 19237
accommodations, supervision, and ~~person~~personal care services 19238
for three to sixteen unrelated adults, or employee of a 19239
community mental health facility; 19240

(b) Any school teacher or school authority, licensed 19241
professional clinical counselor, licensed professional 19242
counselor, independent social worker, social worker, independent 19243
marriage and family therapist, marriage and family therapist, 19244
psychologist, attorney, peace officer, coroner, or residents' 19245
rights advocate as defined in section 3721.10 of the Revised 19246
Code; 19247

(c) A superintendent, board member, or employee of a 19248
county board of developmental disabilities; an administrator, 19249
board member, or employee of a residential facility licensed 19250
under section 5123.19 of the Revised Code; an administrator, 19251
board member, or employee of any other public or private 19252
provider of services to a ~~person~~an individual with ~~mental~~ 19253

~~retardation or~~ a developmental disability, or any ~~MR/DD-~~
developmental disabilities employee, as defined in section
5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established
at an institution or branch institution of the department of
developmental disabilities under section 5123.092 of the Revised
Code;

(e) A member of the clergy who is employed in a position
that includes providing specialized services to an individual
with ~~mental retardation or another~~ a developmental disability,
while acting in an official or professional capacity in that
position, or a person who is employed in a position that
includes providing specialized services to an individual with
~~mental retardation or another~~ a developmental disability and
who, while acting in an official or professional capacity,
renders spiritual treatment through prayer in accordance with
the tenets of an organized religion.

(3) (a) The reporting requirements of this division do not
apply to employees of the Ohio protection and advocacy system.

(b) An attorney or physician is not required to make a
report pursuant to division (C) (1) of this section concerning
any communication the attorney or physician receives from a
client or patient in an attorney-client or physician-patient
relationship, if, in accordance with division (A) or (B) of
section 2317.02 of the Revised Code, the attorney or physician
could not testify with respect to that communication in a civil
or criminal proceeding, except that the client or patient is
deemed to have waived any testimonial privilege under division
(A) or (B) of section 2317.02 of the Revised Code with respect
to that communication and the attorney or physician shall make a

report pursuant to division (C)(1) of this section, if both of 19284
the following apply: 19285

(i) The client or patient, at the time of the 19286
communication, is ~~a person~~ an individual with mental retardation 19287
~~or~~ a developmental disability. 19288

(ii) The attorney or physician knows or suspects, as a 19289
result of the communication or any observations made during that 19290
communication, that the client or patient has suffered or faces 19291
a substantial risk of suffering any wound, injury, disability, 19292
or condition of a nature that reasonably indicates abuse or 19293
neglect of the client or patient. 19294

(4) Any person who fails to make a report required under 19295
division (C) of this section and who is ~~an MR/DD~~ a developmental 19296
disabilities employee, as defined in section 5123.50 of the 19297
Revised Code, shall be eligible to be included in the registry 19298
regarding misappropriation, abuse, neglect, or other specified 19299
misconduct by ~~MR/DD~~ developmental disabilities employees 19300
established under section 5123.52 of the Revised Code. 19301

(D) The reports required under division (C) of this 19302
section shall be made forthwith by telephone or in person and 19303
shall be followed by a written report. The reports shall contain 19304
the following: 19305

(1) The names and addresses of the ~~person~~ individual with 19306
~~mental retardation~~ or a developmental disability and the 19307
~~person's~~ individual's custodian, if known; 19308

(2) The age of the ~~person~~ individual with ~~mental~~ 19309
~~retardation~~ or a developmental disability; 19310

(3) Any other information that would assist in the 19311
investigation of the report. 19312

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that ~~a person~~ an individual with ~~mental retardation or~~ a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that ~~a person~~ an individual with ~~mental retardation or~~ a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or the county board of developmental disabilities. If the ~~person~~ individual is a resident of a facility operated by the department of developmental disabilities, the report shall be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G) (1) Upon the receipt of a report concerning the possible abuse or neglect of ~~a person~~ an individual with ~~mental retardation or~~ a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the ~~person~~ individual is a resident of a facility operated by the department of developmental disabilities, the department.

(2) On receipt of a report under this section that

includes an allegation of action or inaction that may constitute 19343
a crime under federal law or the law of this state, the 19344
department of developmental disabilities shall notify the law 19345
enforcement agency. 19346

(3) When a county board of developmental disabilities 19347
receives a report under this section that includes an allegation 19348
of action or inaction that may constitute a crime under federal 19349
law or the law of this state, the superintendent of the board or 19350
an individual the superintendent designates under division (H) 19351
of this section shall notify the law enforcement agency. The 19352
superintendent or individual shall notify the department of 19353
developmental disabilities when it receives any report under 19354
this section. 19355

(4) When a county board of developmental disabilities 19356
receives a report under this section and believes that the 19357
degree of risk to the person is such that the report is an 19358
emergency, the superintendent of the board or an employee of the 19359
board the superintendent designates shall attempt a face-to-face 19360
contact with the ~~person-individual~~ with ~~mental retardation or a~~ 19361
developmental disability who allegedly is the victim within one 19362
hour of the board's receipt of the report. 19363

(H) The superintendent of the board may designate an 19364
individual to be responsible for notifying the law enforcement 19365
agency and the department when the county board receives a 19366
report under this section. 19367

(I) An adult with ~~mental retardation or a~~ developmental 19368
disability about whom a report is made may be removed from the 19369
adult's place of residence only by law enforcement officers who 19370
consider that the adult's immediate removal is essential to 19371
protect the adult from further injury or abuse or in accordance 19372

with the order of a court made pursuant to section 5126.33 of 19373
the Revised Code. 19374

(J) A law enforcement agency shall investigate each report 19375
of abuse or neglect it receives under this section. In addition, 19376
the department, in cooperation with law enforcement officials, 19377
shall investigate each report regarding a resident of a facility 19378
operated by the department to determine the circumstances 19379
surrounding the injury, the cause of the injury, and the person 19380
responsible. The investigation shall be in accordance with the 19381
memorandum of understanding prepared under section 5126.058 of 19382
the Revised Code. The department shall determine, with the 19383
registry office which shall be maintained by the department, 19384
whether prior reports have been made concerning an adult with 19385
~~mental retardation or a~~ developmental disability or other 19386
principals in the case. If the department finds that the report 19387
involves action or inaction that may constitute a crime under 19388
federal law or the law of this state, it shall submit a report 19389
of its investigation, in writing, to the law enforcement agency. 19390
If the ~~person individual~~ with ~~mental retardation or a~~ 19391
developmental disability is an adult, with the consent of the 19392
adult, the department shall provide such protective services as 19393
are necessary to protect the adult. The law enforcement agency 19394
shall make a written report of its findings to the department. 19395

If the ~~person individual~~ with a developmental disability 19396
is an adult and is not a resident of a facility operated by the 19397
department, the county board of developmental disabilities shall 19398
review the report of abuse or neglect in accordance with 19399
sections 5126.30 to 5126.33 of the Revised Code and the law 19400
enforcement agency shall make the written report of its findings 19401
to the county board. 19402

(K) Any person or any hospital, institution, school, 19403
health department, or agency participating in the making of 19404
reports pursuant to this section, any person participating as a 19405
witness in an administrative or judicial proceeding resulting 19406
from the reports, or any person or governmental entity that 19407
discharges responsibilities under sections 5126.31 to 5126.33 of 19408
the Revised Code shall be immune from any civil or criminal 19409
liability that might otherwise be incurred or imposed as a 19410
result of such actions except liability for perjury, unless the 19411
person or governmental entity has acted in bad faith or with 19412
malicious purpose. 19413

(L) No employer or any person with the authority to do so 19414
shall discharge, demote, transfer, prepare a negative work 19415
performance evaluation, reduce pay or benefits, terminate work 19416
privileges, or take any other action detrimental to an employee 19417
or retaliate against an employee as a result of the employee's 19418
having made a report under this section. This division does not 19419
preclude an employer or person with authority from taking action 19420
with regard to an employee who has made a report under this 19421
section if there is another reasonable basis for the action. 19422

(M) Reports made under this section are not public records 19423
as defined in section 149.43 of the Revised Code. Information 19424
contained in the reports on request shall be made available to 19425
the ~~person~~individual who is the subject of the report, to the 19426
~~person's~~individual's legal counsel, and to agencies authorized 19427
to receive information in the report by the department or by a 19428
county board of developmental disabilities. 19429

(N) Notwithstanding section 4731.22 of the Revised Code, 19430
the physician-patient privilege shall not be a ground for 19431
excluding evidence regarding the injuries or physical neglect of 19432

~~a person an individual with mental retardation or a~~ 19433
developmental disability or the cause thereof in any judicial 19434
proceeding resulting from a report submitted pursuant to this 19435
section. 19436

Sec. 5123.611. (A) As used in this section, "~~MR/DD-~~ 19437
developmental disabilities employee" means all of the following: 19438

(1) An employee of the department of developmental 19439
disabilities; 19440

(2) An employee of a county board of developmental 19441
disabilities; 19442

(3) An employee in a position that includes providing 19443
specialized services, as defined in section 5123.50 of the 19444
Revised Code, to an individual with ~~mental retardation or a~~ 19445
developmental disability. 19446

(B) At the conclusion of a review of a report of abuse, 19447
neglect, or a major unusual incident that is conducted by a 19448
review committee established pursuant to section 5123.61 of the 19449
Revised Code, the committee shall issue recommendations to the 19450
department. The department shall review the committee's 19451
recommendations and issue a report of its findings. The 19452
department shall make the report available to all of the 19453
following: 19454

(1) The individual with ~~mental retardation or a~~ 19455
developmental disability who is the subject of the report; 19456

(2) That individual's guardian or legal counsel; 19457

(3) The licensee, as defined in section 5123.19 of the 19458
Revised Code, of a residential facility in which the individual 19459
resides; 19460

(4) The employer of any ~~MR/DD-developmental disabilities~~ 19461
employee who allegedly committed or was responsible for the 19462
abuse, neglect, or major unusual incident. 19463

(C) Except as provided in this section, the department 19464
shall not disclose its report to any person or government entity 19465
that is not authorized to investigate reports of abuse, neglect, 19466
or other major unusual incidents, unless the individual with 19467
~~mental retardation or~~ a developmental disability who is the 19468
subject of the report or the individual's guardian gives the 19469
department written consent. 19470

Sec. 5123.612. The director of developmental disabilities 19471
shall adopt rules in accordance with Chapter 119. of the Revised 19472
Code regarding the reporting of major unusual incidents and 19473
unusual incidents concerning persons with ~~mental retardation or~~ 19474
~~a developmental disability~~ disabilities. The rules shall specify 19475
what constitutes a major unusual incident or an unusual 19476
incident. 19477

Sec. 5123.614. (A) Subject to division (B) of this 19478
section, on receipt of a report of a major unusual incident made 19479
pursuant to section 5123.61 or 5126.31 of the Revised Code or 19480
rules adopted under section 5123.612 of the Revised Code, the 19481
department of developmental disabilities may do either of the 19482
following: 19483

(1) Conduct an independent review or investigation of the 19484
incident; 19485

(2) Request that an independent review or investigation of 19486
the incident be conducted by a county board of developmental 19487
disabilities that is not implicated in the report, a regional 19488
council of government, or any other entity authorized to conduct 19489

such investigations. 19490

(B) If a report described in division (A) of this section 19491
concerning the health or safety of a person with ~~mental~~ 19492
~~retardation or a~~ developmental disability involves an allegation 19493
that an employee of a county board of developmental disabilities 19494
has created a substantial risk of serious physical harm to a 19495
person with ~~mental retardation or a~~ developmental disability, 19496
the department shall do one of the following: 19497

(1) Conduct an independent investigation regarding the 19498
incident; 19499

(2) Request that an independent review or investigation of 19500
the incident be conducted by a county board of developmental 19501
disabilities that is not implicated in the report, a regional 19502
council of government, or any other entity authorized to conduct 19503
such investigations. 19504

Sec. 5123.62. The rights of persons with ~~mental~~ 19505
~~retardation or a~~ developmental ~~disability~~ disabilities include, 19506
but are not limited to, the following: 19507

(A) The right to be treated at all times with courtesy and 19508
respect and with full recognition of their dignity and 19509
individuality; 19510

(B) The right to an appropriate, safe, and sanitary living 19511
environment that complies with local, state, and federal 19512
standards and recognizes the persons' need for privacy and 19513
independence; 19514

(C) The right to food adequate to meet accepted standards 19515
of nutrition; 19516

(D) The right to practice the religion of their choice or 19517

to abstain from the practice of religion;	19518
(E) The right of timely access to appropriate medical or dental treatment;	19519 19520
(F) The right of access to necessary ancillary services, including, but not limited to, occupational therapy, physical therapy, speech therapy, and behavior modification and other psychological services;	19521 19522 19523 19524
(G) The right to receive appropriate care and treatment in the least intrusive manner;	19525 19526
(H) The right to privacy, including both periods of privacy and places of privacy;	19527 19528
(I) The right to communicate freely with persons of their choice in any reasonable manner they choose;	19529 19530
(J) The right to ownership and use of personal possessions so as to maintain individuality and personal dignity;	19531 19532
(K) The right to social interaction with members of either sex;	19533 19534
(L) The right of access to opportunities that enable individuals to develop their full human potential;	19535 19536
(M) The right to pursue vocational opportunities that will promote and enhance economic independence;	19537 19538
(N) The right to be treated equally as citizens under the law;	19539 19540
(O) The right to be free from emotional, psychological, and physical abuse;	19541 19542
(P) The right to participate in appropriate programs of education, training, social development, and habilitation and in	19543 19544

programs of reasonable recreation; 19545

(Q) The right to participate in decisions that affect 19546
their lives; 19547

(R) The right to select a parent or advocate to act on 19548
their behalf; 19549

(S) The right to manage their personal financial affairs, 19550
based on individual ability to do so; 19551

(T) The right to confidential treatment of all information 19552
in their personal and medical records, except to the extent that 19553
disclosure or release of records is permitted under sections 19554
5123.89 and 5126.044 of the Revised Code; 19555

(U) The right to voice grievances and recommend changes in 19556
policies and services without restraint, interference, coercion, 19557
discrimination, or reprisal; 19558

(V) The right to be free from unnecessary chemical or 19559
physical restraints; 19560

(W) The right to participate in the political process; 19561

(X) The right to refuse to participate in medical, 19562
psychological, or other research or experiments. 19563

Sec. 5123.63. Every state agency, county board of 19564
developmental disabilities, or political subdivision that 19565
provides services, either directly or through a contract, to 19566
persons with ~~mental retardation or a developmental disability~~ 19567
disabilities shall give each provider a copy of the list of 19568
rights contained in section 5123.62 of the Revised Code. Each 19569
public and private provider of services shall carry out the 19570
requirements of this section in addition to any other posting or 19571
notification requirements imposed by local, state, or federal 19572

law or rules. 19573

The provider shall make copies of the list of rights and 19574
shall be responsible for an initial distribution of the list to 19575
each individual receiving services from the provider. If the 19576
individual is unable to read the list, the provider shall 19577
communicate the contents of the list to the individual to the 19578
extent practicable in a manner that the individual understands. 19579
The individual receiving services or the parent, guardian, or 19580
advocate of the individual shall sign an acknowledgement of 19581
receipt of a copy of the list of rights, and a copy of the 19582
signed acknowledgement shall be placed in the individual's file. 19583
The provider shall also be responsible for answering any 19584
questions and giving any explanations necessary to assist the 19585
individual to understand the rights enumerated. Instruction in 19586
these rights shall be documented. 19587

Each provider shall make available to all persons 19588
receiving services and all employees and visitors a copy of the 19589
list of rights and the addresses and telephone numbers of the 19590
Ohio protection and advocacy system, the department of 19591
developmental disabilities, and the county board of 19592
developmental disabilities of the county in which the provider 19593
provides services. 19594

Sec. 5123.64. (A) Every provider of services to persons 19595
with ~~mental retardation or a developmental disability~~ 19596
disabilities shall establish policies and programs to ensure 19597
that all staff members are familiar with the rights enumerated 19598
in section 5123.62 of the Revised Code and observe those rights 19599
in their contacts with persons receiving services. Any policy, 19600
procedure, or rule of the provider that conflicts with any of 19601
the rights enumerated shall be null and void. Every provider 19602

shall establish written procedures for resolving complaints of 19603
violations of those rights. A copy of the procedures shall be 19604
provided to any person receiving services or to any parent, 19605
guardian, or advocate of a person receiving services. 19606

(B) Any person with ~~mental retardation or~~ a developmental 19607
disability who believes that the person's rights as enumerated 19608
in section 5123.62 of the Revised Code have been violated may: 19609

(1) Bring the violation to the attention of the provider 19610
for resolution; 19611

(2) Report the violation to the department of 19612
developmental disabilities, the Ohio protection and advocacy 19613
system, or the appropriate county board of developmental 19614
disabilities; 19615

(3) Take any other appropriate action to ensure compliance 19616
with sections 5123.61 to 5123.64 of the Revised Code, including 19617
the filing of a legal action to enforce rights or to recover 19618
damages for violation of rights. 19619

Sec. 5123.65. In addition to the rights specified in 19620
section 5123.62 of the Revised Code, individuals with ~~mental-~~ 19621
~~retardation and~~ developmental disabilities who can safely self- 19622
administer medication or receive assistance with self- 19623
administration of medication have the right to self-administer 19624
medication or receive assistance with the self-administration of 19625
medication. The department of developmental disabilities shall 19626
adopt rules as it considers necessary to implement and enforce 19627
this section. The rules shall be adopted in accordance with 19628
Chapter 119. of the Revised Code. 19629

Sec. 5123.651. (A) As used in this section, "~~MR/DD-~~ 19630
developmental disabilities personnel" and "prescribed 19631

medication" have the same meanings as in section 5123.41 of the Revised Code.

(B) ~~MR/DD-Developmental disabilities~~ personnel who are not specifically authorized by other provisions of the Revised Code to provide assistance in the self-administration of prescribed medication may, under this section, provide that assistance as part of the services they provide to individuals with ~~mental-retardation and~~ developmental disabilities. To provide assistance with self-administration of prescribed medication, ~~MR/DD-developmental disabilities~~ personnel are not required to be trained or certified in accordance with section 5123.42 of the Revised Code.

(C) When assisting in the self-administration of prescribed medication, ~~MR/DD-developmental disabilities~~ personnel shall take only the following actions:

(1) Remind an individual when to take the medication and observe the individual to ensure that the individual follows the directions on the container;

(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 19661
place the dose in another container and place that container to 19662
the individual's mouth. 19663

Sec. 5123.67. This chapter shall be liberally interpreted 19664
to accomplish the following purposes: 19665

(A) To promote the human dignity and to protect the 19666
constitutional rights of persons with ~~mental retardation or a~~ 19667
~~developmental disability~~ disabilities in the state; 19668

(B) To encourage the development of the ability and 19669
potential of each person with ~~mental retardation or a~~ 19670
developmental disability in the state to the fullest possible 19671
extent, no matter how severe the degree of disability; 19672

(C) To promote the economic security, standard of living, 19673
and meaningful employment of persons with ~~mental retardation or~~ 19674
~~a developmental disability~~ disabilities; 19675

(D) To maximize the assimilation of persons with ~~mental~~ 19676
~~retardation or a developmental disability~~ disabilities into the 19677
ordinary life of the communities in which they live; 19678

(E) To promote opportunities for persons with ~~mental~~ 19679
~~retardation or a developmental disability~~ disabilities to live 19680
in surroundings or circumstances that are typical for other 19681
community members; 19682

(F) To promote the right of persons with ~~mental~~ 19683
~~retardation or a developmental disability~~ disabilities to speak 19684
and be heard about the desired direction of their lives and to 19685
use available resources in ways that further that direction. 19686

Sec. 5123.69. (A) Except as provided in division (D) of 19687
this section, any person who is eighteen years of age or older 19688

and who is or believes self to be ~~mentally retarded~~ a person 19689
with an intellectual disability may make written application to 19690
the managing officer of any institution for voluntary admission. 19691
Except as provided in division (D) of this section, the 19692
application may be made on behalf of a minor by a parent or 19693
guardian, and on behalf of an adult adjudicated mentally 19694
incompetent by a guardian. 19695

(B) The managing officer of an institution, with the 19696
concurrence of the chief program director, may admit a person 19697
applying pursuant to this section only after a comprehensive 19698
evaluation has been made of the person and only if the 19699
comprehensive evaluation concludes that the person ~~is mentally~~ 19700
~~retarded~~ has an intellectual disability and would benefit 19701
significantly from admission. 19702

(C) The managing officer shall discharge any voluntary 19703
resident if, in the judgment of the chief program director, the 19704
results of a comprehensive examination indicate that 19705
institutionalization no longer is advisable. In light of the 19706
results of the comprehensive evaluation, the managing officer 19707
also may discharge any voluntary resident if, in the judgment of 19708
the chief program director, the discharge would contribute to 19709
the most effective use of the institution in the habilitation 19710
and care of ~~the mentally retarded~~ persons with developmental 19711
disabilities. 19712

(D) A person who is found incompetent to stand trial or 19713
not guilty by reason of insanity and who is committed pursuant 19714
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 19715
Revised Code shall not voluntarily commit self pursuant to this 19716
section until after the final termination of the commitment, as 19717
described in division (J) of section 2945.401 of the Revised 19718

Code. 19719

Sec. 5123.701. (A) Except as provided in division (D) of 19720
this section, any person in the community who is eighteen years 19721
of age or older and who is or believes self to be ~~mentally-~~ 19722
~~retarded~~ a person with an intellectual disability may make 19723
written application to the managing officer of any institution 19724
for temporary admission for short-term care. The application may 19725
be made on behalf of a minor by a parent or guardian, and on 19726
behalf of an adult adjudicated mentally incompetent by a 19727
guardian. 19728

(B) For purposes of this section, short-term care shall be 19729
defined to mean appropriate services provided to a person with 19730
~~mental retardation~~ an intellectual disability for no more than 19731
fourteen consecutive days and for no more than forty-two days in 19732
a fiscal year. When circumstances warrant, the fourteen-day 19733
period may be extended at the discretion of the managing 19734
officer. Short-term care is provided in a developmental center 19735
to meet the family's or caretaker's needs for separation from 19736
the person with ~~mental retardation~~ an intellectual disability. 19737

(C) The managing officer of an institution, with the 19738
concurrence of the chief program director, may admit a person 19739
for short-term care only after a medical examination has been 19740
made of the person and only if the managing officer concludes 19741
that the person ~~is mentally retarded~~ has an intellectual 19742
disability. 19743

(D) A person who is found not guilty by reason of insanity 19744
shall not admit self to an institution for short-term care 19745
unless a hearing was held regarding the person pursuant to 19746
division (A) of section 2945.40 of the Revised Code and either 19747
of the following applies: 19748

(1) The person was found at the hearing not to be a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order; 19749
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(2) The person was found at the hearing to be a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order, was involuntarily committed, and was finally discharged. 19752
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(E) The ~~mentally retarded~~ person with an intellectual disability, liable relatives, and guardians of ~~mentally retarded~~ persons with intellectual disabilities admitted for respite care shall pay support charges in accordance with sections 5121.01 to 5121.21 of the Revised Code. 19756
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(F) At the conclusion of each period of short-term care, the person shall return to the person's family or caretaker. Under no circumstances shall a person admitted for short-term care according to this section remain in the institution after the period of short-term care unless the person is admitted according to section 5123.70, sections 5123.71 to 5123.76, or section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code. 19761
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Sec. 5123.71. (A) (1) Proceedings for the involuntary institutionalization of a person pursuant to sections 5123.71 to 5123.76 of the Revised Code shall be commenced by the filing of an affidavit with the probate division of the court of common pleas of the county where the person resides or where the person is institutionalized, in the manner and form prescribed by the department of developmental disabilities either on information or actual knowledge, whichever is determined to be proper by the court. The affidavit may be filed only by a person who has custody of the individual as a parent, guardian, or service 19769
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provider or by a person acting on behalf of the department or a 19779
county board of developmental disabilities. This section does 19780
not apply regarding the institutionalization of a person 19781
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of 19782
the Revised Code. 19783

The affidavit shall contain an allegation setting forth 19784
the specific category or categories under division (O) of 19785
section 5123.01 of the Revised Code upon which the commencement 19786
of proceedings is based and a statement of the factual ground 19787
for the belief that the person is a ~~mentally retarded~~ person 19788
with an intellectual disability subject to institutionalization 19789
by court order. Except as provided in division (A)(2) of this 19790
section, the affidavit shall be accompanied by both of the 19791
following: 19792

(a) A comprehensive evaluation report prepared by the 19793
person's evaluation team that includes a statement by the 19794
members of the team certifying that they have performed a 19795
comprehensive evaluation of the person and that they are of the 19796
opinion that the person is a ~~mentally retarded~~ person with an 19797
intellectual disability subject to institutionalization by court 19798
order; 19799

(b) An assessment report prepared by the county board of 19800
developmental disabilities under section 5123.711 of the Revised 19801
Code specifying that the individual is in need of services on an 19802
emergency or priority basis. 19803

(2) In lieu of the comprehensive evaluation report, the 19804
affidavit may be accompanied by a written and sworn statement 19805
that the person or the guardian of a person adjudicated 19806
incompetent has refused to allow a comprehensive evaluation and 19807
county board assessment and assessment reports. Immediately 19808

after accepting an affidavit that is not accompanied by the 19809
reports of a comprehensive evaluation and county board 19810
assessment, the court shall cause a comprehensive evaluation and 19811
county board assessment of the person named in the affidavit to 19812
be performed. The evaluation shall be conducted in the least 19813
restrictive environment possible and the assessment shall be 19814
conducted in the same manner as assessments conducted under 19815
section 5123.711 of the Revised Code. The evaluation and 19816
assessment must be completed before a probable cause hearing or 19817
full hearing may be held under section 5123.75 or 5123.76 of the 19818
Revised Code. 19819

A written report of the evaluation team's findings and the 19820
county board's assessment shall be filed with the court. The 19821
reports shall, consistent with the rules of evidence, be 19822
accepted as probative evidence in any proceeding under section 19823
5123.75 or 5123.76 of the Revised Code. If the counsel for the 19824
person who is evaluated or assessed is known, the court shall 19825
send to the counsel a copy of the reports as soon as possible 19826
after they are filed and prior to any proceedings under section 19827
5123.75 or 5123.76 of the Revised Code. 19828

(B) Any person who is involuntarily detained in an 19829
institution or otherwise is in custody under this chapter shall 19830
be informed of the right to do the following: 19831

(1) Immediately make a reasonable number of telephone 19832
calls or use other reasonable means to contact an attorney, a 19833
physician, or both, to contact any other person or persons to 19834
secure representation by counsel, or to obtain medical 19835
assistance, and be provided assistance in making calls if the 19836
assistance is needed and requested; 19837

(2) Retain counsel and have independent expert evaluation 19838

and, if the person is an indigent person, be represented by 19839
court-appointed counsel and have independent expert evaluation 19840
at court expense; 19841

(3) Upon request, have a hearing to determine whether 19842
there is probable cause to believe that the person is a ~~mentally-~~ 19843
~~retarded~~ person with an intellectual disability subject to 19844
institutionalization by court order. 19845

(C) No person who is being treated by spiritual means 19846
through prayer alone in accordance with a recognized religious 19847
method of healing may be ordered detained or involuntarily 19848
committed unless the court has determined that the person 19849
represents a very substantial risk of self-impairment, self- 19850
injury, or impairment or injury to others. 19851

Sec. 5123.74. (A) On receipt of an affidavit under section 19852
5123.71 of the Revised Code, the probate division of the court 19853
of common pleas may, if it has probable cause to believe that 19854
the person named in the affidavit is a ~~mentally-retarded~~ person 19855
with an intellectual disability subject to institutionalization 19856
by court order and that emergency institutionalization is 19857
required, do any of the following: 19858

(1) Issue a temporary order of detention ordering any 19859
health or police officer or sheriff to take into custody and 19860
transport such person to an institution or other place as 19861
designated in section 5123.77 of the Revised Code; 19862

(2) Order the county board of developmental disabilities 19863
to provide services to the individual in the community if the 19864
board's assessment of the individual conducted under section 19865
5123.711 of the Revised Code identifies that resources are 19866
available to meet the individual's needs in an appropriate 19867

manner within the community as an alternative to 19868
institutionalization; 19869

(3) Set the matter for further hearing. 19870

(B) A managing officer of a nonpublic institution may, and 19871
the managing officer of a public institution shall, receive for 19872
observation, diagnosis, habilitation, and care any person whose 19873
admission is ordered pursuant to division (A) (1) of this 19874
section. 19875

The alternatives to institutionalization that may be 19876
ordered under division (A) (2) of this section are limited to 19877
those that are necessary to remediate the emergency condition; 19878
necessary for the person's health, safety or welfare; and 19879
necessary for the protection of society, if applicable. 19880

(C) A person detained under this section may be observed 19881
and habilitated until the probable cause hearing provided for in 19882
section 5123.75 of the Revised Code. If no probable cause 19883
hearing is requested or held, the person may be evaluated and 19884
shall be provided with habilitative services until the full 19885
hearing is held pursuant to section 5123.76 of the Revised Code. 19886

Sec. 5123.75. A respondent who is involuntarily placed in 19887
an institution or other place as designated in section 5123.77 19888
of the Revised Code or with respect to whom proceedings have 19889
been instituted under section 5123.71 of the Revised Code shall, 19890
on request of the respondent, the respondent's guardian, or the 19891
respondent's counsel, or upon the court's own motion, be 19892
afforded a hearing to determine whether there is probable cause 19893
to believe that the respondent is a ~~mentally retarded~~ person 19894
with an intellectual disability subject to institutionalization 19895
by court order. 19896

(A) The probable cause hearing shall be conducted within 19897
two court days from the day on which the request is made. 19898
Failure to conduct the probable cause hearing within this time 19899
shall effect an immediate discharge of the respondent. If the 19900
proceedings are not reinstated within thirty days, records of 19901
the proceedings shall be expunged. 19902

(B) The respondent shall be informed that the respondent 19903
may retain counsel and have independent expert evaluation and, 19904
if the respondent is an indigent person, be represented by court 19905
appointed counsel and have independent expert evaluation at 19906
court expense. 19907

(C) The probable cause hearing shall be conducted in a 19908
manner consistent with the procedures set forth in division (A) 19909
of section 5123.76 of the Revised Code, except divisions (A) (10) 19910
and (14) of that section, and the designee of the director of 19911
developmental disabilities under section 5123.72 of the Revised 19912
Code shall present evidence for the state. 19913

(D) If the court does not find probable cause to believe 19914
that the respondent is a ~~mentally retarded~~ person with an 19915
intellectual disability subject to institutionalization by court 19916
order, it shall order immediate release of the respondent and 19917
dismiss and expunge all record of the proceedings under this 19918
chapter. 19919

(E) On motion of the respondent or the respondent's 19920
counsel and for good cause shown, the court may order a 19921
continuance of the hearing. 19922

(F) If the court finds probable cause to believe that the 19923
respondent is a ~~mentally retarded~~ person with an intellectual 19924
disability subject to institutionalization by court order, the 19925

court may issue an interim order of placement and, where 19926
proceedings under section 5123.71 of the Revised Code have been 19927
instituted, shall order a full hearing as provided in section 19928
5123.76 of the Revised Code to be held on the question of 19929
whether the respondent is a ~~mentally retarded person~~ with an 19930
intellectual disability subject to institutionalization by court 19931
order. Unless specifically waived by the respondent or the 19932
respondent's counsel, the court shall schedule said hearing to 19933
be held as soon as possible within ten days from the probable 19934
cause hearing. A waiver of such full hearing at this point shall 19935
not preclude the respondent from asserting the respondent's 19936
right to such hearing under section 5123.76 of the Revised Code 19937
at any time prior to the mandatory hearing provided in division 19938
(H) of section 5123.76 of the Revised Code. In any case, if the 19939
respondent has waived the right to the full hearing, a mandatory 19940
hearing shall be held under division (H) of section 5123.76 of 19941
the Revised Code between the ninetieth and the one hundredth day 19942
after the original involuntary detention of the person unless 19943
the respondent has been discharged. 19944

(G) Whenever possible, the probable cause hearing shall be 19945
held before the respondent is taken into custody. 19946

Sec. 5123.76. (A) The full hearing shall be conducted in a 19947
manner consistent with the procedures outlined in this chapter 19948
and with due process of law. The hearing shall be held by a 19949
judge of the probate division or, upon transfer by the judge of 19950
the probate division, by another judge of the court of common 19951
pleas, or a referee designated by the judge of the probate 19952
division. Any referee designated by the judge of the probate 19953
division must be an attorney. 19954

(1) The following shall be made available to counsel for 19955

the respondent: 19956

(a) All relevant documents, information, and evidence in 19957
the custody or control of the state or prosecutor; 19958

(b) All relevant documents, information, and evidence in 19959
the custody or control of the institution, facility, or program 19960
in which the respondent currently is held or in which the 19961
respondent has been held pursuant to these proceedings; 19962

(c) With the consent of the respondent, all relevant 19963
documents, information, and evidence in the custody or control 19964
of any institution or person other than the state. 19965

(2) The respondent has the right to be represented by 19966
counsel of the respondent's choice and has the right to attend 19967
the hearing except if unusual circumstances of compelling 19968
medical necessity exist that render the respondent unable to 19969
attend and the respondent has not expressed a desire to attend. 19970

(3) If the respondent is not represented by counsel and 19971
the court determines that the conditions specified in division 19972
(A) (2) of this section justify the respondent's absence and the 19973
right to counsel has not been validly waived, the court shall 19974
appoint counsel forthwith to represent the respondent at the 19975
hearing, reserving the right to tax costs of appointed counsel 19976
to the respondent unless it is shown that the respondent is 19977
indigent. If the court appoints counsel, or if the court 19978
determines that the evidence relevant to the respondent's 19979
absence does not justify the absence, the court shall continue 19980
the case. 19981

(4) The respondent shall be informed of the right to 19982
retain counsel, to have independent expert evaluation, and, if 19983
an indigent person, to be represented by court appointed counsel 19984

and have expert independent evaluation at court expense. 19985

(5) The hearing may be closed to the public unless counsel 19986
for the respondent requests that the hearing be open to the 19987
public. 19988

(6) Unless objected to by the respondent, the respondent's 19989
counsel, or the designee of the director of developmental 19990
disabilities under section 5123.72 of the Revised Code, the 19991
court, for good cause shown, may admit persons having a 19992
legitimate interest in the proceedings. 19993

(7) The affiant under section 5123.71 of the Revised Code 19994
shall be subject to subpoena by either party. 19995

(8) The court shall examine the sufficiency of all 19996
documents filed and shall inform the respondent, if present, and 19997
the respondent's counsel of the nature of the content of the 19998
documents and the reason for which the respondent is being held 19999
or for which the respondent's placement is being sought. 20000

(9) The court shall receive only relevant, competent, and 20001
material evidence. 20002

(10) In accordance with section 5123.72 of the Revised 20003
Code, the designee of the director shall present the evidence 20004
for the state. In proceedings under this chapter, the attorney 20005
general shall present the comprehensive evaluation, assessment, 20006
diagnosis, prognosis, record of habilitation and care, if any, 20007
and less restrictive habilitation plans, if any. The attorney 20008
general does not have a similar presentation responsibility in 20009
connection with a person who has been found not guilty by reason 20010
of insanity and who is the subject of a hearing under section 20011
2945.40 of the Revised Code to determine whether the person is a 20012
~~mentally retarded~~ person with an intellectual disability subject 20013

to institutionalization by court order. 20014

(11) The respondent has the right to testify and the 20015
respondent or the respondent's counsel has the right to subpoena 20016
witnesses and documents and to present and cross-examine 20017
witnesses. 20018

(12) The respondent shall not be compelled to testify and 20019
shall be so advised by the court. 20020

(13) On motion of the respondent or the respondent's 20021
counsel for good cause shown, or upon the court's own motion, 20022
the court may order a continuance of the hearing. 20023

(14) To an extent not inconsistent with this chapter, the 20024
Rules of Civil Procedure shall be applicable. 20025

(B) Unless, upon completion of the hearing, the court 20026
finds by clear and convincing evidence that the respondent named 20027
in the affidavit is a ~~mentally retarded~~ person with an 20028
intellectual disability subject to institutionalization by court 20029
order, it shall order the respondent's discharge forthwith. 20030

(C) If, upon completion of the hearing, the court finds by 20031
clear and convincing evidence that the respondent is a ~~mentally~~ 20032
~~retarded~~ person with an intellectual disability subject to 20033
institutionalization by court order, the court may order the 20034
respondent's discharge or order the respondent, for a period not 20035
to exceed ninety days, to any of the following: 20036

(1) A public institution, provided that commitment of the 20037
respondent to the institution will not cause the institution to 20038
exceed its licensed capacity determined in accordance with 20039
section 5123.19 of the Revised Code and provided that such a 20040
placement is indicated by the comprehensive evaluation report 20041
filed pursuant to section 5123.71 of the Revised Code; 20042

(2) A private institution;	20043
(3) A county mental retardation program <u>offered by a</u> <u>county board of developmental disabilities for persons with</u> <u>intellectual disabilities;</u>	20044 20045 20046
(4) Receive private habilitation and care;	20047
(5) Any other suitable facility, program, or the care of any person consistent with the comprehensive evaluation, assessment, diagnosis, prognosis, and habilitation needs of the respondent.	20048 20049 20050 20051
(D) Any order made pursuant to division (C) (2), (4), or (5) of this section shall be conditional upon the receipt by the court of consent by the facility, program, or person to accept the respondent.	20052 20053 20054 20055
(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the comprehensive evaluation, assessment, diagnosis, and projected habilitation plan for the respondent, and shall order the implementation of the least restrictive alternative available and consistent with habilitation goals.	20056 20057 20058 20059 20060 20061
(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:	20062 20063 20064 20065 20066
(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.	20067 20068 20069 20070

(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. 20071
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(3) The court shall dismiss the case or order placement in the less restrictive environment. 20074
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(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. 20076
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(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. 20085
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(H) If, at the end of any commitment period, the respondent has not already been discharged or has not requested voluntary admission status, the director of the facility or program, or the person to whose care the respondent has been committed, shall discharge the respondent forthwith, unless at least ten days before the expiration of that period the designee of the director of developmental disabilities or the prosecutor files an application with the court requesting continued commitment. 20092
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(1) An application for continued commitment shall include
a written report containing a current comprehensive evaluation
and assessment, a diagnosis, a prognosis, an account of progress
and past habilitation, and a description of alternative
habilitation settings and plans, including a habilitation
setting that is the least restrictive setting consistent with
the need for habilitation. A copy of the application shall be
provided to respondent's counsel. The requirements for notice
under section 5123.73 of the Revised Code and the provisions of
divisions (A) to (E) of this section apply to all hearings on
such applications.

(2) A hearing on the first application for continued
commitment shall be held at the expiration of the first ninety-
day period. The hearing shall be mandatory and may not be
waived.

(3) Subsequent periods of commitment not to exceed one
hundred eighty days each may be ordered by the court if the
designee of the director of developmental disabilities files an
application for continued commitment, after a hearing is held on
the application or without a hearing if no hearing is requested
and no hearing required under division (H) (4) of this section is
waived. Upon the application of a person involuntarily committed
under this section, supported by an affidavit of a licensed
physician alleging that the person is no longer a ~~mentally-
retarded~~ person with an intellectual disability subject to
institutionalization by court order, the court for good cause
shown may hold a full hearing on the person's continued
commitment prior to the expiration of any subsequent period of
commitment set by the court.

(4) A mandatory hearing shall be held at least every two

years after the initial commitment. 20131

(5) If the court, after a hearing upon a request to 20132
continue commitment, finds that the respondent is a ~~mentally-~~ 20133
~~retarded person~~ with an intellectual disability subject to 20134
institutionalization by court order, the court may make an order 20135
pursuant to divisions (C), (D), and (E) of this section. 20136

(I) Notwithstanding the provisions of division (H) of this 20137
section, no person who is found to be a ~~mentally retarded~~ person 20138
with an intellectual disability subject to institutionalization 20139
by court order pursuant to division (O) (2) of section 5123.01 of 20140
the Revised Code shall be held under involuntary commitment for 20141
more than five years. 20142

(J) The managing officer admitting a person pursuant to a 20143
judicial proceeding, within ten working days of the admission, 20144
shall make a report of the admission to the department. 20145

Sec. 5123.79. (A) Notwithstanding a finding pursuant to 20146
section 5123.76 of the Revised Code that a person is a ~~mentally-~~ 20147
~~retarded person~~ with an intellectual disability subject to 20148
institutionalization by court order, the managing officer of an 20149
institution, with the concurrence of the chief program director, 20150
shall, except as provided in division (C) of this section, grant 20151
a discharge without the consent or the authorization of any 20152
court upon a determination that institutionalization no longer 20153
is appropriate. Upon the discharge, the managing officer of the 20154
institution shall notify the probate division of the court of 20155
common pleas that made the involuntary commitment. 20156

(B) Upon the request of the director of a private 20157
institution, program, facility, or person having custody of a 20158
resident institutionalized pursuant to section 5123.76 of the 20159

Revised Code, or on the order of the probate division of the 20160
court of common pleas, the resident may be called for a 20161
rehearing to determine the advisability of continued 20162
institutionalization at a place within the county of resident's 20163
residence or the county where the resident is institutionalized 20164
as the probate division designates. The hearing shall be held 20165
pursuant to section 5123.76 of the Revised Code. 20166

Sec. 5123.80. (A) When the chief program director of an 20167
institution for ~~the mentally retarded~~ persons with intellectual 20168
disabilities considers that it is in the best interest of a 20169
resident, the managing officer may permit the resident to leave 20170
the institution on a trial visit. The trial visit shall be for 20171
the period of time the managing officer determines. 20172

(B) The managing officer, upon releasing a resident on 20173
trial visit, may impose such requirements and conditions upon 20174
the resident while the resident is absent from the institution 20175
as are consistent with the habilitation plan. 20176

(C) The managing officer of the institution from which an 20177
involuntary resident is given trial visit status may at any time 20178
revoke the trial visit if there is reason to believe that it is 20179
in the best interests of the resident to be returned to the 20180
institution. 20181

(D) If the revocation is not voluntarily complied with the 20182
managing officer, within five days, shall authorize any health 20183
or police officer, or sheriff to take the resident into custody 20184
and transport the resident to the institution. 20185

(E) An involuntarily committed resident who has 20186
successfully completed one year of continuous trial visit shall 20187
be automatically discharged. 20188

Sec. 5123.81. When an involuntarily committed resident of 20189
an institution for ~~the mentally retarded~~ persons with 20190
intellectual disabilities is absent without leave, an order 20191
shall be issued within five days after the resident's absence 20192
requiring the resident to be taken into custody by any health or 20193
police officer, or sheriff and transported to the institution 20194
from which the resident is absent. The order may be issued by 20195
the director of developmental disabilities, the managing officer 20196
of the institution from which the resident is absent, or the 20197
probate judge of the county from which the resident was ordered 20198
institutionalized or in which he is found. The officer who takes 20199
the resident into custody shall immediately notify the issuer of 20200
the order. 20201

Sec. 5123.82. (A) Any person who has been 20202
institutionalized under this chapter may, at any time after 20203
discharge from such institution, make application to the 20204
managing officer of any public institution for habilitation and 20205
care if such person feels the person is in need of such 20206
services. If the chief program director determines the applicant 20207
to be in need of such services, the managing officer may provide 20208
such services as are required by the applicant. 20209

(B) Any person may apply to the managing officer of any 20210
public institution for habilitation and care if such person 20211
feels the person is in need of such services. If the person's 20212
condition warrants, ~~the person's~~ person may be enrolled as an 20213
outpatient and, during such enrollment, the person may receive 20214
services subject to Chapter 5121. of the Revised Code. 20215

(C) The application prescribed in division (A) or (B) of 20216
this section may also be made on behalf of a minor by a parent, 20217
guardian, or custodian of a minor, and on behalf of an adult 20218

adjudicated incompetent by the guardian or custodian of the adult. 20219
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(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 ~~servng~~ that serves the county in which such resident resides and is offered by the county board of developmental disabilities for persons with intellectual disabilities, 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. 20221
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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. 20231
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Sec. 5123.84. All residents of institutions for ~~the~~ mentally retarded persons with intellectual disabilities shall be allowed to communicate freely with others, including but not restricted to the following: 20239
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(A) Receiving visitors at reasonable times; 20243

(B) Being visited by counsel or personal physician, or both, at any reasonable time; 20244
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(C) Having reasonable access to telephones to make and receive confidential calls, including a reasonable number of 20246
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free calls if unable to pay for them and assistance in calling 20248
if requested and needed; 20249

(D) Having ready access to letter writing materials and 20250
stamps, including a reasonable number without cost if the 20251
resident is unable to pay for them, to mailing and receiving 20252
unopened correspondence, and to receiving assistance in writing 20253
if requested and needed. 20254

Sec. 5123.85. (A) All residents institutionalized pursuant 20255
to this chapter shall receive, within thirty days of their 20256
admission, a comprehensive evaluation, a diagnosis, a prognosis, 20257
and a description of habilitation goals consistent therewith. 20258

(B) All such residents shall have a written habilitation 20259
plan consistent with the comprehensive evaluation, diagnosis, 20260
prognosis, and goals which shall be provided, upon request of 20261
resident or resident's counsel, to resident's counsel and to any 20262
private physician designated by the resident or the resident's 20263
counsel. 20264

(C) All such residents shall receive habilitation and care 20265
consistent with the habilitation plan. The department of 20266
developmental disabilities shall set standards for habilitation 20267
and care provided to such residents, consistent wherever 20268
possible with standards set by ~~the joint commission on national~~ 20269
~~accreditation of facilities for the mentally-~~ 20270
~~retarded organizations recognized by the department.~~ 20271

(D) All such residents shall receive periodic 20272
comprehensive re-evaluations of the habilitation plan by the 20273
professional staff of the institution at intervals not to exceed 20274
ninety days. 20275

(E) All such residents shall be provided with prompt and 20276

adequate medical treatment for any physical or mental disease or injury. 20277
20278

Sec. 5123.86. (A) Except as provided in divisions (C), 20279
(D), and (E) of this section, the chief medical officer shall 20280
provide all information, including expected physical and medical 20281
consequences, necessary to enable any resident of an institution 20282
for ~~the mentally retarded persons with intellectual disabilities~~ 20283
to give a fully informed, intelligent, and knowing consent if 20284
any of the following procedures are proposed: 20285

(1) Surgery; 20286

(2) Sterilization; 20287

(3) Experimental procedures. 20288

(B) No resident shall be subjected to sterilization 20289
without the resident's informed consent. 20290

(C) If a resident is physically or mentally unable to 20291
receive the information required for surgery or an experimental 20292
procedure under division (A) of this section, or has been 20293
adjudicated incompetent, the information may be provided to the 20294
resident's natural or court-appointed guardian, including an 20295
agency providing guardianship services under contract with the 20296
department of developmental disabilities under sections 5123.55 20297
to 5123.59 of the Revised Code. The guardian may give the 20298
informed, intelligent, and knowing written consent for surgery 20299
or the experimental procedure. 20300

If a resident is physically or mentally unable to receive 20301
the information required for surgery or an experimental 20302
procedure under division (A) of this section and has no 20303
guardian, then the information, the recommendation of the chief 20304
medical officer, and the concurring judgment of a licensed 20305

physician who is not a full-time employee of the state may be 20306
provided to the court in the county in which the institution is 20307
located. The court may approve the surgery or experimental 20308
procedure. Before approving the surgery or experimental 20309
procedure, the court shall notify the Ohio protection and 20310
advocacy system created by section 5123.60 of the Revised Code, 20311
and shall notify the resident of the resident's rights to 20312
consult with counsel, to have counsel appointed by the court if 20313
the resident is indigent, and to contest the recommendation of 20314
the chief medical officer. 20315

(D) If, in the judgment of two licensed physicians, delay 20316
in obtaining consent for surgery would create a grave danger to 20317
the health of a resident, emergency surgery may be performed 20318
without the consent of the resident if the necessary information 20319
is provided to the resident's guardian, including an agency 20320
providing guardianship services under contract with the 20321
department of developmental disabilities under sections 5123.55 20322
to 5123.59 of the Revised Code, or to the resident's spouse or 20323
next of kin to enable that person or agency to give an informed, 20324
intelligent, and knowing written consent. 20325

If the guardian, spouse, or next of kin cannot be 20326
contacted through exercise of reasonable diligence, or if the 20327
guardian, spouse, or next of kin is contacted, but refuses to 20328
consent, then the emergency surgery may be performed upon the 20329
written authorization of the chief medical officer and after 20330
court approval has been obtained. However, if delay in obtaining 20331
court approval would create a grave danger to the life of the 20332
resident, the chief medical officer may authorize surgery, in 20333
writing, without court approval. If the surgery is authorized 20334
without court approval, the chief medical officer who made the 20335
authorization and the physician who performed the surgery shall 20336

each execute an affidavit describing the circumstances 20337
constituting the emergency and warranting the surgery and the 20338
circumstances warranting their not obtaining prior court 20339
approval. The affidavit shall be filed with the court with which 20340
the request for prior approval would have been filed within five 20341
court days after the surgery, and a copy of the affidavit shall 20342
be placed in the resident's file and shall be given to the 20343
guardian, spouse, or next of kin of the resident, to the 20344
hospital at which the surgery was performed, and to the Ohio 20345
protection and advocacy system created by section 5123.60 of the 20346
Revised Code. 20347

(E) This chapter does not authorize any form of compulsory 20348
medical or psychiatric treatment of any resident who is being 20349
treated by spiritual means through prayer alone in accordance 20350
with a recognized religious method of healing. 20351

Sec. 5123.87. (A) No resident of an institution for ~~the~~ 20352
~~mentally retarded~~ persons with intellectual disabilities shall 20353
be compelled to perform labor ~~which~~ that involves the operation, 20354
support, or maintenance of the institution or for which the 20355
institution is under contract with an outside organization. 20356
Privileges or release from the institution shall not be 20357
conditional upon the performance of such labor. Residents who 20358
volunteer to perform such labor shall be compensated at a rate 20359
derived from the value of the work performed, having reference 20360
to the prevailing wage rate for comparable work or wage rates 20361
established under section 4111.06 of the Revised Code. 20362

(B) A resident may be required to perform habilitative 20363
tasks ~~which~~ that do not involve the operation, support, or 20364
maintenance of the institution if those tasks are an integrated 20365
part of the resident's habilitation plan and supervised by a 20366

~~mental retardation member of the institution's professional~~ 20367
~~staff who is~~ designated by the chief program director. 20368

(C) A resident may be required to perform tasks of a 20369
personal housekeeping nature. 20370

Sec. 5123.88. Any person detained pursuant to this chapter 20371
shall be entitled to the writ of habeas corpus upon proper 20372
petition by ~~himself~~ self or a friend to any court generally 20373
empowered to issue the writ of habeas corpus in the county in 20374
which the person is detained. 20375

No person may bring a petition for a writ of habeas corpus 20376
that alleges that a person involuntarily detained pursuant to 20377
this chapter is no longer ~~mentally retarded~~ a person with an 20378
intellectual disability subject to institutionalization by court 20379
order unless the person shows that the release procedures of 20380
division (H) of section 5123.76 of the Revised Code are 20381
inadequate or unavailable. 20382

Sec. 5123.89. (A) As used in this section: 20383

(1) "Family" means a parent, brother, sister, spouse, son, 20384
daughter, grandparent, aunt, uncle, or cousin. 20385

(2) "Payment" means activities undertaken by a service 20386
provider or government entity to obtain or provide reimbursement 20387
for services provided to a person. 20388

(3) "Treatment" means the provision of services to a 20389
person, including the coordination or management of services 20390
provided to the person. 20391

(B) All certificates, applications, records, and reports 20392
made for the purpose of this chapter, other than court journal 20393
entries or court docket entries, ~~which~~ that directly or 20394

indirectly identify a resident or former resident of an 20395
institution for ~~the mentally retarded~~ persons with intellectual 20396
disabilities or person whose institutionalization has been 20397
sought under this chapter shall be kept confidential and shall 20398
not be disclosed by any person except in the following 20399
situations: 20400

(1) It is the judgment of the court for judicial records, 20401
and the managing officer for institution records, that 20402
disclosure is in the best interest of the person identified, and 20403
that person or that person's guardian or, if that person is a 20404
minor, that person's parent or guardian consents. 20405

(2) Disclosure is provided for in other sections of this 20406
chapter. 20407

~~(3) It is the judgment of the managing officer for~~ 20408
~~institution records that disclosure to a mental health facility~~ 20409
~~is in the best interest of the person identified.~~ 20410

~~(4)~~ Disclosure is of a record deposited with the Ohio 20411
history connection pursuant to division (C) of section 5123.31 20412
of the Revised Code and the disclosure is made to the closest 20413
living relative of the person identified, on the relative's 20414
request. 20415

~~(5)~~ (4) Disclosure is needed for the treatment of a person 20416
who is a resident or former resident of an institution for ~~the~~ 20417
~~mentally retarded~~ persons with intellectual disabilities or a 20418
person whose institutionalization has been sought under this 20419
chapter or is needed for the payment of services provided to the 20420
person. 20421

(C) The department of developmental disabilities shall 20422
adopt rules with respect to the systematic and periodic 20423

destruction of residents' records. 20424

(D) Upon the death of a resident or former resident of an 20425
institution for ~~the mentally retarded~~ persons with intellectual 20426
disabilities or a person whose institutionalization was sought 20427
under this chapter, the managing officer of an institution shall 20428
provide access to the certificates, applications, records, and 20429
reports made for the purposes of this chapter to the resident's, 20430
former resident's, or person's guardian if the guardian makes a 20431
written request. If a deceased resident, former resident, or 20432
person whose institutionalization was sought under this chapter 20433
did not have a guardian at the time of death, the managing 20434
officer shall provide access to the certificates, applications, 20435
records, and reports made for purposes of this chapter to a 20436
member of the person's family, upon that family member's written 20437
request. 20438

(E) No person shall reveal the contents of a record of a 20439
resident except as authorized by this chapter. 20440

Sec. 5123.91. All persons who are not subject to any 20441
criminal provisions and who act reasonable and in good faith, 20442
either upon actual knowledge or upon information reasonably 20443
thought by them to be reliable, shall be free from any liability 20444
to a person institutionalized in institutions for ~~the mentally~~ 20445
~~retarded~~ persons with intellectual disabilities or to any other 20446
person in their procedural or physical assistance administered 20447
in the course of the institutionalization or discharge of a 20448
person pursuant to the provisions of this chapter. 20449

Sec. 5123.92. If an affidavit alleging that a person ~~is~~ 20450
~~mentally retarded~~ has an intellectual disability and is subject 20451
to institutionalization by court order is filed, according to 20452
the provisions of section 5123.71 of the Revised Code, in the 20453

probate division of a county within the institutional district 20454
but not in the county within which the institution is located, 20455
and if such person is detained in the institution, the probate 20456
division of the county in which the institution is located 20457
shall, upon the request of the probate division receiving the 20458
affidavit, hold a hearing and make a disposition of the person 20459
in accordance with the procedures prescribed by this chapter. 20460

Sec. 5123.93. Minors with ~~mental retardation~~ intellectual 20461
disabilities shall remain under the guardianship of their 20462
parents or of a guardian appointed pursuant to Chapter 2111. of 20463
the Revised Code, notwithstanding institutionalization pursuant 20464
to any section of this chapter, unless parental rights have been 20465
terminated pursuant to a court finding that the child is 20466
neglected, abused, or dependent pursuant to Chapter 2151. of the 20467
Revised Code. If a minor with ~~mental retardation~~ an intellectual 20468
disability has been found to be dependent, abused, or neglected, 20469
the public children services agency to whom permanent custody 20470
has been assigned pursuant to Chapter 2151. of the Revised Code 20471
shall have the same authority and responsibility it would have 20472
if the child were not ~~mentally retarded~~ a person with an 20473
intellectual disability and were not institutionalized. In no 20474
case shall the guardianship of a person with ~~mental retardation~~ 20475
an intellectual disability be assigned to the managing officer 20476
or any other employee of an institution in which the person is 20477
institutionalized, or be assigned, unless there is a 20478
relationship by blood or marriage or unless the service is a 20479
protective service as defined in section 5123.55 of the Revised 20480
Code, to a person or agency who provides services to the person 20481
with ~~mental retardation~~ an intellectual disability. 20482

Sec. 5123.95. The probate judge, upon making an order 20483
institutionalizing a person under this chapter, shall forthwith 20484

transmit copies, under ~~his~~ the judge's official seal, of court 20485
papers in the case, including the certificate of the expert 20486
witnesses, and of ~~his~~ the judge's findings in the case to the 20487
managing officer of the institution for ~~the mentally retarded~~ 20488
persons with intellectual disabilities. 20489

If not otherwise furnished, the probate judge shall see 20490
that each person institutionalized under section 5123.76 of the 20491
Revised Code is properly attired for transportation and, in 20492
addition, the institution shall be furnished a complete change 20493
of clothing for such person, which shall be paid for on the 20494
certificate of the probate judge and the order of the county 20495
auditor from the county treasury. The clothing shall be new or 20496
as good as new. The managing officer of the institution need not 20497
receive the person without such clothing. 20498

Upon institutionalization, the managing officer of the 20499
institution to which the individual is admitted shall take 20500
possession of all money and other valuables that may be upon the 20501
person of the individual and shall, within ten days, file a list 20502
thereof with the probate judge of the county of which the 20503
individual is a resident. If the amount of money is fifty 20504
dollars or less it shall be retained and expended by the 20505
managing officer of the institution for the benefit of the 20506
individual. Unless a guardian of the estate of the individual 20507
has already been appointed, the probate judge may, upon ~~his~~ the 20508
judge's own motion and without notice, appoint a special 20509
guardian of the estate of the individual. Any special guardian, 20510
before being appointed, shall file a bond approved by the 20511
probate judge in the same amount as is required by section 20512
2109.04 of the Revised Code. A special guardian as provided for 20513
in this section, and while acting as such, shall be governed by 20514
all laws applicable to guardians of the estates of incompetents. 20515

The special guardian shall be allowed such compensation for ~~his~~ 20516
the special guardian's services as the court thinks reasonable, 20517
providing ~~he~~ the special guardian forthwith performs all the 20518
duties incumbent upon ~~him~~ the special guardian. 20519

Sec. 5123.96. Costs, fees, and expenses of all proceedings 20520
held under this chapter shall be paid as follows: 20521

(A) To police and health officers, other than sheriffs or 20522
their deputies, the same fees allowed to constables, to be paid 20523
upon the approval of the probate judge; 20524

(B) To sheriffs or their deputies, the same fees allowed 20525
for similar services in the court of common pleas; 20526

(C) To physicians or licensed clinical psychologists 20527
acting as expert witnesses and to other expert witnesses 20528
designated by the court, an amount determined by the court; 20529

(D) To witnesses in an administrative proceeding, the same 20530
fees and mileage as are provided to witnesses by section 119.094 20531
of the Revised Code, and to witnesses in a judicial proceeding, 20532
the same fees and mileage as are provided to witnesses by 20533
section 2335.06 of the Revised Code, to be paid upon the 20534
approval of the probate judge; 20535

(E) To a person, other than the sheriff or the sheriff's 20536
deputies, for taking a ~~mentally retarded person with an~~ 20537
intellectual disability to an institution or removing a ~~mentally~~ 20538
~~retarded person with an intellectual disability~~ from an 20539
institution, the actual necessary expenses incurred, 20540
specifically itemized, and approved by the probate judge; 20541

(F) To assistants who convey ~~mentally retarded persons~~ 20542
with intellectual disabilities to institutions when authorized 20543
by the probate judge, a fee set by the probate court, provided 20544

the assistants are not drawing a salary from the state or any political subdivision of the state, and their actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge;

(G) To an attorney appointed by the probate division for an indigent who allegedly is a ~~mentally retarded~~ person with an intellectual disability pursuant to any section of this chapter, the fees that are determined by the probate division. When those indigent persons are before the court, all filing and recording fees shall be waived.

(H) To a referee who is appointed to conduct proceedings under this chapter that involve a respondent whose domicile is or, before the respondent's institutionalization, was not the county in which the proceedings are held, compensation as fixed by the probate division, but not more than the compensation paid for similar proceedings for respondents whose domicile is in the county in which the proceedings are held;

(I) To a court reporter appointed to make a transcript of proceedings under this chapter, the compensation and fees allowed in other cases under section 2101.08 of the Revised Code.

All costs, fees, and expenses described in this section, after payment by the county from appropriations pursuant to section 2101.11 of the Revised Code, shall be certified by the county auditor to the department of developmental disabilities within two months of the date the costs, fees, and expenses are incurred by the county. Payment shall be provided for by the director of budget and management upon presentation of properly verified vouchers. The director of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised

Code to implement the payment of costs, fees, and expenses under 20575
this section. 20576

Sec. 5123.99. (A) Whoever violates section 5123.16 or 20577
5123.20 of the Revised Code is guilty of a misdemeanor of the 20578
first degree. 20579

(B) Whoever violates division (C), (E), or (G) (3) of 20580
section 5123.61 of the Revised Code is guilty of a misdemeanor 20581
of the fourth degree or, if the abuse or neglect constitutes a 20582
felony, a misdemeanor of the second degree. In addition to any 20583
other sanction or penalty authorized or required by law, if a 20584
person who is convicted of or pleads guilty to a violation of 20585
division (C), (E), or (G) (3) of section 5123.61 of the Revised 20586
Code is ~~an MR/DD~~ a developmental disabilities employee, as 20587
defined in section 5123.50 of the Revised Code, the offender 20588
shall be eligible to be included in the registry regarding 20589
misappropriation, abuse, neglect, or other specified misconduct 20590
by ~~MR/DD~~ developmental disabilities employees established under 20591
section 5123.52 of the Revised Code. 20592

Sec. 5126.01. As used in this chapter: 20593

(A) As used in this division, "adult" means an individual 20594
who is eighteen years of age or over and not enrolled in a 20595
program or service under Chapter 3323. of the Revised Code and 20596
an individual sixteen or seventeen years of age who is eligible 20597
for adult services under rules adopted by the director of 20598
developmental disabilities pursuant to Chapter 119. of the 20599
Revised Code. 20600

(1) "Adult services" means services provided to an adult 20601
outside the home, except when they are provided within the home 20602
according to an individual's assessed needs and identified in an 20603

individual service plan, that support learning and assistance in 20604
the area of self-care, sensory and motor development, 20605
socialization, daily living skills, communication, community 20606
living, social skills, or vocational skills. 20607

(2) "Adult services" includes all of the following: 20608

(a) Adult day habilitation services; 20609

(b) Employment services; 20610

(c) Educational experiences and training obtained through 20611
entities and activities that are not expressly intended for 20612
individuals with ~~mental retardation and~~ developmental 20613
disabilities, including trade schools, vocational or technical 20614
schools, adult education, job exploration and sampling, unpaid 20615
work experience in the community, volunteer activities, and 20616
spectator sports. 20617

(B) (1) "Adult day habilitation services" means adult 20618
services that do the following: 20619

(a) Provide access to and participation in typical 20620
activities and functions of community life that are desired and 20621
chosen by the general population, including such activities and 20622
functions as opportunities to experience and participate in 20623
community exploration, companionship with friends and peers, 20624
leisure activities, hobbies, maintaining family contacts, 20625
community events, and activities where individuals without 20626
disabilities are involved; 20627

(b) Provide supports or a combination of training and 20628
supports that afford an individual a wide variety of 20629
opportunities to facilitate and build relationships and social 20630
supports in the community. 20631

- (2) "Adult day habilitation services" includes all of the following: 20632
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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; 20634
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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; 20638
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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; 20642
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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; 20649
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- (e) Transportation necessary to access adult day habilitation services; 20652
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- (f) Habilitation management, as described in section 5126.14 of the Revised Code. 20654
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- (3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services. 20656
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- (C) "Appointing authority" means the following: 20659

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners; 20660
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(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge. 20664
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(D) "Community employment," "competitive employment," and "integrated setting" have the same meanings as in section 5123.022 of the Revised Code. 20667
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(E) "Supported employment services" means vocational assessment, job training and coaching, job development and placement, worksite accessibility, and other services related to employment outside a sheltered workshop. "Supported employment services" includes both of the following: 20670
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(1) Job training resulting in the attainment of community employment, supported work in a typical work environment, or self-employment; 20675
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(2) Support for ongoing community employment, supported work at community-based sites, or self-employment. 20678
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~~(F) As used in this division, "developmental delay" has the meaning established pursuant to section 5123.011 of the Revised Code.~~ 20680
20681
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"Developmental disability" means a severe, chronic disability that is characterized by all of the following: 20683
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(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness 20685
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as defined in division (A) of section 5122.01 of the Revised Code; 20688
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(2) It is manifested before age twenty-two; 20690

(3) It is likely to continue indefinitely; 20691

(4) It results in one of the following: 20692

(a) In the case of a person under age three, at least one developmental delay, as defined in rules adopted under section 5123.011 of the Revised Code, or a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, as defined in those rules; 20693
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(b) In the case of a person at least age three but under age six, at least two developmental delays, as defined in rules adopted under section 5123.011 of the Revised Code; 20698
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(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency. 20701
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(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person. 20708
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"Developmental disability" includes intellectual disability. 20713
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(G) "Early childhood services" means a planned program of 20715

habilitation designed to meet the needs of individuals with 20716
~~mental retardation or other~~ developmental disabilities who have 20717
not attained compulsory school age. 20718

(H) "Employment services" means prevocational services or 20719
supported employment services. 20720

(I) (1) "Environmental modifications" means the physical 20721
adaptations to an individual's home, specified in the 20722
individual's service plan, that are necessary to ensure the 20723
individual's health, safety, and welfare or that enable the 20724
individual to function with greater independence in the home, 20725
and without which the individual would require 20726
institutionalization. 20727

(2) "Environmental modifications" includes such 20728
adaptations as installation of ramps and grab-bars, widening of 20729
doorways, modification of bathroom facilities, and installation 20730
of specialized electric and plumbing systems necessary to 20731
accommodate the individual's medical equipment and supplies. 20732

(3) "Environmental modifications" does not include 20733
physical adaptations or improvements to the home that are of 20734
general utility or not of direct medical or remedial benefit to 20735
the individual, including such adaptations or improvements as 20736
carpeting, roof repair, and central air conditioning. 20737

(J) "Family support services" means the services provided 20738
under a family support services program operated under section 20739
5126.11 of the Revised Code. 20740

(K) "Habilitation" means the process by which the staff of 20741
the facility or agency assists an individual with ~~mental-~~ 20742
~~retardation or other-~~ a developmental disability in acquiring and 20743
maintaining those life skills that enable the individual to cope 20744

more effectively with the demands of the individual's own person 20745
and environment, and in raising the level of the individual's 20746
personal, physical, mental, social, and vocational efficiency. 20747
Habilitation includes, but is not limited to, programs of 20748
formal, structured education and training. 20749

(L) "Home and community-based services" has the same 20750
meaning as in section 5123.01 of the Revised Code. 20751

(M) "ICF/IID" has the same meaning as in section 5124.01 20752
of the Revised Code. 20753

(N) "Immediate family" means parents, grandparents, 20754
brothers, sisters, spouses, sons, daughters, aunts, uncles, 20755
mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, 20756
sons-in-law, and daughters-in-law. 20757

(O) "Intellectual disability" means a mental impairment 20758
manifested during the developmental period characterized by 20759
significantly subaverage general intellectual functioning 20760
existing concurrently with deficiencies in the effectiveness or 20761
degree with which an individual meets the standards of personal 20762
independence and social responsibility expected of the 20763
individual's age and cultural group. 20764

(P) "Medicaid case management services" means case 20765
management services provided to an individual with ~~mental-~~ 20766
~~retardation or other-~~a developmental disability that the state 20767
medicaid plan requires. 20768

~~(P) "Mental retardation" means a mental impairment~~ 20769
~~manifested during the developmental period characterized by~~ 20770
~~significantly subaverage general intellectual functioning~~ 20771
~~existing concurrently with deficiencies in the effectiveness or~~ 20772
~~degree with which an individual meets the standards of personal~~ 20773

~~independence and social responsibility expected of the~~ 20774
~~individual's age and cultural group.~~ 20775

(Q) "Prevocational services" means services that provide 20776
learning and work experiences, including volunteer work 20777
experiences, from which an individual can develop general 20778
strengths and skills that are not specific to a particular task 20779
or job but contribute to employability in community employment, 20780
supported work at community-based sites, or self-employment. 20781

(R) "Residential services" means services to individuals 20782
with ~~mental retardation or other~~ developmental disabilities to 20783
provide housing, food, clothing, habilitation, staff support, 20784
and related support services necessary for the health, safety, 20785
and welfare of the individuals and the advancement of their 20786
quality of life. "Residential services" includes program 20787
management, as described in section 5126.14 of the Revised Code. 20788

(S) "Resources" means available capital and other assets, 20789
including moneys received from the federal, state, and local 20790
governments, private grants, and donations; appropriately 20791
qualified personnel; and appropriate capital facilities and 20792
equipment. 20793

(T) "Senior probate judge" means the current probate judge 20794
of a county who has served as probate judge of that county 20795
longer than any of the other current probate judges of that 20796
county. If a county has only one probate judge, "senior probate 20797
judge" means that probate judge. 20798

(U) "Service and support administration" means the duties 20799
performed by a service and support administrator pursuant to 20800
section 5126.15 of the Revised Code. 20801

(V) (1) "Specialized medical, adaptive, and assistive 20802

equipment, supplies, and supports" means equipment, supplies, 20803
and supports that enable an individual to increase the ability 20804
to perform activities of daily living or to perceive, control, 20805
or communicate within the environment. 20806

(2) "Specialized medical, adaptive, and assistive 20807
equipment, supplies, and supports" includes the following: 20808

(a) Eating utensils, adaptive feeding dishes, plate 20809
guards, mylatex straps, hand splints, reaches, feeder seats, 20810
adjustable pointer sticks, interpreter services, 20811
telecommunication devices for the deaf, computerized 20812
communications boards, other communication devices, support 20813
animals, veterinary care for support animals, adaptive beds, 20814
supine boards, prone boards, wedges, sand bags, sidelayers, 20815
bolsters, adaptive electrical switches, hand-held shower heads, 20816
air conditioners, humidifiers, emergency response systems, 20817
folding shopping carts, vehicle lifts, vehicle hand controls, 20818
other adaptations of vehicles for accessibility, and repair of 20819
the equipment received. 20820

(b) Nondisposable items not covered by medicaid that are 20821
intended to assist an individual in activities of daily living 20822
or instrumental activities of daily living. 20823

(W) "Supportive home services" means a range of services 20824
to families of individuals with ~~mental retardation or other~~ 20825
developmental disabilities to develop and maintain increased 20826
acceptance and understanding of such persons, increased ability 20827
of family members to teach the person, better coordination 20828
between school and home, skills in performing specific 20829
therapeutic and management techniques, and ability to cope with 20830
specific situations. 20831

(X) (1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with ~~mental-retardation or other~~ a developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with ~~mental-retardation and~~ developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(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;	20861
(c) Personal care services and homemaker services;	20862
(d) Household maintenance that does not include modifications to the physical structure of the residence;	20863 20864
(e) Respite care services;	20865
(f) Program management, as described in section 5126.14 of the Revised Code.	20866 20867
Sec. 5126.022. When making appointments to a county board of developmental disabilities, an appointing authority shall do all of the following:	20868 20869 20870
(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 <u>intellectual disabilities</u> and other allied fields;	20871 20872 20873 20874
(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 individual eligible for early intervention services or services for preschool or school-age children;	20875 20876 20877 20878 20879 20880 20881 20882 20883 20884
(C) If the appointing authority is a senior probate judge, appoint at least one individual who is an immediate family member of an individual eligible for residential services or supported living;	20885 20886 20887 20888

(D) Appoint, to the maximum extent possible, individuals 20889
who have professional training and experience in business 20890
management, finance, law, health care practice, personnel 20891
administration, or government service; 20892

(E) Provide for the county board's membership to reflect, 20893
as nearly as possible, the composition of the county that the 20894
county board serves. 20895

Sec. 5126.023. None of the following individuals may serve 20896
as a member of a county board of developmental disabilities: 20897

(A) An elected public official, except for a township 20898
trustee, township fiscal officer, or individual excluded from 20899
the definition of public official or employee in division (B) of 20900
section 102.01 of the Revised Code; 20901

(B) An immediate family member of a member of the same 20902
county board; 20903

(C) An employee of any county board; 20904

(D) An immediate family member of an employee of the same 20905
county board; 20906

(E) A former employee of a county board whose employment 20907
ceased less than four calendar years before the former employee 20908
would begin to serve as a member of the same county board; 20909

(F) A former employee of a county board whose employment 20910
ceased less than two years before the former employee would 20911
begin to serve as a member of a different county board; 20912

(G) Unless there is no conflict of interest, an individual 20913
who or whose immediate family member is a board member of an 20914
agency licensed or certified by the department of developmental 20915
disabilities to provide services to individuals with ~~mental-~~ 20916

~~retardation or~~ developmental disabilities or an individual who 20917
or whose immediate family member is an employee of such an 20918
agency; 20919

(H) An individual with an immediate family member who 20920
serves as a county commissioner of a county served by the county 20921
board unless the individual was a member of the county board 20922
before October 31, 1980. 20923

Sec. 5126.04. (A) Each county board of developmental 20924
disabilities shall plan and set priorities based on available 20925
resources for the provision of facilities, programs, and other 20926
services to meet the needs of county residents who are 20927
individuals with ~~mental retardation and other~~ developmental 20928
disabilities, former residents of the county residing in state 20929
institutions or, ~~before the effective date of this amendment~~ 20930
September 29, 2011, placed under purchase of service agreements 20931
under section 5123.18 of the Revised Code, and children subject 20932
to a determination made pursuant to section 121.38 of the 20933
Revised Code. 20934

Each county board shall assess the facility and service 20935
needs of the individuals with ~~mental retardation and other~~ 20936
developmental disabilities who are residents of the county or 20937
former residents of the county residing in state institutions 20938
or, ~~before the effective date of this amendment~~ September 29, 20939
2011, placed under purchase of service agreements under section 20940
5123.18 of the Revised Code. 20941

Each county board shall require individual habilitation or 20942
service plans for individuals with ~~mental retardation and other~~ 20943
developmental disabilities who are being served or who have been 20944
determined eligible for services and are awaiting the provision 20945
of services. Each board shall ensure that methods of having 20946

their service needs evaluated are available. 20947

(B) (1) If a foster child is in need of assessment for 20948
eligible services or is receiving services from a county board 20949
of developmental disabilities and that child is placed in a 20950
different county, the agency that placed the child, immediately 20951
upon placement, shall inform the county board in the new county 20952
all of the following: 20953

(a) That a foster child has been placed in that county; 20954

(b) The name and other identifying information of the 20955
foster child; 20956

(c) The name of the foster child's previous county of 20957
residence; 20958

(d) That the foster child was in need of assessment for 20959
eligible services or was receiving services from the county 20960
board of developmental disabilities in the previous county. 20961

(2) Upon receiving the notice described in division (B) (1) 20962
of this section or otherwise learning that the child was in need 20963
of assessment for eligible services or was receiving services 20964
from a county board of developmental disabilities in the 20965
previous county, the county board in the new county shall 20966
communicate with the county board of the previous county to 20967
determine how services for the foster child shall be provided in 20968
accordance with each board's plan and priorities as described in 20969
division (A) of this section. 20970

If the two county boards are unable to reach an agreement 20971
within ten days of the child's placement, the county board in 20972
the new county shall send notice to the Ohio department of 20973
developmental disabilities of the failure to agree. The 20974
department shall decide how services shall be provided for the 20975

foster child within ten days of receiving notice that the county boards could not reach an agreement. The department may decide that one, or both, of the county boards shall provide services. The services shall be provided in accordance with the board's plan and priorities as described in division (A) of this section.

(C) The department of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, the rules shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

(D) The responsibility or authority of a county board to provide services under this chapter does not affect the responsibility of any other entity of state or local government to provide services to individuals with ~~mental retardation and~~ developmental disabilities.

(E) On or before the first day of February prior to a school year, a county board of developmental disabilities may elect not to participate during that school year in the provision of or contracting for educational services for children ages six through twenty-one years of age, provided that on or before that date the board gives notice of this election to the superintendent of public instruction, each school district in the county, and the educational service center serving the county. If a board makes this election, it shall not have any responsibility for or authority to provide educational services that school year for children ages six through twenty-

one years of age. If a board does not make an election for a 21006
school year in accordance with this division, the board shall be 21007
deemed to have elected to participate during that school year in 21008
the provision of or contracting for educational services for 21009
children ages six through twenty-one years of age. 21010

(F) If a county board of developmental disabilities elects 21011
to provide educational services during a school year to 21012
individuals six through twenty-one years of age who have 21013
multiple disabilities, the board may provide these services to 21014
individuals who are appropriately identified and determined 21015
eligible pursuant to Chapter 3323. of the Revised Code, and in 21016
accordance with applicable rules of the state board of 21017
education. The county board may also provide related services to 21018
individuals six through twenty-one years of age who have one or 21019
more disabling conditions, in accordance with section 3317.20 21020
and Chapter 3323. of the Revised Code and applicable rules of 21021
the state board of education. 21022

Sec. 5126.041. (A) As used in this section: 21023

(1) "Preschool child with a disability" has the same 21024
meaning as in section 3323.01 of the Revised Code. 21025

(2) "State institution" means all or part of an 21026
institution under the control of the department of developmental 21027
disabilities pursuant to section 5123.03 of the Revised Code and 21028
maintained for the care, treatment, and training of ~~the mentally-~~ 21029
retarded individuals with intellectual disabilities. 21030

(B) Except as provided in division (C) of this section, 21031
each county board of developmental disabilities shall make 21032
eligibility determinations in accordance with the definition of 21033
"developmental disability" contained in section 5126.01 of the 21034

Revised Code. Pursuant to rules adopted under section 5123.012 21035
of the Revised Code, a county board may establish eligibility 21036
for programs and services for any preschool child with a 21037
disability eligible for services under section 3323.02 of the 21038
Revised Code whose disability is not attributable solely to 21039
mental illness, as defined in section 5122.01 of the Revised 21040
Code. 21041

(C) (1) A county board shall make determinations of 21042
eligibility for service and support administration in accordance 21043
with rules adopted under section 5126.08 of the Revised Code. 21044

(2) All persons who were eligible for services and 21045
enrolled in programs offered by a county board of developmental 21046
disabilities pursuant to this chapter on July 1, 1991, shall 21047
continue to be eligible for those services and to be enrolled in 21048
those programs as long as they are in need of services. 21049

(3) A person who resided in a state institution on or 21050
before October 29, 1993, is eligible for programs and services 21051
offered by a county board of developmental disabilities, unless 21052
the person is determined by the county board not to be in need 21053
of those programs and services. 21054

(D) A county board shall refer a person who requests but 21055
is not eligible for programs and services offered by the board 21056
to other entities of state and local government or appropriate 21057
private entities that provide services. 21058

(E) Membership of a person on, or employment of a person 21059
by, a county board of developmental disabilities does not affect 21060
the eligibility of any member of that person's family for 21061
services provided by the board or by any entity under contract 21062
with the board. 21063

Sec. 5126.042. (A) As used in this section, "emergency status" means a status that an individual with ~~mental-retardation or~~ developmental disabilities has when the individual is at risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency status" may include a status resulting from one or more of the following situations:

(1) Loss of present residence for any reason, including legal action;

(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

(3) Abuse, neglect, or exploitation of the individual;

(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

(B) If a county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request non-medicaid programs or services, it shall establish one or more waiting lists for the non-medicaid programs or services in accordance with its plan developed under section 5126.04 of the Revised Code. The board may establish priorities for making placements on its waiting lists established under this division. Any such priorities shall be consistent with the board's plan and

applicable law. 21093

(C) If a county board determines that available resources 21094
are insufficient to meet the needs of all individuals who 21095
request home and community-based services, it shall establish a 21096
waiting list for the services. An individual's date of placement 21097
on the waiting list shall be the date a request is made to the 21098
board for the individual to receive the home and community-based 21099
services. The board shall provide for an individual who has an 21100
emergency status to receive priority status on the waiting list. 21101
The board shall also provide for an individual to whom any of 21102
the following apply to receive priority status on the waiting 21103
list in accordance with rules adopted under division (E) of this 21104
section: 21105

(1) The individual is receiving supported living, family 21106
support services, or adult services for which no federal 21107
financial participation is received under the medicaid program; 21108

(2) The individual's primary caregiver is at least sixty 21109
years of age; 21110

(3) The individual has intensive needs as determined in 21111
accordance with rules adopted under division (E) of this 21112
section; 21113

(4) The individual resides in an ICF/IID, as defined in 21114
section 5124.01 of the Revised Code; 21115

(5) The individual resides in a nursing facility, as 21116
defined in section 5165.01 of the Revised Code. 21117

(D) If two or more individuals on a waiting list 21118
established under division (C) of this section have priority for 21119
the services pursuant to that division, a county board shall use 21120
criteria specified in rules adopted under division (E) of this 21121

section in determining the order in which the individuals with 21122
priority will be offered the services. An individual who has 21123
priority for home and community-based services because the 21124
individual has an emergency status has priority for the services 21125
over all other individuals on the waiting list who do not have 21126
emergency status. 21127

(E) The department of developmental disabilities shall 21128
adopt rules in accordance with Chapter 119. of the Revised Code 21129
governing waiting lists established under division (C) of this 21130
section. The rules shall include procedures to be followed to 21131
ensure that the due process rights of individuals placed on 21132
waiting lists are not violated. As part of the rules adopted 21133
under this division, the department shall adopt rules 21134
establishing criteria a county board shall use under division 21135
(D) of this section in determining the order in which 21136
individuals with priority for home and community-based services 21137
pursuant to division (C) of this section will be offered the 21138
services. 21139

(F) The following shall take precedence over the 21140
applicable provisions of this section: 21141

(1) Medicaid rules and regulations; 21142

(2) Any specific requirements that may be contained within 21143
a medicaid state plan amendment or waiver program that a county 21144
board has authority to administer or with respect to which it 21145
has authority to provide services, programs, or supports. 21146

Sec. 5126.043. (A) Unless a guardian has been appointed 21147
for the individual, when a decision regarding receipt of a 21148
service or participation in a program provided for or funded 21149
under this chapter or Chapter 5123. or 5124. of the Revised Code 21150

by an individual with ~~mental retardation or other a~~ 21151
developmental disability must be made, the individual shall be 21152
permitted to make the decision. The individual may obtain 21153
support and guidance from an adult family member or other 21154
person, but doing so does not affect the right of the individual 21155
to make the decision. 21156

(B) An individual with ~~mental retardation or other a~~ 21157
developmental disability may authorize an adult to make a 21158
decision described in division (A) of this section on the 21159
individual's behalf, as long as the adult does not have a 21160
financial interest in the decision. The authorization shall be 21161
made in writing. 21162

(C) If a guardian has been appointed for an individual 21163
with ~~mental retardation or other a~~ developmental disability, the 21164
guardian shall make any decision described in division (A) of 21165
this section on behalf of the individual. This section does not 21166
require appointment of a guardian. 21167

(D) Individuals with ~~mental retardation and other~~ 21168
developmental disabilities, including those who have been 21169
adjudicated incompetent pursuant to Chapter 2111. of the Revised 21170
Code, have the right to participate in decisions that affect 21171
their lives and to have their needs, desires, and preferences 21172
considered. An adult or guardian who makes a decision pursuant 21173
to division (B) or (C) of this section shall make a decision 21174
that is in the best interests of the individual on whose behalf 21175
the decision is made and that is consistent with the needs, 21176
desires, and preferences of that individual. 21177

Sec. 5126.046. (A) Except as otherwise provided by 42 21178
C.F.R. 431.51, an individual with ~~mental retardation or other a~~ 21179
developmental disability who is eligible for home and community- 21180

based services has the right to obtain the services from any 21181
provider of the services that is qualified to furnish the 21182
services and is willing to furnish the services to the 21183
individual. A county board of developmental disabilities that 21184
has medicaid local administrative authority under division (A) 21185
of section 5126.055 of the Revised Code for home and community- 21186
based services and refuses to permit an individual to obtain 21187
home and community-based services from a qualified and willing 21188
provider shall provide the individual timely notice that the 21189
individual may appeal under section 5160.31 of the Revised Code. 21190

(B) An individual with ~~mental retardation or other a~~ 21191
developmental disability who is eligible for nonmedicaid 21192
residential services or nonmedicaid supported living has the 21193
right to obtain the services from any provider of the 21194
residential services or supported living that is qualified to 21195
furnish the residential services or supported living and is 21196
willing to furnish the residential services or supported living 21197
to the individual. 21198

(C) The department of developmental disabilities shall 21199
make available to the public on its internet web site an up-to- 21200
date list of all providers of home and community-based services, 21201
nonmedicaid residential services, and nonmedicaid supported 21202
living. County boards shall assist individuals with ~~mental~~ 21203
~~retardation or other~~ developmental disabilities and the families 21204
of such individuals access the list on the department's internet 21205
web site. 21206

(D) The director of developmental disabilities shall adopt 21207
rules in accordance with Chapter 119. of the Revised Code 21208
governing the implementation of this section. The rules shall 21209
include procedures for individuals to choose their providers. 21210

Sec. 5126.05. (A) Subject to the rules established by the 21211
director of developmental disabilities pursuant to Chapter 119. 21212
of the Revised Code for programs and services offered pursuant 21213
to this chapter, and subject to the rules established by the 21214
state board of education pursuant to Chapter 119. of the Revised 21215
Code for programs and services offered pursuant to Chapter 3323. 21216
of the Revised Code, the county board of developmental 21217
disabilities shall: 21218

(1) Administer and operate facilities, programs, and 21219
services as provided by this chapter and Chapter 3323. of the 21220
Revised Code and establish policies for their administration and 21221
operation; 21222

(2) Coordinate, monitor, and evaluate existing services 21223
and facilities available to individuals with ~~mental retardation~~ 21224
~~and~~ developmental disabilities; 21225

(3) Provide early childhood services, supportive home 21226
services, and adult services, according to the plan and 21227
priorities developed under section 5126.04 of the Revised Code; 21228

(4) Provide or contract for special education services 21229
pursuant to Chapters 3317. and 3323. of the Revised Code and 21230
ensure that related services, as defined in section 3323.01 of 21231
the Revised Code, are available according to the plan and 21232
priorities developed under section 5126.04 of the Revised Code; 21233

(5) Adopt a budget, authorize expenditures for the 21234
purposes specified in this chapter and do so in accordance with 21235
section 319.16 of the Revised Code, approve attendance of board 21236
members and employees at professional meetings and approve 21237
expenditures for attendance, and exercise such powers and duties 21238
as are prescribed by the director; 21239

- (6) Submit annual reports of its work and expenditures, 21240
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 21241
the director, the superintendent of public instruction, and the 21242
board of county commissioners at the close of the fiscal year 21243
and at such other times as may reasonably be requested; 21244
- (7) Authorize all positions of employment, establish 21245
compensation, including but not limited to salary schedules and 21246
fringe benefits for all board employees, approve contracts of 21247
employment for management employees that are for a term of more 21248
than one year, employ legal counsel under section 309.10 of the 21249
Revised Code, and contract for employee benefits; 21250
- (8) Provide service and support administration in 21251
accordance with section 5126.15 of the Revised Code; 21252
- (9) Certify respite care homes pursuant to rules adopted 21253
under section 5123.171 of the Revised Code by the director of 21254
developmental disabilities; 21255
- (10) Implement an employment first policy that clearly 21256
identifies community employment as the desired outcome for every 21257
individual of working age who receives services from the board; 21258
- (11) Set benchmarks for improving community employment 21259
outcomes. 21260
- (B) To the extent that rules adopted under this section 21261
apply to the identification and placement of children with 21262
disabilities under Chapter 3323. of the Revised Code, they shall 21263
be consistent with the standards and procedures established 21264
under sections 3323.03 to 3323.05 of the Revised Code. 21265
- (C) Any county board may enter into contracts with other 21266
such boards and with public or private, nonprofit, or profit- 21267
making agencies or organizations of the same or another county, 21268

to provide the facilities, programs, and services authorized or 21269
required, upon such terms as may be agreeable, and in accordance 21270
with this chapter and Chapter 3323. of the Revised Code and 21271
rules adopted thereunder and in accordance with sections 307.86 21272
and 5126.071 of the Revised Code. 21273

(D) A county board may combine transportation for children 21274
and adults enrolled in programs and services offered under 21275
Chapter 5126. of the Revised Code with transportation for 21276
children enrolled in classes funded under sections 3317.0213 and 21277
3317.20 of the Revised Code. 21278

(E) A county board may purchase all necessary insurance 21279
policies, may purchase equipment and supplies through the 21280
department of administrative services or from other sources, and 21281
may enter into agreements with public agencies or nonprofit 21282
organizations for cooperative purchasing arrangements. 21283

(F) A county board may receive by gift, grant, devise, or 21284
bequest any moneys, lands, or property for the benefit of the 21285
purposes for which the board is established and hold, apply, and 21286
dispose of the moneys, lands, and property according to the 21287
terms of the gift, grant, devise, or bequest. All money received 21288
by gift, grant, bequest, or disposition of lands or property 21289
received by gift, grant, devise, or bequest shall be deposited 21290
in the county treasury to the credit of such board and shall be 21291
available for use by the board for purposes determined or stated 21292
by the donor or grantor, but may not be used for personal 21293
expenses of the board members. Any interest or earnings accruing 21294
from such gift, grant, devise, or bequest shall be treated in 21295
the same manner and subject to the same provisions as such gift, 21296
grant, devise, or bequest. 21297

(G) The board of county commissioners shall levy taxes and 21298

make appropriations sufficient to enable the county board of 21299
developmental disabilities to perform its functions and duties, 21300
and may utilize any available local, state, and federal funds 21301
for such purpose. 21302

Sec. 5126.051. (A) To the extent that resources are 21303
available, a county board of developmental disabilities shall 21304
provide for or arrange residential services and supported living 21305
for individuals with ~~mental retardation and~~ developmental 21306
disabilities. 21307

A county board may acquire, convey, lease, or sell 21308
property for residential services and supported living and enter 21309
into loan agreements, including mortgages, for the acquisition 21310
of such property. A county board is not required to comply with 21311
provisions of Chapter 307. of the Revised Code providing for 21312
competitive bidding or sheriff sales in the acquisition, lease, 21313
conveyance, or sale of property under this division, but the 21314
acquisition, lease, conveyance, or sale must be at fair market 21315
value determined by appraisal of one or more disinterested 21316
persons appointed by the board. 21317

Any action taken by a county board under this division 21318
that will incur debt on the part of the county shall be taken in 21319
accordance with Chapter 133. of the Revised Code. A county board 21320
shall not incur any debt on the part of the county without the 21321
prior approval of the board of county commissioners. 21322

(B) (1) To the extent that resources are available, a 21323
county board shall provide or arrange for the provision of adult 21324
services to individuals who are age eighteen and older and not 21325
enrolled in a program or service under Chapter 3323. of the 21326
Revised Code or age sixteen or seventeen and eligible for adult 21327
services under rules adopted by the director of developmental 21328

disabilities under Chapter 119. of the Revised Code. These 21329
services shall be provided to the individuals in accordance with 21330
~~the individual's~~ their individual service ~~plan~~ plans and shall 21331
include support services specified in the ~~plan~~ plans. 21332

(2) Any prevocational services shall be provided in 21333
accordance with the individual's ~~individual~~ service plan and 21334
occur over a specified period of time with specific outcomes 21335
sought to be achieved. 21336

(3) A county board may, in cooperation with the 21337
opportunities for Ohioans with disabilities agency, seek federal 21338
funds for job training or other services directed at helping 21339
individuals obtain community employment. 21340

(4) A county board may contract with any agency, board, or 21341
other entity that is accredited by the commission on 21342
accreditation of rehabilitation facilities to provide services. 21343
A county board that is accredited by the commission on 21344
accreditation of rehabilitation facilities may provide services 21345
for which it is certified by the commission. 21346

(C) To the extent that resources are available, a county 21347
board may provide services to an individual with ~~mental~~ 21348
~~retardation or other~~ a developmental disability in addition to 21349
those provided pursuant to this section, section 5126.05 of the 21350
Revised Code, or any other section of this chapter. The services 21351
shall be provided in accordance with the individual's ~~individual~~ 21352
service plan and may be provided in collaboration with other 21353
entities of state or local government. 21354

Sec. 5126.054. (A) Each county board of developmental 21355
disabilities shall, by resolution, develop a three-calendar year 21356
plan that includes the following three components: 21357

- (1) An assessment component that includes all of the following: 21358
21359
- (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; 21360
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- (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; 21367
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- (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. 21371
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21374
- (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 community-based services the individuals are to receive; 21375
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- (3) A component that provides for the implementation of medicaid case management services and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component: 21381
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(a) If the department of developmental disabilities or 21387
department of medicaid requires, an agreement to pay the 21388
nonfederal share of medicaid expenditures that the county board 21389
is required by sections 5126.059 and 5126.0510 of the Revised 21390
Code to pay; 21391

(b) How the services are to be phased in over the period 21392
the plan covers, including how the county board will serve 21393
individuals who have priority on a waiting list established 21394
under section 5126.042 of the Revised Code; 21395

(c) Any agreement or commitment regarding the county 21396
board's funding of home and community-based services that the 21397
county board has with the department at the time the county 21398
board develops the component; 21399

(d) Assurances adequate to the department that the county 21400
board will comply with all of the following requirements: 21401

(i) To provide the types of home and community-based 21402
services specified in the preliminary implementation component 21403
required by division (A) (2) of this section to at least the 21404
number of individuals specified in that component; 21405

(ii) To use any additional funds the county board receives 21406
for the services to improve the county board's resource 21407
capabilities for supporting such services available in the 21408
county at the time the component is developed and to expand the 21409
services to accommodate the unmet need for those services in the 21410
county; 21411

(iii) To employ or contract with a business manager or 21412
enter into an agreement with another county board of 21413
developmental disabilities that employs or contracts with a 21414
business manager to have the business manager serve both county 21415

boards. No superintendent of a county board may serve as the 21416
county board's business manager. 21417

(iv) To employ or contract with a medicaid services 21418
manager or enter into an agreement with another county board of 21419
developmental disabilities that employs or contracts with a 21420
medicaid services manager to have the medicaid services manager 21421
serve both county boards. No superintendent of a county board 21422
may serve as the county board's medicaid services manager. 21423

(e) Programmatic and financial accountability measures and 21424
projected outcomes expected from the implementation of the plan; 21425

(f) Any other applicable information or conditions that 21426
the department requires as a condition of approving the 21427
component under section 5123.046 of the Revised Code. 21428

(B) A county board whose plan developed under division (A) 21429
of this section is approved by the department under section 21430
5123.046 of the Revised Code shall update and renew the plan in 21431
accordance with a schedule the department shall develop. 21432

Sec. 5126.055. (A) Except as provided in section 5126.056 21433
of the Revised Code, a county board of developmental 21434
disabilities has medicaid local administrative authority to, and 21435
shall, do all of the following for an individual with ~~mental-~~ 21436
~~retardation or other-~~ a developmental disability who resides in 21437
the county that the county board serves and seeks or receives 21438
home and community-based services: 21439

(1) Perform assessments and evaluations of the individual. 21440
As part of the assessment and evaluation process, ~~the county-~~ 21441
~~board shall do~~ all of the following apply: 21442

(a) ~~Make-~~ The county board shall make a recommendation to 21443
the department of developmental disabilities on whether the 21444

department should approve or deny the individual's application 21445
for the services, including on the basis of whether the 21446
individual needs the level of care an ICF/IID provides~~7.~~ 21447

(b) If the individual's application is denied because of 21448
the county board's recommendation and the individual appeals 21449
pursuant to section 5160.31 of the Revised Code, the county 21450
board shall present, with the department of developmental 21451
disabilities or department of medicaid, whichever denies the 21452
application, the reasons for the recommendation and denial at 21453
the hearing~~7.~~ 21454

(c) If the individual's application is approved, the 21455
county board shall recommend to the departments of developmental 21456
disabilities and medicaid the services that should be included 21457
in the ~~individual's individualized individual service plan and,~~ 21458
~~if.~~ If either department under section 5166.21 of the Revised 21459
Code approves, reduces, denies, or terminates a service included 21460
in the ~~individual's individualized service plan under section~~ 21461
~~5166.20 of the Revised Code~~ because of the county board's 21462
recommendation, the board shall present, with the department 21463
that made the approval, reduction, denial, or termination, the 21464
reasons for the recommendation and approval, reduction, denial, 21465
or termination at a hearing held pursuant to an appeal made 21466
under section 5160.31 of the Revised Code. 21467

(2) Perform any duties assigned to the county board in 21468
rules adopted under section 5126.046 of the Revised Code 21469
regarding the individual's right to choose a qualified and 21470
willing provider of the services and, at a hearing held pursuant 21471
to an appeal made under section 5160.31 of the Revised Code, 21472
present evidence of the process for appropriate assistance in 21473
choosing providers; 21474

(3) If the county board is certified under section 21475
5123.161 of the Revised Code to provide the services and agrees 21476
to provide the services to the individual and the individual 21477
chooses the county board to provide the services, furnish, in 21478
accordance with the county board's medicaid provider agreement 21479
and for the authorized reimbursement rate, the services the 21480
individual requires; 21481

(4) Monitor the services provided to the individual and 21482
ensure the individual's health, safety, and welfare. The 21483
monitoring shall include quality assurance activities. If the 21484
county board provides the services, the department of 21485
developmental disabilities shall also monitor the services. 21486

(5) Develop, with the individual and the provider of the 21487
individual's services, an effective ~~individualized~~ individual 21488
service plan that includes coordination of services, recommend 21489
that the departments of developmental disabilities and medicaid 21490
approve the plan, and implement the plan unless either 21491
department disapproves it. The ~~individualized service~~ plan shall 21492
include a summary page, agreed to by the county board, provider, 21493
and individual receiving services, that clearly outlines the 21494
amount, duration, and scope of services to be provided under the 21495
plan. 21496

(6) Have an investigative agent conduct investigations 21497
under section 5126.313 of the Revised Code that concern the 21498
individual; 21499

(7) Have a service and support administrator perform the 21500
duties under division (B) (9) of section 5126.15 of the Revised 21501
Code that concern the individual. 21502

(B) A county board shall perform its medicaid local 21503

administrative authority under this section in accordance with 21504
all of the following: 21505

(1) The county board's plan that the department of 21506
developmental disabilities approves under section 5123.046 of 21507
the Revised Code; 21508

(2) All applicable federal and state laws; 21509

(3) All applicable policies of the departments of 21510
developmental disabilities and medicaid and the United States 21511
department of health and human services; 21512

(4) The department of medicaid's supervision under its 21513
authority as the single state medicaid agency; 21514

(5) The department of developmental disabilities' 21515
oversight. 21516

(C) The departments of developmental disabilities and 21517
medicaid shall communicate with and provide training to county 21518
boards regarding medicaid local administrative authority granted 21519
by this section. The communication and training shall include 21520
issues regarding audit protocols and other standards established 21521
by the United States department of health and human services 21522
that the departments determine appropriate for communication and 21523
training. County boards shall participate in the training. The 21524
departments shall assess the county board's compliance against 21525
uniform standards that the departments shall establish. 21526

(D) A county board may not delegate its medicaid local 21527
administrative authority granted under this section but may 21528
contract with a person or government entity, including a council 21529
of governments, for assistance with its medicaid local 21530
administrative authority. A county board that enters into such a 21531
contract shall notify the director of developmental 21532

disabilities. The notice shall include the tasks and 21533
responsibilities that the contract gives to the person or 21534
government entity. The person or government entity shall comply 21535
in full with all requirements to which the county board is 21536
subject regarding the person or government entity's tasks and 21537
responsibilities under the contract. The county board remains 21538
ultimately responsible for the tasks and responsibilities. 21539

(E) A county board that has medicaid local administrative 21540
authority under this section shall, through the departments of 21541
developmental disabilities and medicaid, reply to, and cooperate 21542
in arranging compliance with, a program or fiscal audit or 21543
program violation exception that a state or federal audit or 21544
review discovers. The department of medicaid shall timely notify 21545
the department of developmental disabilities and the county 21546
board of any adverse findings. After receiving the notice, the 21547
county board, in conjunction with the department of 21548
developmental disabilities, shall cooperate fully with the 21549
department of medicaid and timely prepare and send to the 21550
department a written plan of correction or response to the 21551
adverse findings. The county board is liable for any adverse 21552
findings that result from an action it takes or fails to take in 21553
its implementation of medicaid local administrative authority. 21554

(F) If the department of developmental disabilities or 21555
department of medicaid determines that a county board's 21556
implementation of its medicaid local administrative authority 21557
under this section is deficient, the department that makes the 21558
determination shall require that county board do the following: 21559

(1) If the deficiency affects the health, safety, or 21560
welfare of an individual with ~~mental retardation or other a~~ 21561
developmental disability, correct the deficiency within twenty- 21562

four hours; 21563

(2) If the deficiency does not affect the health, safety, 21564
or welfare of an individual with ~~mental retardation or other a~~ 21565
developmental disability, receive technical assistance from the 21566
department or submit a plan of correction to the department that 21567
is acceptable to the department within sixty days and correct 21568
the deficiency within the time required by the plan of 21569
correction. 21570

Sec. 5126.058. (A) Each county board of developmental 21571
disabilities shall prepare a memorandum of understanding that is 21572
developed by all of the following and that is signed by the 21573
persons identified in divisions (A)(2) to (7) of this section: 21574

(1) The senior probate judge of the county or the senior 21575
probate judge's representative; 21576

(2) The county peace officer; 21577

(3) All chief municipal peace officers within the county; 21578

(4) Other law enforcement officers handling abuse, 21579
neglect, and exploitation of ~~mentally retarded and~~ 21580
~~developmentally disabled persons~~ individuals with developmental 21581
disabilities in the county; 21582

(5) The prosecuting attorney of the county; 21583

(6) The public children services agency; 21584

(7) The coroner of the county. 21585

(B) A memorandum of understanding shall set forth the 21586
normal operating procedure to be employed by all concerned 21587
officials in the execution of their respective responsibilities 21588
under this section and sections 313.12, 2151.421, 2903.16, 21589

5126.31, and 5126.33 of the Revised Code and shall have as its 21590
primary goal the elimination of all unnecessary interviews of 21591
persons who are the subject of reports made pursuant to this 21592
section. A failure to follow the procedure set forth in the 21593
memorandum by the concerned officials is not grounds for, and 21594
shall not result in, the dismissal of any charge or complaint 21595
arising from any reported case of abuse, neglect, or 21596
exploitation or the suppression of any evidence obtained as a 21597
result of any reported abuse, neglect, or exploitation and does 21598
not give any rights or grounds for appeal or post-conviction 21599
relief to any person. 21600

(C) A memorandum of understanding shall include, but is 21601
not limited to, all of the following: 21602

(1) The roles and responsibilities for handling emergency 21603
and nonemergency cases of abuse, neglect, or exploitation; 21604

(2) The roles and responsibilities for handling and 21605
coordinating investigations of reported cases of abuse, neglect, 21606
or exploitation and methods to be used in interviewing the 21607
person who is the subject of the report and who allegedly was 21608
abused, neglected, or exploited; 21609

(3) The roles and responsibilities for addressing the 21610
categories of persons who may interview the person who is the 21611
subject of the report and who allegedly was abused, neglected, 21612
or exploited; 21613

(4) The roles and responsibilities for providing victim 21614
services to ~~mentally retarded and developmentally disabled~~ 21615
~~persons~~ individuals with developmental disabilities pursuant to 21616
Chapter 2930. of the Revised Code; 21617

(5) The roles and responsibilities for the filing of 21618

criminal charges against persons alleged to have abused, 21619
neglected, or exploited ~~mentally retarded or developmentally~~ 21620
~~disabled persons~~ individuals with developmental disabilities. 21621

(D) A memorandum of understanding may be signed by victim 21622
advocates, municipal court judges, municipal prosecutors, and 21623
any other person whose participation furthers the goals of a 21624
memorandum of understanding, as set forth in this section. 21625

Sec. 5126.059. A county board of developmental 21626
disabilities shall pay the nonfederal share of medicaid 21627
expenditures for medicaid case management services the county 21628
board provides to an individual with ~~mental retardation or other~~ 21629
a developmental disability who the county board determines under 21630
section 5126.041 of the Revised Code is eligible for county 21631
board services. 21632

Sec. 5126.0510. (A) Except as otherwise provided in an 21633
agreement entered into under section 5123.048 of the Revised 21634
Code and subject to divisions (B), (C), (D), and (E) of this 21635
section, a county board of developmental disabilities shall pay 21636
the nonfederal share of medicaid expenditures for the following 21637
home and community-based services provided to an individual with 21638
~~mental retardation or other~~ a developmental disability who the 21639
county board determines under section 5126.041 of the Revised 21640
Code is eligible for county board services: 21641

(1) Home and community-based services provided by the 21642
county board to such an individual; 21643

(2) Home and community-based services provided by a 21644
provider other than the county board to such an individual who 21645
is enrolled as of June 30, 2007, in the medicaid waiver 21646
component under which the services are provided; 21647

(3) Home and community-based services provided by a 21648
provider other than the county board to such an individual who, 21649
pursuant to a request the county board makes, enrolls in the 21650
medicaid waiver component under which the services are provided 21651
after June 30, 2007; 21652

(4) Home and community-based services provided by a 21653
provider other than the county board to such an individual for 21654
whom there is in effect an agreement entered into under division 21655
(F) of this section between the county board and director of 21656
developmental disabilities. 21657

(B) In the case of medicaid expenditures for home and 21658
community-based services for which division (A) (2) of this 21659
section requires a county board to pay the nonfederal share, the 21660
following shall apply to such services provided during fiscal 21661
year 2008 under the individual options medicaid waiver 21662
component: 21663

(1) The county board shall pay no less than the total 21664
amount the county board paid as the nonfederal share for home 21665
and community-based services provided in fiscal year 2007 under 21666
the individual options medicaid waiver component; 21667

(2) The county board shall pay no more than the sum of the 21668
following: 21669

(a) The total amount the county board paid as the 21670
nonfederal share for home and community-based services provided 21671
in fiscal year 2007 under the individual options medicaid waiver 21672
component; 21673

(b) An amount equal to one per cent of the total amount 21674
the department of developmental disabilities and county board 21675
paid as the nonfederal share for home and community-based 21676

services provided in fiscal year 2007 under the individual 21677
options medicaid waiver component to individuals the county 21678
board determined under section 5126.041 of the Revised Code are 21679
eligible for county board services. 21680

(C) A county board is not required to pay the nonfederal 21681
share of home and community-based services provided after June 21682
30, 2008, that the county board is otherwise required by 21683
division (A)(2) of this section to pay if the department of 21684
developmental disabilities fails to comply with division (A) of 21685
section 5123.0416 of the Revised Code. 21686

(D) A county board is not required to pay the nonfederal 21687
share of home and community-based services that the county board 21688
is otherwise required by division (A)(3) of this section to pay 21689
if both of the following apply: 21690

(1) The services are provided to an individual who enrolls 21691
in the medicaid waiver component under which the services are 21692
provided as the result of an order issued following an appeal 21693
made under section 5160.31 of the Revised Code or an appeal of 21694
the order to a court of common pleas; 21695

(2) There are more individuals who are eligible for 21696
services from the county board enrolled in home and community- 21697
based services than is required by section 5126.0512 of the 21698
Revised Code. 21699

(E) A county board is not required to pay the nonfederal 21700
share of home and community-based services that the county board 21701
is otherwise required by division (A) of this section to pay if 21702
the services are provided to an individual who enrolls, pursuant 21703
to division (D) of section 5124.69 of the Revised Code, in the 21704
medicaid waiver component under which the services are provided. 21705

(F) A county board may enter into an agreement with the director of developmental disabilities under which the county board agrees to pay the nonfederal share of medicaid expenditures for one or more home and community-based services that the county board is not otherwise required by division (A) (1), (2), or (3) of this section to pay and that are provided to an individual the county board determines under section 5126.041 of the Revised Code is eligible for county board services. The agreement shall specify which home and community-based services the agreement covers. The county board shall pay the nonfederal share of medicaid expenditures for the home and community-based services that the agreement covers as long as the agreement is in effect.

Sec. 5126.08. (A) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code for all programs and services offered by a county board of developmental disabilities. Such rules shall include, but are not limited to, the following:

(1) Determination of what constitutes a program or service;

(2) Standards to be followed by a board in administering, providing, arranging, or operating programs and services;

(3) Standards for determining the nature and degree of ~~mental retardation, including mild mental retardation, or~~ developmental disability;

(4) Standards and procedures for making eligibility determinations for the programs and services;

(5) Procedures for obtaining consent for the arrangement of services under section 5126.31 of the Revised Code and for

obtaining signatures on ~~individual~~individualized service plans 21735
under that section; 21736

(6) Specification of the service and support 21737
administration to be provided by a county board and standards 21738
for resolving grievances in connection with service and support 21739
administration. 21740

(B) The director shall be the final authority in 21741
determining the nature and degree of ~~mental retardation or~~ 21742
developmental disability. 21743

Sec. 5126.082. (A) In addition to the rules adopted under 21744
division (A) (2) of section 5126.08 of the Revised Code 21745
establishing standards to be followed by county boards of 21746
developmental disabilities in administering, providing, 21747
arranging, and operating programs and services and in addition 21748
to the board accreditation system established under section 21749
5126.081 of the Revised Code, the director of developmental 21750
disabilities shall adopt rules in accordance with Chapter 119. 21751
of the Revised Code establishing standards for promoting and 21752
advancing the quality of life of individuals with ~~mental~~ 21753
~~retardation and~~ developmental disabilities receiving any of the 21754
following: 21755

(1) Early childhood services pursuant to section 5126.05 21756
of the Revised Code for children under age three; 21757

(2) Adult services pursuant to section 5126.05 and 21758
division (B) of section 5126.051 of the Revised Code for 21759
individuals age sixteen or older; 21760

(3) Family support services pursuant to section 5126.11 of 21761
the Revised Code. 21762

(B) The rules adopted under this section shall specify the 21763

actions county boards of developmental disabilities and the 21764
agencies with which they contract should take to do the 21765
following: 21766

(1) Offer individuals with ~~mental retardation and~~ 21767
developmental disabilities, and their families when appropriate, 21768
choices in programs and services that are centered on the needs 21769
and desires of those individuals; 21770

(2) Maintain infants with their families whenever possible 21771
by collaborating with other agencies that provide services to 21772
infants and their families and taking other appropriate actions; 21773

(3) Provide families that have children with ~~mental~~ 21774
~~retardation and~~ developmental disabilities under age eighteen 21775
residing in their homes the resources necessary to allow the 21776
children to remain in their homes; 21777

(4) Create and implement community employment services 21778
based on the needs and desires of adults with ~~mental retardation~~ 21779
~~and~~ developmental disabilities; 21780

(5) Create, in collaboration with other agencies, 21781
transportation systems that provide safe and accessible 21782
transportation within the county to individuals with 21783
disabilities; 21784

(6) Provide services that allow individuals with 21785
disabilities to be integrated into the community by engaging in 21786
educational, vocational, and recreational activities with 21787
individuals who do not have disabilities; 21788

(7) Provide age-appropriate retirement services for 21789
individuals age sixty-five and older with ~~mental retardation and~~ 21790
developmental disabilities; 21791

(8) Establish residential services and supported living 21792
for individuals with ~~mental retardation and~~ developmental 21793
disabilities in accordance with their needs. 21794

(C) To assist in funding programs and services that meet 21795
the standards established under this section, each county board 21796
of developmental disabilities shall make a good faith effort to 21797
acquire available federal funds, including reimbursements under 21798
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 21799
U.S.C.A. 1396, as amended. 21800

(D) Each county board of developmental disabilities shall 21801
work toward full compliance with the standards established under 21802
this section, based on its available resources. Funds received 21803
under this chapter shall be used to comply with the standards. 21804
Annually, each board shall conduct a self audit to evaluate the 21805
board's progress in complying fully with the standards. 21806

(E) The department shall complete a program quality review 21807
of each county board of developmental disabilities to determine 21808
the extent to which the board has complied with the standards. 21809
The review shall be conducted in conjunction with the 21810
comprehensive accreditation review of the board that is 21811
conducted under section 5126.081 of the Revised Code. 21812

Notwithstanding any provision of this chapter or Chapter 21813
5123. of the Revised Code requiring the department to distribute 21814
funds to county boards of developmental disabilities, the 21815
department may withhold funds from a board if it finds that the 21816
board is not in substantial compliance with the standards 21817
established under this section. 21818

(F) When the standards for accreditation from the 21819
commission on accreditation of rehabilitation facilities, or 21820

another accrediting agency, meet or exceed the standards 21821
established under this section, the director may accept 21822
accreditation from the commission or other agency as evidence 21823
that the board is in compliance with all or part of the 21824
standards established under this section. Programs and services 21825
accredited by the commission or agency are exempt from the 21826
program quality reviews required by division (E) of this 21827
section. 21828

Sec. 5126.11. (A) As used in this section, "respite care" 21829
means appropriate, short-term, temporary care that is provided 21830
~~to a mentally retarded or developmentally disabled person~~ an 21831
individual with a developmental disability to sustain the family 21832
structure or to meet planned or emergency needs of the family. 21833

(B) Subject to rules adopted by the director of 21834
developmental disabilities, and subject to the availability of 21835
money from state and federal sources, the county board of 21836
developmental disabilities shall establish a family support 21837
services program. Under such a program, the board shall make 21838
payments to an individual with ~~mental retardation or other a~~ 21839
developmental disability or the family of an individual with 21840
~~mental retardation or other a~~ developmental disability who 21841
desires to remain in and be supported in the family home. 21842
Payments shall be made for all or part of costs incurred or 21843
estimated to be incurred for services that would promote self- 21844
sufficiency and normalization, prevent or reduce inappropriate 21845
institutional care, and further the unity of the family by 21846
enabling the family to meet the special needs of the individual 21847
and to live as much like other families as possible. Payments 21848
may be made in the form of reimbursement for expenditures or in 21849
the form of vouchers to be used to purchase services. 21850

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and

the individual must be in need of habilitation. Payments shall 21880
be adjusted for income in accordance with the payment schedule 21881
established in rules adopted under this section. Payments shall 21882
be made only after the county board has taken into account all 21883
other available assistance for which the individual or family is 21884
eligible. 21885

(F) Before incurring expenses for a service for which 21886
payment will be sought under a family support services program, 21887
the individual or family shall apply to the county board for a 21888
determination of eligibility and approval of the service. The 21889
service need not be provided in the county served by the county 21890
board. After being determined eligible and receiving approval 21891
for the service, the individual or family may incur expenses for 21892
the service or use the vouchers received from the county board 21893
for the purchase of the service. 21894

If the county board refuses to approve a service, an 21895
appeal may be made in accordance with rules adopted by the 21896
department under this section. 21897

(G) To be reimbursed for expenses incurred for approved 21898
services, the individual or family shall submit to the county 21899
board a statement of the expenses incurred accompanied by any 21900
evidence required by the board. To redeem vouchers used to 21901
purchase approved services, the entity that provided the service 21902
shall submit to the county board evidence that the service was 21903
provided and a statement of the charges. The county board shall 21904
make reimbursements and redeem vouchers ~~no~~not later than forty- 21905
five days after it receives the statements and evidence required 21906
by this division. 21907

(H) A county board shall consider the following objectives 21908
in carrying out a family support services program: 21909

(1) Enabling individuals to return to their families from 21910
an institution under the jurisdiction of the department of 21911
developmental disabilities; 21912

(2) Enabling individuals found to be subject to 21913
institutionalization by court order under section 5123.76 of the 21914
Revised Code to remain with their families with the aid of 21915
payments provided under this section; 21916

(3) Providing services to eligible children and adults 21917
currently residing in the community; 21918

(4) Providing services to individuals with developmental 21919
disabilities who are not receiving other services from the 21920
board. 21921

(I) The director shall adopt, and may amend and rescind, 21922
rules for the implementation of family support services programs 21923
by county boards. ~~Such~~The rules shall include all of the 21924
following: 21925

(1) A payment schedule adjusted for income; 21926

(2) Standards for supervision, training, and quality 21927
control in the provision of respite care services; 21928

(3) Eligibility standards and procedures for providing 21929
temporary emergency respite care; 21930

(4) Procedures for hearing and deciding appeals made under 21931
division (F) of this section. 21932

Rules adopted under division (I)(1) of this section shall 21933
be adopted in accordance with section 111.15 of the Revised 21934
Code. Rules adopted under divisions (I)(2) to (4) of this 21935
section shall be adopted in accordance with Chapter 119. of the 21936
Revised Code. 21937

(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.

(K) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.

Sec. 5126.15. (A) A county board of developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and

support administration. Individuals employed or under contract 21968
as service and support administrators shall not be in the same 21969
collective bargaining unit as employees who perform duties that 21970
are not administrative. 21971

A service and support administrator shall perform only the 21972
duties specified in division (B) of this section. While employed 21973
by or under contract with a board, a service and support 21974
administrator shall neither be employed by or serve in a 21975
decision-making or policy-making capacity for any other entity 21976
that provides programs or services to individuals with ~~mental-~~ 21977
~~retardation or~~ developmental disabilities nor provide programs 21978
or services to individuals with mental retardation or 21979
developmental disabilities through self-employment. 21980

(B) A service and support administrator shall do all of 21981
the following: 21982

(1) Establish an individual's eligibility for the services 21983
of the county board of developmental disabilities; 21984

(2) Assess individual needs for services; 21985

(3) Develop individual service plans with the active 21986
participation of the individual to be served, other persons 21987
selected by the individual, and, when applicable, the provider 21988
selected by the individual, and recommend the plans for approval 21989
by the department of developmental disabilities when services 21990
included in the plans are funded through medicaid; 21991

(4) Establish budgets for services based on the 21992
individual's assessed needs and preferred ways of meeting those 21993
needs; 21994

(5) Assist individuals in making selections from among the 21995
providers they have chosen; 21996

(6) Ensure that services are effectively coordinated and provided by appropriate providers;	21997
	21998
(7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;	21999
	22000
	22001
	22002
(8) Perform quality assurance reviews as a distinct function of service and support administration;	22003
	22004
(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual.	22005
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	22010
Sec. 5126.22. (A) Employees who hold the following positions in a county board of developmental disabilities are management employees:	22011
	22012
	22013
assistant superintendent	22014
director of business	22015
director of personnel	22016
adult services director	22017
workshop director	22018
habilitation manager	22019
director of residential services	22020
principal (director of children services)	22021
program or service supervisor	22022

plant manager	22023
production manager	22024
service and support administration supervisor	22025
investigative agent	22026
confidential employees as defined in section 4117.01 of the Revised Code	22027 22028
positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties	22029 22030 22031
positions designated by the county board in accordance with division (D) of this section.	22032 22033
(B) Employees who hold the following positions in a board are professional employees:	22034 22035
personnel licensed or certified pursuant to Chapter 3319. of the Revised Code	22036 22037
early intervention specialist	22038
physical development specialist	22039
habilitation specialist	22040
work adjustment specialist	22041
placement specialist	22042
vocational evaluator	22043
psychologist	22044
occupational therapist	22045
speech and language pathologist	22046

recreation specialist	22047
behavior management specialist	22048
physical therapist	22049
supportive home services specialist	22050
licensed practical nurse or registered nurse	22051
rehabilitation counselor	22052
doctor of medicine and surgery or of osteopathic medicine	22053
and surgery	22054
dentist	22055
service and support administrator	22056
conditional status service and support administrator	22057
social worker	22058
any position that is not a management position and for	22059
which the standards for certification established by the	22060
director of developmental disabilities under section 5126.25 of	22061
the Revised Code require a bachelor's or higher degree	22062
professional positions designated by the director	22063
professional positions designated by the county board in	22064
accordance with division (D) of this section.	22065
(C) Employees who hold positions in a board that are	22066
neither management positions nor professional positions are	22067
service employees. Service employee positions include:	22068
workshop specialist	22069
workshop specialist assistant	22070

contract procurement specialist	22071
community employment specialist	22072
any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service and support administration	22073 22074 22075
service positions designated by the director	22076
service positions designated by a county board in accordance with division (D) of this section.	22077 22078
(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 mental retardation or developmental disabilities.	22079 22080 22081 22082 22083
(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 mental retardation or developmental disabilities, the board shall submit to the director a written description of the position and request that the director designate the position as a management, professional, or service position under this section. The director shall consider each request submitted under this division and respond within thirty days. If the director approves the request, the director shall designate the position as a management, professional, or service position.	22084 22085 22086 22087 22088 22089 22090 22091 22092 22093 22094 22095
(F) A county board shall not terminate its employment of any management, professional, or service employee solely because a position is added to or eliminated from those positions listed in this section or because a position is designated or no longer	22096 22097 22098 22099

designated by the director or a county board. 22100

Sec. 5126.25. (A) The director of developmental 22101
disabilities shall adopt rules under division (C) of this 22102
section establishing uniform standards and procedures for the 22103
certification and registration of persons, other than the 22104
persons described in division (I) of this section, who are 22105
seeking employment with or are employed by either of the 22106
following: 22107

(1) A county board of developmental disabilities; 22108

(2) An entity that contracts with a county board to 22109
operate programs and services for individuals with ~~mental-~~ 22110
~~retardation or~~ developmental disabilities. 22111

(B) No person shall be employed in a position for which 22112
certification or registration is required pursuant to the rules 22113
adopted under this section without the certification or 22114
registration that is required for that position. The person 22115
shall not be employed or shall not continue to be employed if 22116
the required certification or registration is denied, revoked, 22117
or not renewed. 22118

(C) The director shall adopt rules in accordance with 22119
Chapter 119. of the Revised Code as the director considers 22120
necessary to implement and administer this section, including 22121
rules establishing all of the following: 22122

(1) Positions of employment that are subject to this 22123
section and, for each position, whether a person must receive 22124
certification or receive registration to be employed in that 22125
position; 22126

(2) Requirements that must be met to receive the 22127
certification or registration required to be employed in a 22128

particular position, including standards regarding education, 22129
specialized training, and experience, taking into account the 22130
needs of individuals with ~~mental retardation or~~ developmental 22131
disabilities and the specialized techniques needed to serve 22132
them, except that the rules shall not require a person 22133
designated as a service employee under section 5126.22 of the 22134
Revised Code to have or obtain a bachelor's or higher degree; 22135

(3) Procedures to be followed in applying for initial 22136
certification or registration and for renewing the certification 22137
or registration. 22138

(4) Requirements that must be met for renewal of 22139
certification or registration, which may include continuing 22140
education and professional training requirements; 22141

(5) Subject to section 5126.23 of the Revised Code, 22142
grounds for which certification or registration may be denied, 22143
suspended, or revoked and procedures for appealing the denial, 22144
suspension, or revocation. 22145

(D) Each person seeking certification or registration for 22146
employment shall apply in the manner established in rules 22147
adopted under this section. 22148

(E) (1) Except as provided in division (E) (2) of this 22149
section, the superintendent of each county board is responsible 22150
for taking all actions regarding certification and registration 22151
of employees, other than the position of superintendent, early 22152
intervention supervisor, early intervention specialist, or 22153
investigative agent. For the position of superintendent, early 22154
intervention supervisor, early intervention specialist, or 22155
investigative agent, the director of developmental disabilities 22156
is responsible for taking all such actions. 22157

Actions that may be taken by the superintendent or 22158
director include issuing, renewing, denying, suspending, and 22159
revoking certification and registration. All actions shall be 22160
taken in accordance with the rules adopted under this section. 22161

The superintendent may charge a fee to persons applying 22162
for certification or registration. The superintendent shall 22163
establish the amount of the fee according to the costs the 22164
county board incurs in administering its program for 22165
certification and registration of employees. 22166

A person subject to the denial, suspension, or revocation 22167
of certification or registration may appeal the decision. The 22168
appeal shall be made in accordance with the rules adopted under 22169
this section. 22170

(2) Pursuant to division (C) of section 5126.05 of the 22171
Revised Code, the superintendent may enter into a contract with 22172
any other entity under which the entity is given authority to 22173
carry out all or part of the superintendent's responsibilities 22174
under division (E)(1) of this section. 22175

(F) A person with valid certification or registration 22176
under this section on the effective date of any rules adopted 22177
under this section that increase the standards applicable to the 22178
certification or registration shall have such period as the 22179
rules prescribe, but not less than one year after the effective 22180
date of the rules, to meet the new certification or registration 22181
standards. 22182

(G) A person with valid certification or registration is 22183
qualified to be employed according to that certification or 22184
registration by any county board or entity contracting with a 22185
county board. 22186

(H) The director shall monitor county boards to ensure 22187
that their employees and the employees of their contracting 22188
entities have the applicable certification or registration 22189
required under this section and that the employees are 22190
performing only those functions they are authorized to perform 22191
under the certification or registration. The superintendent of 22192
each county board or the superintendent's designee shall 22193
maintain in appropriate personnel files evidence acceptable to 22194
the director that the employees have met the requirements. On 22195
request, representatives of the department of developmental 22196
disabilities shall be given access to the evidence. 22197

(I) The certification and registration requirements of 22198
this section and the rules adopted under it do not apply to 22199
either of the following: 22200

(1) A person who holds a valid license issued or 22201
certificate issued under Chapter 3319. of the Revised Code and 22202
performs no duties other than teaching or supervision of a 22203
teaching program; 22204

(2) A person who holds a valid license or certificate 22205
issued under Title XLVII of the Revised Code and performs only 22206
those duties governed by the license or certificate. 22207

Sec. 5126.30. As used in sections 5126.30 to 5126.34 of 22208
the Revised Code: 22209

(A) "Adult" means a person eighteen years of age or older 22210
with ~~mental retardation or a~~ developmental disability. 22211

(B) "Caretaker" means a person who is responsible for the 22212
care of an adult by order of a court, including an order of 22213
guardianship, or who assumes the responsibility for the care of 22214
an adult as a volunteer, as a family member, by contract, or by 22215

the acceptance of payment for care. 22216

(C) "Abuse" has the same meaning as in section 5123.50 of 22217
the Revised Code, except that it includes a misappropriation, as 22218
defined in that section. 22219

(D) "Neglect" has the same meaning as in section 5123.50 22220
of the Revised Code. 22221

(E) "Exploitation" means the unlawful or improper act of a 22222
caretaker using an adult or an adult's resources for monetary or 22223
personal benefit, profit, or gain, including misappropriation, 22224
as defined in section 5123.50 of the Revised Code, of an adult's 22225
resources. 22226

(F) "Working day" means Monday, Tuesday, Wednesday, 22227
Thursday, or Friday, except when that day is a holiday as 22228
defined in section 1.14 of the Revised Code. 22229

(G) "Incapacitated" means lacking understanding or 22230
capacity, with or without the assistance of a caretaker, to make 22231
and carry out decisions regarding food, clothing, shelter, 22232
health care, or other necessities, but does not include mere 22233
refusal to consent to the provision of services. 22234

(H) "Emergency protective services" means protective 22235
services furnished to ~~a person~~ an individual with ~~mental~~ 22236
~~retardation or~~ a developmental disability to prevent immediate 22237
physical harm. 22238

(I) "Protective services" means services provided by the 22239
county board of developmental disabilities to an adult with 22240
~~mental retardation or~~ a developmental disability for the 22241
prevention, correction, or discontinuance of an act of as well 22242
as conditions resulting from abuse, neglect, or exploitation. 22243

(J) "Protective service plan" means an individualized plan developed by the county board of developmental disabilities to prevent the further abuse, neglect, or exploitation of an adult with ~~mental retardation or~~ a developmental disability.

(K) "Substantial risk" has the same meaning as in section 2901.01 of the Revised Code.

(L) "Party" means all of the following:

(1) An adult who is the subject of a probate proceeding under sections 5126.30 to 5126.33 of the Revised Code;

(2) A caretaker, unless otherwise ordered by the probate court;

(3) Any other person designated as a party by the probate court including but not limited to, the adult's spouse, custodian, guardian, or parent.

~~(M) "Board" means a county board of developmental disabilities.~~

Sec. 5126.31. (A) A county board of developmental disabilities shall review reports of abuse and neglect made under section 5123.61 of the Revised Code and reports referred to it under section 5101.611 of the Revised Code to determine whether the ~~person~~ individual who is the subject of the report is an adult with ~~mental retardation or~~ a developmental disability in need of services to deal with the abuse or neglect. The county board shall give notice of each report to the registry office of the department of developmental disabilities established pursuant to section 5123.61 of the Revised Code on the first working day after receipt of the report. If the report alleges that there is a substantial risk to the adult of immediate physical harm or death, the county

board shall initiate review within twenty-four hours of its receipt of the report. If the county board determines that the ~~person~~ individual is sixty years of age or older but does not have ~~mental retardation or~~ a developmental disability, it shall refer the case to the county department of job and family services. If the county board determines that the ~~person~~ individual is an adult with ~~mental retardation or~~ a developmental disability, it shall continue its review of the case.

(B) For each review over which the county board retains responsibility under division (A) of this section, it shall do all of the following:

(1) Give both written and oral notice of the purpose of the review to the adult and, if any, to the adult's legal counsel or caretaker, in simple and clear language;

(2) Visit the adult, in the adult's residence if possible, and explain the notice given under division (B) (1) of this section;

(3) Request from the registry office any prior reports concerning the adult or other principals in the case;

(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. 22302
No adult shall be determined to be abused, neglected, or in need 22303
of services for the sole reason that, in lieu of medical 22304
treatment, the adult relies on or is being furnished spiritual 22305
treatment through prayer alone in accordance with the tenets and 22306
practices of a church or religious denomination of which the 22307
adult is a member or adherent. 22308

(C) The county board shall arrange for the provision of 22309
services for the prevention, correction or discontinuance of 22310
abuse or neglect or of a condition resulting from abuse or 22311
neglect for any adult who has been determined to need the 22312
services and consents to receive them. These services may 22313
include, but are not limited to, service and support 22314
administration, fiscal management, medical, mental health, home 22315
health care, homemaker, legal, and residential services and the 22316
provision of temporary accommodations and necessities such as 22317
food and clothing. The services do not include acting as a 22318
guardian, trustee, or protector as defined in section 5123.55 of 22319
the Revised Code. If the provision of residential services would 22320
require expenditures by the department of developmental 22321
disabilities, the county board shall obtain the approval of the 22322
department prior to arranging the residential services. 22323

To arrange services, the county board shall: 22324

(1) Develop an individualized service plan identifying the 22325
types of services required for the adult, the goals for the 22326
services, and the persons or agencies that will provide them; 22327

(2) In accordance with rules established by the director 22328
of developmental disabilities, obtain the consent of the adult 22329
or the adult's guardian to the provision of any of these 22330
services and obtain the signature of the adult or guardian on 22331

the ~~individual~~ individualized service plan. An adult who has 22332
been found incompetent under Chapter 2111. of the Revised Code 22333
may consent to services. If the county board is unable to obtain 22334
consent, it may seek, if the adult is incapacitated, a court 22335
order pursuant to section 5126.33 of the Revised Code 22336
authorizing the board to arrange these services. 22337

(D) The county board shall ensure that the adult receives 22338
the services arranged by the board from the provider and shall 22339
have the services terminated if the adult withdraws consent. 22340

(E) On completion of a review, the county board shall 22341
submit a written report to the registry office established under 22342
section 5123.61 of the Revised Code. If the report includes a 22343
finding that ~~a person~~ an individual with ~~mental retardation or a~~ 22344
developmental disability is a victim of action or inaction that 22345
may constitute a crime under federal law or the law of this 22346
state, the board shall submit the report to the law enforcement 22347
agency responsible for investigating the report. Reports 22348
prepared under this section are not public records as defined in 22349
section 149.43 of the Revised Code. 22350

Sec. 5126.33. (A) A county board of developmental 22351
disabilities may file a complaint with the probate court of the 22352
county in which an adult with ~~mental retardation or a~~ 22353
developmental disability resides for an order authorizing the 22354
board to arrange services described in division (C) of section 22355
5126.31 of the Revised Code for that adult if the adult is 22356
eligible to receive services or support under section 5126.041 22357
of the Revised Code and the board has been unable to secure 22358
consent. The complaint shall include all of the following: 22359

(1) The name, age, and address of the adult; 22360

(2) Facts describing the nature of the abuse, neglect, or exploitation and supporting the board's belief that services are needed; 22361
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(3) The types of services proposed by the board, as set forth in the protective service plan described in division (J) of section 5126.30 of the Revised Code and filed with the complaint; 22364
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(4) Facts showing the board's attempts to obtain the consent of the adult or the adult's guardian to the services. 22368
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(B) The board shall give the adult notice of the filing of the complaint and in simple and clear language shall inform the adult of the adult's rights in the hearing under division (C) of this section and explain the consequences of a court order. This notice shall be personally served upon all parties, and also shall be given to the adult's legal counsel, if any. The notice shall be given at least twenty-four hours prior to the hearing, although the court may waive this requirement upon a showing that there is a substantial risk that the adult will suffer immediate physical harm in the twenty-four hour period and that the board has made reasonable attempts to give the notice required by this division. 22370
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(C) Upon the filing of a complaint for an order under this section, the court shall hold a hearing at least twenty-four hours and no later than seventy-two hours after the notice under division (B) of this section has been given unless the court has waived the notice. All parties shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The Ohio Rules of Evidence shall apply to a hearing conducted pursuant to this division. The adult shall be represented by counsel unless the court finds that the adult has 22382
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made a voluntary, informed, and knowing waiver of the right to 22391
counsel. If the adult is indigent, the court shall appoint 22392
counsel to represent the adult. The board shall be represented 22393
by the county prosecutor or an attorney designated by the board. 22394

(D) (1) The court shall issue an order authorizing the 22395
board to arrange the protective services if it finds, on the 22396
basis of clear and convincing evidence, all of the following: 22397

(a) The adult has been abused, neglected, or exploited; 22398

(b) The adult is incapacitated; 22399

(c) There is a substantial risk to the adult of immediate 22400
physical harm or death; 22401

(d) The adult is in need of the services; 22402

(e) No person authorized by law or court order to give 22403
consent for the adult is available or willing to consent to the 22404
services. 22405

(2) The board shall develop a detailed protective service 22406
plan describing the services that the board will provide, or 22407
arrange for the provision of, to the adult to prevent further 22408
abuse, neglect, or exploitation. The board shall submit the plan 22409
to the court for approval. The protective service plan may be 22410
changed only by court order. 22411

(3) In formulating the order, the court shall consider the 22412
individual protective service plan and shall specifically 22413
designate the services that are necessary to deal with the 22414
abuse, neglect, or exploitation or condition resulting from 22415
abuse, neglect, or exploitation and that are available locally, 22416
and authorize the board to arrange for these services only. The 22417
court shall limit the provision of these services to a period 22418

not exceeding six months, renewable for an additional six-month period on a showing by the board that continuation of the order is necessary.

(E) If the court finds that all other options for meeting the adult's needs have been exhausted, it may order that the adult be removed from the adult's place of residence and placed in another residential setting. Before issuing that order, the court shall consider the adult's choice of residence and shall determine that the new residential setting is the least restrictive alternative available for meeting the adult's needs and is a place where the adult can obtain the necessary requirements for daily living in safety. The court shall not order an adult to a hospital or public hospital, as defined in section 5122.01 of the Revised Code, or a state institution, as defined in section 5123.01 of the Revised Code.

(F) The court shall not authorize a change in an adult's placement ordered under division (E) of this section unless it finds compelling reasons to justify a change. The parties to whom notice was given in division (B) of this section shall be given notice of a proposed change at least five working days prior to the change.

(G) The adult, the board, or any other person who received notice of the petition may file a motion for modification of the court order at any time.

(H) The county board shall pay court costs incurred in proceedings brought pursuant to this section. The adult shall not be required to pay for court-ordered services.

(I) (1) After the filing of a complaint for an order under this section, the court, prior to the final disposition, may

enter any temporary order that the court finds necessary to 22448
protect the adult with ~~mental retardation or~~ a developmental 22449
disability from abuse, neglect, or exploitation including, but 22450
not limited to, the following: 22451

(a) A temporary protection order; 22452

(b) An order requiring the evaluation of the adult; 22453

(c) An order requiring a party to vacate the adult's place 22454
of residence or legal settlement, provided that, subject to 22455
division (K) (1) (d) of this section, no operator of a residential 22456
facility licensed by the department may be removed under this 22457
division; 22458

(d) In the circumstances described in, and in accordance 22459
with the procedures set forth in, section 5123.191 of the 22460
Revised Code, an order of the type described in that section 22461
that appoints a receiver to take possession of and operate a 22462
residential facility licensed by the department. 22463

(2) The court may grant an ex parte order pursuant to this 22464
division on its own motion or if a party files a written motion 22465
or makes an oral motion requesting the issuance of the order and 22466
stating the reasons for it if it appears to the court that the 22467
best interest and the welfare of the adult require that the 22468
court issue the order immediately. The court, if acting on its 22469
own motion, or the person requesting the granting of an ex parte 22470
order, to the extent possible, shall give notice of its intent 22471
or of the request to all parties, the adult's legal counsel, if 22472
any. If the court issues an ex parte order, the court shall hold 22473
a hearing to review the order within seventy-two hours after it 22474
is issued or before the end of the next day after the day on 22475
which it is issued, whichever occurs first. The court shall give 22476

written notice of the hearing to all parties to the action. 22477

Sec. 5126.333. Any person who has reason to believe that 22478
there is a substantial risk to an adult with ~~mental retardation~~ 22479
~~or~~ a developmental disability of immediate physical harm or 22480
death and that the responsible county board of developmental 22481
disabilities has failed to seek an order pursuant to section 22482
5126.33 or 5126.331 of the Revised Code may notify the 22483
department of developmental disabilities. Within twenty-four 22484
hours of receipt of such notice, the department shall cause an 22485
investigation to be conducted regarding the notice. The 22486
department shall provide assistance to the county board to 22487
provide for the health and safety of the adult as permitted by 22488
law. 22489

Sec. 5126.40. (A) Sections 5126.40 to 5126.47 of the 22490
Revised Code do not apply to medicaid-funded supported living. 22491

(B) As used in sections 5126.40 to 5126.47 of the Revised 22492
Code, "provider" means a person or government entity certified 22493
by the director of developmental disabilities to provide 22494
supported living for individuals with ~~mental retardation and~~ 22495
developmental disabilities. 22496

(C) On and after July 1, 1995, each county board of 22497
developmental disabilities shall plan and develop supported 22498
living for individuals with ~~mental retardation and~~ developmental 22499
disabilities who are residents of the county in accordance with 22500
sections 5126.41 to 5126.47 of the Revised Code. 22501

Sec. 5126.46. (A) No county board of developmental 22502
disabilities shall be obligated to use any money other than 22503
money in the community developmental disabilities residential 22504
services fund to furnish residential services. 22505

(B) Except with respect to a child required to be provided 22506
services pursuant to section 121.38 of the Revised Code, no 22507
court or other entity of state or local government shall order 22508
or otherwise require a county board of developmental 22509
disabilities to use money from local sources for residential 22510
services for an individual with ~~mental retardation or a~~ 22511
~~developmental disabilities~~ disability or to arrange for 22512
residential services for such an individual unless a vacancy 22513
exists in an appropriate residential setting within the county. 22514

Sec. 5126.49. The county board of developmental 22515
disabilities may adopt a resolution requesting the board of 22516
county commissioners to implement a residential facility linked 22517
deposit program under sections 5126.51 to 5126.62 of the Revised 22518
Code if the county board of developmental disabilities finds all 22519
of the following: 22520

(A) There is a shortage of residential facilities in the 22521
county for individuals with ~~mental retardation or~~ developmental 22522
disabilities. 22523

(B) Eligible organizations, otherwise willing and able to 22524
develop residential facilities in the county, have been unable 22525
to do so because of high interest rates. 22526

(C) Placement of residential facility linked deposits will 22527
assist in financing the development of residential facilities in 22528
the county that otherwise would not be developed because of high 22529
interest rates. 22530

The board shall transmit a certified copy of the 22531
resolution to the board of county commissioners. 22532

Sec. 5126.52. The general assembly finds that individuals 22533
with ~~mental retardation or~~ developmental disabilities residing 22534

in the state face a shortage of suitable residential facilities; 22535
that loans to finance the development of suitable residential 22536
facilities are subject to high interest rates; that eligible 22537
organizations, otherwise willing and able to develop suitable 22538
residential facilities, are unable to do so because of the high 22539
interest rates; and, consequently, that the shortage of suitable 22540
residential facilities is likely to continue and worsen. 22541

The residential facility linked deposit program, when 22542
implemented in a county, is intended to provide low-cost funds 22543
for lending purposes that will effectively reduce high interest 22544
rates and materially contribute to remedying the shortage of 22545
suitable residential facilities for individuals with ~~mental-~~ 22546
~~retardation or~~ developmental disabilities who reside in the 22547
county. 22548

Sec. 5126.55. The county board of developmental 22549
disabilities shall review each application filed under section 22550
5126.54 of the Revised Code and adopt a resolution approving or 22551
disapproving development of the proposed residential facility. 22552
The county board shall not approve development of the proposed 22553
residential facility unless it finds, based upon the application 22554
and its evaluation of the applicant, that development of the 22555
residential facility is consistent with its plan and priorities, 22556
under section 5126.05 of the Revised Code, for the provision of 22557
residential facilities for individuals with ~~mental retardation-~~ 22558
~~or~~ developmental disabilities residing in the county. 22559

The resolution shall include specific findings of fact 22560
justifying the approval or disapproval. 22561

The county board shall transmit a certified copy of the 22562
resolution to the applicant and to the board of county 22563
commissioners. 22564

Sec. 5126.58. The county board of developmental 22565
disabilities shall adopt a resolution approving or disapproving 22566
an eligible organization's application for a residential 22567
facility linked deposit loan. The county board shall disapprove 22568
an application unless it finds, based on the application and its 22569
evaluation of the applicant, each of the following: 22570

(A) The applicant has fully complied with sections 5126.54 22571
and 5126.56 of the Revised Code. 22572

(B) Development of the residential facility will 22573
materially contribute to alleviating the shortage of residential 22574
facilities in the county for individuals with ~~mental retardation~~ 22575
~~or~~ developmental disabilities. 22576

(C) The applicant is ready to proceed with development of 22577
the residential facility, but is unable to do so because of high 22578
interest rates. 22579

(D) The board of county commissioners has certified that 22580
public moneys of the county are currently available for 22581
placement of the residential facility linked deposit necessary 22582
to provide low-cost financing to the applicant. 22583

(E) Placement of the residential facility linked deposit, 22584
considered in the aggregate with all other residential facility 22585
linked deposits under the county's residential facility linked 22586
deposit program, will not cause the total amount of the county's 22587
residential facility linked deposits to exceed an amount equal 22588
to ten per cent of the operating budget of the county board of 22589
developmental disabilities for the current year. If placement of 22590
the residential facility linked deposit would cause the total 22591
amount of the county's residential facility linked deposits to 22592
exceed the maximum established by this division, the county 22593

board may accept the application but limit the amount of the 22594
residential facility linked deposit accordingly. 22595

The resolution shall include specific findings of fact 22596
justifying acceptance or rejection of the application. If the 22597
board accepts the application, it shall specify the amount of 22598
the residential facility linked deposit in the resolution. 22599

The county board shall transmit a certified copy of the 22600
resolution to the applicant, the eligible lending institution, 22601
and the county's investing authority. 22602

Sec. 5139.06. (A) When a child has been committed to the 22603
department of youth services, the department shall do both of 22604
the following: 22605

(1) Place the child in an appropriate institution under 22606
the condition that it considers best designed for the training 22607
and rehabilitation of the child and the protection of the 22608
public, provided that the institutional placement shall be 22609
consistent with the order committing the child to its custody; 22610

(2) Maintain the child in institutional care or 22611
institutional care in a secure facility for the required period 22612
of institutionalization in a manner consistent with division (A) 22613
(1) of section 2152.16 and divisions (A) to (F) of section 22614
2152.17 of the Revised Code, whichever are applicable, and with 22615
section 5139.38 or division (B), (C), or (D) of section 2152.22 22616
of the Revised Code. 22617

(B) When a child has been committed to the department of 22618
youth services and has not been institutionalized or 22619
institutionalized in a secure facility for the prescribed 22620
minimum period of time, including, but not limited to, a 22621
prescribed period of time under division (A)(1)(a) of section 22622

2152.16 of the Revised Code, the department, the child, or the 22623
child's parent may request the court that committed the child to 22624
order a judicial release to court supervision or a judicial 22625
release to department of youth services supervision in 22626
accordance with division (B), (C), or (D) of section 2152.22 of 22627
the Revised Code, and the child may be released from 22628
institutionalization or institutionalization in a secure 22629
facility in accordance with the applicable division. A child in 22630
those circumstances shall not be released from 22631
institutionalization or institutionalization in a secure 22632
facility except in accordance with section 2152.22 or 5139.38 of 22633
the Revised Code. When a child is released pursuant to a 22634
judicial release to court supervision under division (B) or (D) 22635
of section 2152.22 of the Revised Code, the department shall 22636
comply with division (B)(3) of that section and, if the court 22637
requests, shall send the committing court a report on the 22638
child's progress in the institution and recommendations for 22639
conditions of supervision by the court after release. When a 22640
child is released pursuant to a judicial release to department 22641
of youth services supervision under division (C) or (D) of 22642
section 2152.22 of the Revised Code, the department shall comply 22643
with division (C)(3) of that section relative to the child and 22644
shall send the committing court and the juvenile court of the 22645
county in which the child is placed a copy of the treatment and 22646
rehabilitation plan described in that division and the 22647
conditions that it fixed. The court of the county in which the 22648
child is placed may adopt the conditions as an order of the 22649
court and may add any additional consistent conditions it 22650
considers appropriate, provided that the court may not add any 22651
condition that decreases the level or degree of supervision 22652
specified by the department in its plan, that substantially 22653
increases the financial burden of supervision that will be 22654

experienced by the department, or that alters the placement 22655
specified by the department in its plan. Any violations of the 22656
conditions of the child's judicial release or early release 22657
shall be handled pursuant to division (E) of section 2152.22 of 22658
the Revised Code. 22659

(C) When a child has been committed to the department of 22660
youth services, the department may do any of the following: 22661

(1) Notwithstanding the provisions of this chapter, 22662
Chapter 2151., or Chapter 2152. of the Revised Code that 22663
prescribe required periods of institutionalization, transfer the 22664
child to any other state institution, whenever it appears that 22665
the child by reason of mental illness, ~~mental retardation,~~ or 22666
~~other~~ developmental disability ought to be in another state 22667
institution. Before transferring a child to any other state 22668
institution, the department shall include in the minutes a 22669
record of the order of transfer and the reason for the transfer 22670
and, at least seven days prior to the transfer, shall send a 22671
certified copy of the order to the person shown by its record to 22672
have had the care or custody of the child immediately prior to 22673
the child's commitment. Except as provided in division (C) (2) of 22674
this section, no person shall be transferred from a benevolent 22675
institution to a correctional institution or to a facility or 22676
institution operated by the department of youth services. 22677

(2) Notwithstanding the provisions of this chapter, 22678
Chapter 2151., or Chapter 2152. of the Revised Code that 22679
prescribe required periods of institutionalization, transfer the 22680
child under section 5120.162 of the Revised Code to a 22681
correctional medical center established by the department of 22682
rehabilitation and correction, whenever the child has an 22683
illness, physical condition, or other medical problem and it 22684

appears that the child would benefit from diagnosis or treatment 22685
at the center for that illness, condition, or problem. Before 22686
transferring a child to a center, the department of youth 22687
services shall include in the minutes a record of the order of 22688
transfer and the reason for the transfer and, except in 22689
emergency situations, at least seven days prior to the transfer, 22690
shall send a certified copy of the order to the person shown by 22691
its records to have had the care or custody of the child 22692
immediately prior to the child's commitment. If the transfer of 22693
the child occurs in an emergency situation, as soon as possible 22694
after the decision is made to make the transfer, the department 22695
of youth services shall send a certified copy of the order to 22696
the person shown by its records to have had the care or custody 22697
of the child immediately prior to the child's commitment. A 22698
transfer under this division shall be in accordance with the 22699
terms of the agreement the department of youth services enters 22700
into with the department of rehabilitation and correction under 22701
section 5120.162 of the Revised Code and shall continue only as 22702
long as the child reasonably appears to receive benefit from 22703
diagnosis or treatment at the center for an illness, physical 22704
condition, or other medical problem. 22705

(3) Revoke or modify any order of the department except an 22706
order of discharge as often as conditions indicate it to be 22707
desirable; 22708

(4) If the child was committed pursuant to division (A) (1) 22709
(b), (c), (d), or (e) of section 2152.16 of the Revised Code and 22710
has been institutionalized or institutionalized in a secure 22711
facility for the prescribed minimum periods of time under the 22712
division pursuant to which the commitment was made, assign the 22713
child to a family home, a group care facility, or other place 22714
maintained under public or private auspices, within or without 22715

this state, for necessary treatment and rehabilitation, the 22716
costs of which may be paid by the department, provided that the 22717
department shall notify the committing court, in writing, of the 22718
place and terms of the assignment at least fifteen days prior to 22719
the scheduled date of the assignment; 22720

(5) Release the child from an institution in accordance 22721
with sections 5139.51 to 5139.54 of the Revised Code in the 22722
circumstances described in those sections. 22723

(D) The department of youth services shall notify the 22724
committing court of any order transferring the physical location 22725
of any child committed to it in accordance with section 5139.35 22726
of the Revised Code. Upon the discharge from its custody and 22727
control, the department may petition the court for an order 22728
terminating its custody and control. 22729

Sec. 5139.08. The department of youth services may enter 22730
into an agreement with the director of rehabilitation and 22731
correction pursuant to which the department of youth services, 22732
in accordance with division (C)(2) of section 5139.06 and 22733
section 5120.162 of the Revised Code, may transfer to a 22734
correctional medical center established by the department of 22735
rehabilitation and correction, children who are within its 22736
custody for diagnosis or treatment of an illness, physical 22737
condition, or other medical problem. The department of youth 22738
services may enter into any other agreements with the director 22739
of job and family services, the director of mental health and 22740
addiction services, the director of developmental disabilities, 22741
the director of rehabilitation and correction, with the courts 22742
having probation officers or other public officials, and with 22743
private agencies or institutions for separate care or special 22744
treatment of children subject to the control of the department 22745

of youth services. The department of youth services may, upon 22746
the request of a juvenile court not having a regular probation 22747
officer, provide probation services for such court. 22748

Upon request by the department of youth services, any 22749
public agency or group care facility established or administered 22750
by the state for the care and treatment of children and youth 22751
shall, consistent with its functions, accept and care for any 22752
child whose custody is vested in the department in the same 22753
manner as it would be required to do if custody had been vested 22754
by a court in such agency or group care facility. If the 22755
department has reasonable grounds to believe that any child or 22756
youth whose custody is vested in it is mentally ill or ~~mentally-~~ 22757
~~retarded~~has an intellectual disability, the department may file 22758
an affidavit under section 5122.11 or 5123.76 of the Revised 22759
Code. The department's affidavit for admission of a child or 22760
youth to such institution shall be filed with the probate court 22761
of the county from which the child was committed to the 22762
department. Such court may request the probate court of the 22763
county in which the child is held to conduct the hearing on the 22764
application, in which case the court making such request shall 22765
bear the expenses of the proceeding. If the department files 22766
such an affidavit, the child or youth may be kept in such 22767
institution until a final decision on the affidavit is made by 22768
the appropriate court. 22769

Sec. 5139.12. Any person who is required, pursuant to 22770
division (A) of section 2151.421 of the Revised Code, to report 22771
the person's knowledge of or reasonable cause to suspect abuse 22772
or neglect or threat of abuse or neglect of a child under 22773
eighteen years of age or a ~~mentally retarded, developmentally-~~ 22774
~~disabled, or physically impaired child~~person with a 22775
developmental disability or physical impairment under twenty-one 22776

years of age, or any person who is permitted, pursuant to 22777
division (B) of that section, to report, or cause such a report 22778
to be made and who makes or causes the report to be made, shall 22779
direct that report to the state highway patrol if the child is a 22780
delinquent child in the custody of an institution. If the state 22781
highway patrol determines after receipt of the report that there 22782
is probable cause that abuse or neglect or threat of abuse or 22783
neglect of the delinquent child occurred, the highway patrol 22784
shall report its findings to the department of youth services, 22785
to the court that ordered the disposition of the delinquent 22786
child for the act that would have been an offense if committed 22787
by an adult and for which the delinquent child is in the custody 22788
of the department, to the public children services agency in the 22789
county in which the child resides or in which the abuse or 22790
neglect or threat of abuse or neglect occurred, and to the 22791
chairperson and vice-chairperson of the correctional institution 22792
inspection committee established by section 103.71 of the 22793
Revised Code. 22794

Sec. 5139.27. The department of youth services shall adopt 22795
rules prescribing the minimum standards of construction for a 22796
school, forestry camp, or other facility established under 22797
section 2151.65 of the Revised Code for which financial 22798
assistance may be granted to assist in defraying the cost of the 22799
construction of the school, forestry camp, or other facility. If 22800
an application for that financial assistance is filed with the 22801
department under section 2151.651 of the Revised Code, and the 22802
department finds that the application is in proper form and the 22803
specifications for the construction of the school, forestry 22804
camp, or other facility meet the minimum standards set forth in 22805
the rules adopted by the department, the department may, from 22806
moneys available to it for granting financial assistance for the 22807

construction of schools, forestry camps, or other facilities 22808
established under section 2151.65 of the Revised Code, grant 22809
financial assistance to the county making the application, 22810
subject to the approval of the controlling board, in an amount 22811
not to exceed one-half of the county's share of the cost of 22812
construction of the school, forestry camp, or other facility but 22813
not to exceed six thousand five hundred dollars for each bed 22814
unit provided for in the school, forestry camp, or other 22815
facility. As used in this section, "construction" means the 22816
building and the initial equipping of new structures and, to the 22817
extent provided for in rules adopted by the department, the 22818
acquisition, remodeling, and initial equipping of existing 22819
structures, excluding architect's fees and the cost of land 22820
acquisition. 22821

A county that receives financial assistance under this 22822
section shall not be obligated to repay the assistance to the 22823
state unless the school, forestry camp, or other facility for 22824
which the assistance is granted is used within the ten-year 22825
period immediately following its establishment for other than 22826
the purpose of rehabilitating children between the ages of 22827
twelve to eighteen years, other than psychotic ~~or mentally~~ 22828
~~retarded children or children with intellectual disabilities,~~ 22829
who are designated delinquent children, as defined in section 22830
2152.02 of the Revised Code, or unruly, as defined in section 22831
2151.022 of the Revised Code, by order of a juvenile court. If 22832
the department of youth services finds that the school, forestry 22833
camp, or other facility is used for other than that purpose 22834
within that ten-year period, the county shall be obligated to 22835
repay the assistance to the state and, through its board of 22836
county commissioners, may enter into an agreement with the 22837
director of budget and management for the discharge of that 22838

obligation over a period not to exceed ten years in duration. 22839
Whenever a county is obligated to repay that assistance to the 22840
state and its board of county commissioners fails to enter into 22841
or fails to comply with an agreement for the discharge of that 22842
obligation, the tax commissioner, pursuant to section 5747.54 of 22843
the Revised Code, shall withhold from distribution to the county 22844
from the local government fund an amount sufficient to discharge 22845
the county from that obligation to the state. 22846

Sec. 5139.39. The department of youth services, in the 22847
manner provided in this chapter and Chapter 2151. of the Revised 22848
Code, may transfer to a foster care facility certified by the 22849
department of job and family services under section 5103.03 of 22850
the Revised Code, any child committed to it and, in the event of 22851
a transfer of that nature, unless otherwise mutually agreed, the 22852
department of youth services shall bear the cost of care and 22853
services provided for the child in the foster care facility. A 22854
juvenile court may transfer to any foster facility certified by 22855
the department of job and family services any child between 22856
twelve and eighteen years of age, other than a psychotic ~~or~~ 22857
mentally retarded child or a child with an intellectual 22858
disability, who has been designated a delinquent child and 22859
placed on probation by order of the juvenile court as a result 22860
of having violated any law of this state or the United States or 22861
any ordinance of a political subdivision of this state. 22862

Sec. 5139.54. (A) Notwithstanding any other provision for 22863
determining when a child shall be released or discharged from 22864
the legal custody of the department of youth services, including 22865
jurisdictional provisions in section 2152.22 of the Revised 22866
Code, the release authority, for medical reasons, may release a 22867
child upon supervised release or discharge the child from the 22868
custody of the department when any of the following applies: 22869

- (1) The child is terminally ill or otherwise in imminent danger of death. 22870
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- (2) The child is incapacitated due to injury, disease, illness, or other medical condition and is no longer a threat to public safety. 22872
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- (3) The child 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 intellectual disability subject to institutionalization by court order, as defined in section 5123.01 of the Revised Code. 22875
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- (B) When considering whether to release or discharge a child under this section for medical reasons, the release authority may request additional medical information about the child or may ask the department to conduct additional medical examinations. 22880
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- (C) The release authority shall determine the appropriate level of supervised release for a child released under this section. The terms and conditions of the release may require periodic medical reevaluations as appropriate. Upon granting a release or discharge under this section, the release authority shall give notice of the release and its terms and conditions or of the discharge to the court that committed the child to the custody of the department. 22885
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- (D) The release authority shall submit annually to the director of youth services a report that includes all of the following information for the previous calendar year: 22893
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- (1) The number of children the release authority considered for medical release or discharge; 22896
22897
- (2) The nature of the injury, disease, illness, or other 22898

medical condition of each child considered for medical release 22899
or discharge; 22900

(3) The decision made by the release authority for each 22901
child, including the reasons for denying medical release or 22902
discharge or for granting it; 22903

(4) The number of children on medical release who were 22904
returned to a secure facility or whose supervised release was 22905
revoked. 22906

Sec. 5164.25. The departments of developmental 22907
disabilities and medicaid may approve, reduce, deny, or 22908
terminate a medicaid service included in the ~~individualized-~~ 22909
individual service plan developed for a medicaid recipient with 22910
~~mental retardation or other a~~ developmental disability who is 22911
eligible for medicaid case management services. If either 22912
department approves, reduces, denies, or terminates a service, 22913
that department shall timely notify the medicaid recipient that 22914
the recipient may appeal pursuant to section 5160.31 of the 22915
Revised Code. 22916

Sec. 5164.342. (A) As used in this section: 22917

"Applicant" means a person who is under final 22918
consideration for employment with a waiver agency in a full- 22919
time, part-time, or temporary position that involves providing 22920
home and community-based services. 22921

"Community-based long-term care provider" means a provider 22922
as defined in section 173.39 of the Revised Code. 22923

"Community-based long-term care subcontractor" means a 22924
subcontractor as defined in section 173.38 of the Revised Code. 22925

"Criminal records check" has the same meaning as in 22926

section 109.572 of the Revised Code. 22927

"Disqualifying offense" means any of the offenses listed 22928
or described in divisions (A) (3) (a) to (e) of section 109.572 of 22929
the Revised Code. 22930

"Employee" means a person employed by a waiver agency in a 22931
full-time, part-time, or temporary position that involves 22932
providing home and community-based services. 22933

"Waiver agency" means a person or government entity that 22934
provides home and community-based services under a home and 22935
community-based services medicaid waiver component administered 22936
by the department of medicaid, other than such a person or 22937
government entity that is certified under the medicare program. 22938
"Waiver agency" does not mean an independent provider as defined 22939
in section 5164.341 of the Revised Code. 22940

(B) This section does not apply to any individual who is 22941
subject to a database review or criminal records check under 22942
section 3701.881 of the Revised Code. If a waiver agency also is 22943
a community-based long-term care provider or community-based 22944
long-term care subcontractor, the waiver agency may provide for 22945
applicants and employees to undergo database reviews and 22946
criminal records checks in accordance with section 173.38 of the 22947
Revised Code rather than this section. 22948

(C) No waiver agency shall employ an applicant or continue 22949
to employ an employee in a position that involves providing home 22950
and community-based services if any of the following apply: 22951

(1) A review of the databases listed in division (E) of 22952
this section reveals any of the following: 22953

(a) That the applicant or employee is included in one or 22954
more of the databases listed in divisions (E) (1) to (5) of this 22955

section; 22956

(b) That there is in the state nurse aide registry 22957
established under section 3721.32 of the Revised Code a 22958
statement detailing findings by the director of health that the 22959
applicant or employee neglected or abused a long-term care 22960
facility or residential care facility resident or 22961
misappropriated property of such a resident; 22962

(c) That the applicant or employee is included in one or 22963
more of the databases, if any, specified in rules authorized by 22964
this section and the rules prohibit the waiver agency from 22965
employing an applicant or continuing to employ an employee 22966
included in such a database in a position that involves 22967
providing home and community-based services. 22968

(2) After the applicant or employee is given the 22969
information and notification required by divisions (F) (2) (a) and 22970
(b) of this section, the applicant or employee fails to do 22971
either of the following: 22972

(a) Access, complete, or forward to the superintendent of 22973
the bureau of criminal identification and investigation the form 22974
prescribed to division (C) (1) of section 109.572 of the Revised 22975
Code or the standard impression sheet prescribed pursuant to 22976
division (C) (2) of that section; 22977

(b) Instruct the superintendent to submit the completed 22978
report of the criminal records check required by this section 22979
directly to the chief administrator of the waiver agency. 22980

(3) Except as provided in rules authorized by this 22981
section, the applicant or employee is found by a criminal 22982
records check required by this section to have been convicted of 22983
or have pleaded guilty to a disqualifying offense, regardless of 22984

the date of the conviction or date of entry of the guilty plea. 22985

(D) At the time of each applicant's initial application 22986
for employment in a position that involves providing home and 22987
community-based services, the chief administrator of a waiver 22988
agency shall inform the applicant of both of the following: 22989

(1) That a review of the databases listed in division (E) 22990
of this section will be conducted to determine whether the 22991
waiver agency is prohibited by division (C)(1) of this section 22992
from employing the applicant in the position; 22993

(2) That, unless the database review reveals that the 22994
applicant may not be employed in the position, a criminal 22995
records check of the applicant will be conducted and the 22996
applicant is required to provide a set of the applicant's 22997
fingerprint impressions as part of the criminal records check. 22998

(E) As a condition of employing any applicant in a 22999
position that involves providing home and community-based 23000
services, the chief administrator of a waiver agency shall 23001
conduct a database review of the applicant in accordance with 23002
rules authorized by this section. If rules authorized by this 23003
section so require, the chief administrator of a waiver agency 23004
shall conduct a database review of an employee in accordance 23005
with the rules as a condition of continuing to employ the 23006
employee in a position that involves providing home and 23007
community-based services. A database review shall determine 23008
whether the applicant or employee is included in any of the 23009
following: 23010

(1) The excluded parties list system that is maintained by 23011
the United States general services administration pursuant to 23012
subpart 9.4 of the federal acquisition regulation and available 23013

at the federal web site known as the system for award management;	23014 23015
(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;	23016 23017 23018 23019 23020
(3) The registry of MR/DD <u>developmental disabilities</u> employees established under section 5123.52 of the Revised Code;	23021 23022
(4) The internet-based sex offender and child-victim offender database established under division (A) (11) of section 2950.13 of the Revised Code;	23023 23024 23025
(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;	23026 23027
(6) The state nurse aide registry established under section 3721.32 of the Revised Code;	23028 23029
(7) Any other database, if any, specified in rules authorized by this section.	23030 23031
(F) (1) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules authorized by this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home	23032 23033 23034 23035 23036 23037 23038 23039 23040 23041 23042

and community-based services. However, a criminal records check 23043
is not required for an applicant or employee if the waiver 23044
agency is prohibited by division (C) (1) of this section from 23045
employing the applicant or continuing to employ the employee in 23046
a position that involves providing home and community-based 23047
services. If an applicant or employee for whom a criminal 23048
records check request is required by this section does not 23049
present proof of having been a resident of this state for the 23050
five-year period immediately prior to the date the criminal 23051
records check is requested or provide evidence that within that 23052
five-year period the superintendent has requested information 23053
about the applicant or employee from the federal bureau of 23054
investigation in a criminal records check, the chief 23055
administrator shall require the applicant or employee to request 23056
that the superintendent obtain information from the federal 23057
bureau of investigation as part of the criminal records check. 23058
Even if an applicant or employee for whom a criminal records 23059
check request is required by this section presents proof of 23060
having been a resident of this state for the five-year period, 23061
the chief administrator may require the applicant or employee to 23062
request that the superintendent include information from the 23063
federal bureau of investigation in the criminal records check. 23064

(2) The chief administrator shall provide the following to 23065
each applicant and employee for whom a criminal records check is 23066
required by this section: 23067

(a) Information about accessing, completing, and 23068
forwarding to the superintendent of the bureau of criminal 23069
identification and investigation the form prescribed pursuant to 23070
division (C) (1) of section 109.572 of the Revised Code and the 23071
standard impression sheet prescribed pursuant to division (C) (2) 23072
of that section; 23073

(b) Written notification that the applicant or employee is 23074
to instruct the superintendent to submit the completed report of 23075
the criminal records check directly to the chief administrator. 23076

(3) A waiver agency shall pay to the bureau of criminal 23077
identification and investigation the fee prescribed pursuant to 23078
division (C) (3) of section 109.572 of the Revised Code for any 23079
criminal records check required by this section. However, a 23080
waiver agency may require an applicant to pay to the bureau the 23081
fee for a criminal records check of the applicant. If the waiver 23082
agency pays the fee for an applicant, it may charge the 23083
applicant a fee not exceeding the amount the waiver agency pays 23084
to the bureau under this section if the waiver agency notifies 23085
the applicant at the time of initial application for employment 23086
of the amount of the fee and that, unless the fee is paid, the 23087
applicant will not be considered for employment. 23088

(G) (1) A waiver agency may employ conditionally an 23089
applicant for whom a criminal records check is required by this 23090
section prior to obtaining the results of the criminal records 23091
check if both of the following apply: 23092

(a) The waiver agency is not prohibited by division (C) (1) 23093
of this section from employing the applicant in a position that 23094
involves providing home and community-based services. 23095

(b) The chief administrator of the waiver agency requires 23096
the applicant to request a criminal records check regarding the 23097
applicant in accordance with division (F) (1) of this section not 23098
later than five business days after the applicant begins 23099
conditional employment. 23100

(2) A waiver agency that employs an applicant 23101
conditionally under division (G) (1) of this section shall 23102

terminate the applicant's employment if the results of the 23103
criminal records check, other than the results of any request 23104
for information from the federal bureau of investigation, are 23105
not obtained within the period ending sixty days after the date 23106
the request for the criminal records check is made. Regardless 23107
of when the results of the criminal records check are obtained, 23108
if the results indicate that the applicant has been convicted of 23109
or has pleaded guilty to a disqualifying offense, the waiver 23110
agency shall terminate the applicant's employment unless 23111
circumstances specified in rules authorized by this section 23112
exist that permit the waiver agency to employ the applicant and 23113
the waiver agency chooses to employ the applicant. 23114

(H) The report of any criminal records check conducted 23115
pursuant to a request made under this section is not a public 23116
record for the purposes of section 149.43 of the Revised Code 23117
and shall not be made available to any person other than the 23118
following: 23119

(1) The applicant or employee who is the subject of the 23120
criminal records check or the representative of the applicant or 23121
employee; 23122

(2) The chief administrator of the waiver agency that 23123
requires the applicant or employee to request the criminal 23124
records check or the administrator's representative; 23125

(3) The medicaid director and the staff of the department 23126
who are involved in the administration of the medicaid program; 23127

(4) The director of aging or the director's designee if 23128
the waiver agency also is a community-based long-term care 23129
provider or community-based long-term care subcontractor; 23130

(5) An individual receiving or deciding whether to receive 23131

home and community-based services from the subject of the	23132
criminal records check;	23133
(6) A court, hearing officer, or other necessary	23134
individual involved in a case dealing with any of the following:	23135
(a) A denial of employment of the applicant or employee;	23136
(b) Employment or unemployment benefits of the applicant	23137
or employee;	23138
(c) A civil or criminal action regarding the medicaid	23139
program.	23140
(I) The medicaid director shall adopt rules under section	23141
5164.02 of the Revised Code to implement this section.	23142
(1) The rules may do the following:	23143
(a) Require employees to undergo database reviews and	23144
criminal records checks under this section;	23145
(b) If the rules require employees to undergo database	23146
reviews and criminal records checks under this section, exempt	23147
one or more classes of employees from the requirements;	23148
(c) For the purpose of division (E) (7) of this section,	23149
specify other databases that are to be checked as part of a	23150
database review conducted under this section.	23151
(2) The rules shall specify all of the following:	23152
(a) The procedures for conducting a database review under	23153
this section;	23154
(b) If the rules require employees to undergo database	23155
reviews and criminal records checks under this section, the	23156
times at which the database reviews and criminal records checks	23157
are to be conducted;	23158

(c) If the rules specify other databases to be checked as 23159
part of a database review, the circumstances under which a 23160
waiver agency is prohibited from employing an applicant or 23161
continuing to employ an employee who is found by the database 23162
review to be included in one or more of those databases; 23163

(d) The circumstances under which a waiver agency may 23164
employ an applicant or employee who is found by a criminal 23165
records check required by this section to have been convicted of 23166
or have pleaded guilty to a disqualifying offense. 23167

(J) The amendments made by H.B. 487 of the 129th general 23168
assembly to this section do not preclude the department of 23169
medicaid from taking action against a person for failure to 23170
comply with former division (H) of this section as that division 23171
existed on the day preceding January 1, 2013. 23172

Sec. 5164.881. The medicaid director, in consultation with 23173
the director of developmental disabilities, may develop and 23174
implement within the medicaid program a system under which 23175
eligible individuals with chronic conditions, as defined in the 23176
"Social Security Act," section 1945 (h) (1), 42 U.S.C. 1396w-4(h) 23177
(1), who also have ~~mental retardation or other~~ developmental 23178
disabilities may receive health home services, as defined in the 23179
"Social Security Act," section 1945 (h) (4), 42 U.S.C. 1396w-4(h) 23180
(4). Any such system shall focus on the needs of individuals and 23181
have as its goal improving services and outcomes under the 23182
medicaid program by improving integration of long-term care 23183
services and supportive services with primary and acute health 23184
care services. 23185

In developing any system under this section, the directors 23186
shall consult with representatives of county boards of 23187
developmental disabilities, the Ohio provider resource 23188

association, and the arc of Ohio. The directors may consult with 23189
any other individuals or entities that have an interest in the 23190
well being of individuals with developmental disabilities. 23191

Sec. 5165.01. As used in this chapter: 23192

(A) "Affiliated operator" means an operator affiliated 23193
with either of the following: 23194

(1) The exiting operator for whom the affiliated operator 23195
is to assume liability for the entire amount of the exiting 23196
operator's debt under the medicaid program or the portion of the 23197
debt that represents the franchise permit fee the exiting 23198
operator owes; 23199

(2) The entering operator involved in the change of 23200
operator with the exiting operator specified in division (A)(1) 23201
of this section. 23202

(B) "Allowable costs" are a nursing facility's costs that 23203
the department of medicaid determines are reasonable. Fines paid 23204
under sections 5165.60 to 5165.89 and section 5165.99 of the 23205
Revised Code are not allowable costs. 23206

(C) "Ancillary and support costs" means all reasonable 23207
costs incurred by a nursing facility other than direct care 23208
costs, tax costs, or capital costs. "Ancillary and support 23209
costs" includes, but is not limited to, costs of activities, 23210
social services, pharmacy consultants, habilitation supervisors, 23211
qualified ~~mental retardation~~ intellectual disability 23212
professionals, program directors, medical and habilitation 23213
records, program supplies, incontinence supplies, food, 23214
enterals, dietary supplies and personnel, laundry, housekeeping, 23215
security, administration, medical equipment, utilities, 23216
liability insurance, bookkeeping, purchasing department, human 23217

resources, communications, travel, dues, license fees, 23218
subscriptions, home office costs not otherwise allocated, legal 23219
services, accounting services, minor equipment, maintenance and 23220
repairs, help-wanted advertising, informational advertising, 23221
start-up costs, organizational expenses, other interest, 23222
property insurance, employee training and staff development, 23223
employee benefits, payroll taxes, and workers' compensation 23224
premiums or costs for self-insurance claims and related costs as 23225
specified in rules adopted under section 5165.02 of the Revised 23226
Code, for personnel listed in this division. "Ancillary and 23227
support costs" also means the cost of equipment, including 23228
vehicles, acquired by operating lease executed before December 23229
1, 1992, if the costs are reported as administrative and general 23230
costs on the nursing facility's cost report for the cost 23231
reporting period ending December 31, 1992. 23232

(D) (1) "Capital costs" means the actual expense incurred 23233
by a nursing facility for all of the following: 23234

(a) Depreciation and interest on any capital assets that 23235
cost five hundred dollars or more per item, including the 23236
following: 23237

(i) Buildings; 23238

(ii) Building improvements; 23239

(iii) Except as provided in division (C) of this section, 23240
equipment; 23241

(iv) Transportation equipment. 23242

(b) Amortization and interest on land improvements and 23243
leasehold improvements; 23244

(c) Amortization of financing costs; 23245

(d) Lease and rent of land, buildings, and equipment.	23246
(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.	23247 23248 23249
(E) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	23250 23251 23252
(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.	23253 23254 23255 23256
(G) "Change of operator" means an entering operator becoming the operator of a nursing facility in the place of the exiting operator.	23257 23258 23259
(1) Actions that constitute a change of operator include the following:	23260 23261
(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;	23262 23263 23264
(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;	23265 23266 23267 23268 23269
(c) A lease of the nursing facility to the entering operator or the exiting operator's termination of the exiting operator's lease;	23270 23271 23272
(d) If the exiting operator is a partnership, dissolution	23273

of the partnership;	23274
(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:	23275 23276 23277
(i) The change in composition does not cause the partnership's dissolution under state law.	23278 23279
(ii) The partners agree that the change in composition does not constitute a change in operator.	23280 23281
(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.	23282 23283 23284 23285 23286
(2) The following, alone, do not constitute a change of operator:	23287 23288
(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;	23289 23290 23291
(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility if an entering operator does not become the operator in place of an exiting operator;	23292 23293 23294 23295
(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.	23296 23297 23298 23299
(H) "Cost center" means the following:	23300

(1) Ancillary and support costs;	23301
(2) Capital costs;	23302
(3) Direct care costs;	23303
(4) Tax costs.	23304
(I) "Custom wheelchair" means a wheelchair to which both	23305
of the following apply:	23306
(1) It has been measured, fitted, or adapted in	23307
consideration of either of the following:	23308
(a) The body size or disability of the individual who is	23309
to use the wheelchair;	23310
(b) The individual's period of need for, or intended use	23311
of, the wheelchair.	23312
(2) It has customized features, modifications, or	23313
components, such as adaptive seating and positioning systems,	23314
that the supplier who assembled the wheelchair, or the	23315
manufacturer from which the wheelchair was ordered, added or	23316
made in accordance with the instructions of the physician of the	23317
individual who is to use the wheelchair.	23318
(J) (1) "Date of licensure" means the following:	23319
(a) In the case of a nursing facility that was required by	23320
law to be licensed as a nursing home under Chapter 3721. of the	23321
Revised Code when it originally began to be operated as a	23322
nursing home, the date the nursing facility was originally so	23323
licensed;	23324
(b) In the case of a nursing facility that was not	23325
required by law to be licensed as a nursing home when it	23326
originally began to be operated as a nursing home, the date it	23327

first began to be operated as a nursing home, regardless of the 23328
date the nursing facility was first licensed as a nursing home. 23329

(2) If, after a nursing facility's original date of 23330
licensure, more nursing home beds are added to the nursing 23331
facility, the nursing facility has a different date of licensure 23332
for the additional beds. This does not apply, however, to 23333
additional beds when both of the following apply: 23334

(a) The additional beds are located in a part of the 23335
nursing facility that was constructed at the same time as the 23336
continuing beds already located in that part of the nursing 23337
facility; 23338

(b) The part of the nursing facility in which the 23339
additional beds are located was constructed as part of the 23340
nursing facility at a time when the nursing facility was not 23341
required by law to be licensed as a nursing home. 23342

(3) The definition of "date of licensure" in this section 23343
applies in determinations of nursing facilities' medicaid 23344
payment rates but does not apply in determinations of nursing 23345
facilities' franchise permit fees. 23346

(K) "Desk-reviewed" means that a nursing facility's costs 23347
as reported on a cost report submitted under section 5165.10 of 23348
the Revised Code have been subjected to a desk review under 23349
section 5165.108 of the Revised Code and preliminarily 23350
determined to be allowable costs. 23351

(L) "Direct care costs" means all of the following costs 23352
incurred by a nursing facility: 23353

(1) Costs for registered nurses, licensed practical 23354
nurses, and nurse aides employed by the nursing facility; 23355

(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (L) (8) of this section, other persons holding degrees qualifying them to provide therapy;	23356 23357 23358 23359
(3) Costs of purchased nursing services;	23360
(4) Costs of quality assurance;	23361
(5) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5165.02 of the Revised Code, for personnel listed in divisions (L) (1), (2), (4), and (8) of this section;	23362 23363 23364 23365 23366 23367
(6) Costs of consulting and management fees related to direct care;	23368 23369
(7) Allocated direct care home office costs;	23370
(8) Costs of habilitation staff (other than habilitation supervisors), medical supplies, emergency oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, and universal precautions supplies;	23371 23372 23373 23374 23375 23376 23377
(9) Until January 1, 2014, costs of oxygen, wheelchairs, and resident transportation;	23378 23379
(10) Beginning January 1, 2014, costs of both of the following:	23380 23381
(a) Emergency oxygen;	23382

(b) Wheelchairs other than the following:	23383
(i) Custom wheelchairs;	23384
(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.	23385 23386 23387
(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.	23388 23389 23390
(M) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.	23391 23392
(N) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.	23393 23394 23395
(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.	23396 23397 23398
(P) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility.	23399 23400 23401
(Q) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid residents other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.	23402 23403 23404 23405 23406
(R) "Entering operator" means the person or government entity that will become the operator of a nursing facility when a change of operator occurs or following an involuntary termination.	23407 23408 23409 23410

- (S) "Exiting operator" means any of the following: 23411
- (1) An operator that will cease to be the operator of a 23412
nursing facility on the effective date of a change of operator; 23413
- (2) An operator that will cease to be the operator of a 23414
nursing facility on the effective date of a facility closure; 23415
- (3) An operator of a nursing facility that is undergoing 23416
or has undergone a voluntary withdrawal of participation; 23417
- (4) An operator of a nursing facility that is undergoing 23418
or has undergone an involuntary termination. 23419
- (T) (1) Subject to divisions (T) (2) and (3) of this 23420
section, "facility closure" means either of the following: 23421
- (a) Discontinuance of the use of the building, or part of 23422
the building, that houses the facility as a nursing facility 23423
that results in the relocation of all of the nursing facility's 23424
residents; 23425
- (b) Conversion of the building, or part of the building, 23426
that houses a nursing facility to a different use with any 23427
necessary license or other approval needed for that use being 23428
obtained and one or more of the nursing facility's residents 23429
remaining in the building, or part of the building, to receive 23430
services under the new use. 23431
- (2) A facility closure occurs regardless of any of the 23432
following: 23433
- (a) The operator completely or partially replacing the 23434
nursing facility by constructing a new nursing facility or 23435
transferring the nursing facility's license to another nursing 23436
facility; 23437

(b) The nursing facility's residents relocating to another	23438
of the operator's nursing facilities;	23439
(c) Any action the department of health takes regarding	23440
the nursing facility's medicaid certification that may result in	23441
the transfer of part of the nursing facility's survey findings	23442
to another of the operator's nursing facilities;	23443
(d) Any action the department of health takes regarding	23444
the nursing facility's license under Chapter 3721. of the	23445
Revised Code.	23446
(3) A facility closure does not occur if all of the	23447
nursing facility's residents are relocated due to an emergency	23448
evacuation and one or more of the residents return to a	23449
medicaid-certified bed in the nursing facility not later than	23450
thirty days after the evacuation occurs.	23451
(U) "Fiscal year" means the fiscal year of this state, as	23452
specified in section 9.34 of the Revised Code.	23453
(V) "Franchise permit fee" means the fee imposed by	23454
sections 5168.40 to 5168.56 of the Revised Code.	23455
(W) "Inpatient days" means both of the following:	23456
(1) All days during which a resident, regardless of	23457
payment source, occupies a bed in a nursing facility that is	23458
included in the nursing facility's medicaid-certified capacity;	23459
(2) Fifty per cent of the days for which payment is made	23460
under section 5165.34 of the Revised Code.	23461
(X) "Involuntary termination" means the department of	23462
medicaid's termination of the operator's provider agreement for	23463
the nursing facility when the termination is not taken at the	23464
operator's request.	23465

(Y) "Low resource utilization resident" means a medicaid 23466
recipient residing in a nursing facility who, for purposes of 23467
calculating the nursing facility's medicaid payment rate for 23468
direct care costs, is placed in either of the two lowest 23469
resource utilization groups, excluding any resource utilization 23470
group that is a default group used for residents with incomplete 23471
assessment data. 23472

(Z) "Maintenance and repair expenses" means a nursing 23473
facility's expenditures that are necessary and proper to 23474
maintain an asset in a normally efficient working condition and 23475
that do not extend the useful life of the asset two years or 23476
more. "Maintenance and repair expenses" includes but is not 23477
limited to the costs of ordinary repairs such as painting and 23478
wallpapering. 23479

(AA) "Medicaid-certified capacity" means the number of a 23480
nursing facility's beds that are certified for participation in 23481
medicaid as nursing facility beds. 23482

(BB) "Medicaid days" means both of the following: 23483

(1) All days during which a resident who is a medicaid 23484
recipient eligible for nursing facility services occupies a bed 23485
in a nursing facility that is included in the nursing facility's 23486
medicaid-certified capacity; 23487

(2) Fifty per cent of the days for which payment is made 23488
under section 5165.34 of the Revised Code. 23489

(CC) (1) "New nursing facility" means a nursing facility 23490
for which the provider obtains an initial provider agreement 23491
following medicaid certification of the nursing facility by the 23492
director of health, including such a nursing facility that 23493
replaces one or more nursing facilities for which a provider 23494

previously held a provider agreement. 23495

(2) "New nursing facility" does not mean a nursing 23496
facility for which the entering operator seeks a provider 23497
agreement pursuant to section 5165.511 or 5165.512 or (pursuant 23498
to section 5165.515) section 5165.07 of the Revised Code. 23499

(DD) "Nursing facility" has the same meaning as in the 23500
"Social Security Act," section 1919(a), 42 U.S.C. 1396r(a). 23501

(EE) "Nursing facility services" has the same meaning as 23502
in the "Social Security Act," section 1905(f), 42 U.S.C. 23503
1396d(f). 23504

(FF) "Nursing home" has the same meaning as in section 23505
3721.01 of the Revised Code. 23506

(GG) "Operator" means the person or government entity 23507
responsible for the daily operating and management decisions for 23508
a nursing facility. 23509

(HH) (1) "Owner" means any person or government entity that 23510
has at least five per cent ownership or interest, either 23511
directly, indirectly, or in any combination, in any of the 23512
following regarding a nursing facility: 23513

(a) The land on which the nursing facility is located; 23514

(b) The structure in which the nursing facility is 23515
located; 23516

(c) Any mortgage, contract for deed, or other obligation 23517
secured in whole or in part by the land or structure on or in 23518
which the nursing facility is located; 23519

(d) Any lease or sublease of the land or structure on or 23520
in which the nursing facility is located. 23521

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility and purchased at public issue or a regulated lender that has made a loan related to the nursing facility unless the holder or lender operates the nursing facility directly or through a subsidiary.

(II) "Per diem" means a nursing facility's actual, allowable costs in a given cost center in a cost reporting period, divided by the nursing facility's inpatient days for that cost reporting period.

(JJ) "Provider" means an operator with a provider agreement.

(KK) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of a nursing facility for the provision of nursing facility services under the medicaid program.

(LL) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the nursing facility.

(MM) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(NN) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is

associated or affiliated with, has control of, or is controlled by, the provider. 23551
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(1) An individual who is a relative of an owner is a related party. 23553
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(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property. 23555
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(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization. 23564
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(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met: 23567
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(a) The supplier is a separate bona fide organization. 23570

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes. 23571
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(c) The types of goods or services are commonly obtained by other nursing facilities from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by nursing facilities. 23576
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(d) The charge to the provider is in line with the charge	23580
for the goods or services in the open market and no more than	23581
the charge made under comparable circumstances to others by the	23582
supplier.	23583
(OO) "Relative of owner" means an individual who is	23584
related to an owner of a nursing facility by one of the	23585
following relationships:	23586
(1) Spouse;	23587
(2) Natural parent, child, or sibling;	23588
(3) Adopted parent, child, or sibling;	23589
(4) Stepparent, stepchild, stepbrother, or stepsister;	23590
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-	23591
law, brother-in-law, or sister-in-law;	23592
(6) Grandparent or grandchild;	23593
(7) Foster caregiver, foster child, foster brother, or	23594
foster sister.	23595
(PP) "Residents' rights advocate" has the same meaning as	23596
in section 3721.10 of the Revised Code.	23597
(QQ) "Skilled nursing facility" has the same meaning as in	23598
the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-	23599
3(a).	23600
(RR) "Sponsor" has the same meaning as in section 3721.10	23601
of the Revised Code.	23602
(SS) "Tax costs" means the costs of taxes imposed under	23603
Chapter 5751. of the Revised Code, real estate taxes, personal	23604
property taxes, and corporate franchise taxes.	23605

(TT) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq. 23606
23607

(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq. 23608
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(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. 23610
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Sec. 5166.20. (A) The department of medicaid may create the following: 23614
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(1) One or more medicaid waiver components under which home and community-based services are provided to individuals with ~~mental retardation or other developmental disability~~ disabilities as an alternative to placement in ICFs/IID; 23616
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(2) One or more medicaid waiver components under which home and community-based services are provided in the form of any of the following: 23620
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(a) Early intervention and supportive services for children under three years of age who have developmental delays or disabilities the department determines are significant; 23623
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(b) Therapeutic services for children who have autism; 23626

(c) Specialized habilitative services for individuals who are eighteen years of age or older and have autism. 23627
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(B) No medicaid waiver component created pursuant to division (A) (2) (b) or (c) of this section shall provide services that are available under another medicaid waiver component. No medicaid waiver component created pursuant to division (A) (2) (b) of this section shall provide services to an individual that the 23629
23630
23631
23632
23633

individual is eligible to receive through an individualized 23634
education program as defined in section 3323.01 of the Revised 23635
Code. 23636

(C) The director of developmental disabilities and 23637
director of health may request that the department of medicaid 23638
create one or more medicaid waiver components under this 23639
section. 23640

(D) Before creating a medicaid waiver component under this 23641
section, the department of medicaid shall seek, accept, and 23642
consider public comments. 23643

Sec. 5166.21. The department of medicaid shall enter into 23644
a contract with the department of developmental disabilities 23645
under section 5162.35 of the Revised Code with regard to one or 23646
more of the medicaid waiver components created by the department 23647
of medicaid under section 5166.20 of the Revised Code. The 23648
contract shall include the medicaid waiver component known as 23649
the transitions developmental disabilities waiver. The contract 23650
shall provide for the department of developmental disabilities 23651
to administer the components in accordance with the terms of the 23652
federal medicaid waivers authorizing the components. The 23653
contract shall include a schedule for the department of 23654
developmental disabilities to begin administering the 23655
transitions developmental disabilities waiver. 23656

If the department of developmental disabilities or the 23657
department of medicaid denies an individual's application for 23658
home and community-based services provided under any of these 23659
medicaid components, the department that denied the services 23660
shall give timely notice to the individual that the individual 23661
may appeal pursuant to section 5160.31 of the Revised Code. 23662

The departments of developmental disabilities and medicaid 23663
may approve, reduce, deny, or terminate a medicaid service 23664
included in the ~~individualized~~individual service plan developed 23665
for a medicaid recipient eligible for home and community-based 23666
services provided under any of these medicaid components. The 23667
departments shall consider the recommendations a county board of 23668
developmental disabilities makes under division (A) (1) (c) of 23669
section 5126.055 of the Revised Code. If either department 23670
approves, reduces, denies, or terminates a medicaid service, 23671
that department shall give timely notice to the medicaid 23672
recipient that the recipient may appeal pursuant to section 23673
5160.31 of the Revised Code. 23674

If supported living, as defined in section 5126.01 of the 23675
Revised Code, is to be provided as a medicaid service under any 23676
of these components, any person or government entity with a 23677
current, valid provider agreement and a current, valid 23678
certificate under section 5123.161 of the Revised Code may 23679
provide the medicaid service. 23680

If a medicaid service is to be provided under any of these 23681
components by a residential facility, as defined in section 23682
5123.19 of the Revised Code, any person or government entity 23683
with a current, valid provider agreement and a current, valid 23684
license under section 5123.19 of the Revised Code may provide 23685
the medicaid service. 23686

Sec. 5166.22. (A) Subject to division (B) of this section, 23687
when the department of developmental disabilities allocates 23688
enrollment numbers to a county board of developmental 23689
disabilities for home and community-based services specified in 23690
division (A) (1) of section 5166.20 of the Revised Code and 23691
provided under any of the medicaid waiver components that the 23692

department administers under section 5166.21 of the Revised Code, the department shall consider all of the following:

(1) The number of individuals with ~~mental retardation or other developmental disability~~ disabilities who are on a waiting list the county board establishes under section 5126.042 of the Revised Code for those services and are given priority on the waiting list;

(2) The implementation component required by division (A) (3) of section 5126.054 of the Revised Code of the county board's plan approved under section 5123.046 of the Revised Code;

(3) Anything else the department considers necessary to enable county boards to provide those services to individuals in accordance with the priority requirements for waiting lists established under section 5126.042 of the Revised Code for those services.

(B) Division (A) of this section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section 5166.21 of the Revised Code regarding the component.

Sec. 5168.68. There is hereby created in the state treasury the home and community-based services for ~~the mentally-retarded and developmentally disabled~~ persons with developmental disabilities fund. All installment payments and penalties paid by an ICF/IID under sections 5168.63 and 5168.65 of the Revised Code shall be deposited into the fund. As soon as possible after the end of each quarter, the medicaid director shall certify to

the director of budget and management the amount of money that 23722
is in the fund as of the last day of that quarter. On receipt of 23723
a certification, the director of budget and management shall 23724
transfer the amount so certified from the home and community- 23725
based services for ~~the mentally retarded and developmentally-~~ 23726
~~disabled~~ persons with developmental disabilities fund to the 23727
department of developmental disabilities operating and services 23728
fund created under section 5168.69 of the Revised Code. 23729

Sec. 5301.22. As used in this section, "incompetent 23730
person" means a person who is so mentally impaired, as a result 23731
of a mental or physical illness or disability, ~~or mental-~~ 23732
~~retardation~~ as a result of an intellectual disability, or as a 23733
result of chronic substance abuse, that the person is incapable 23734
of taking proper care of the person's self or property or fails 23735
to provide for the person's family or other persons for whom the 23736
person is charged by law to provide. 23737

No agreement described in section 5301.21 of the Revised 23738
Code shall be executed by a minor or incompetent person, but it 23739
may be executed and delivered for record, on such a person's 23740
behalf, by the person's guardian. When executed, acknowledged, 23741
delivered for record, and recorded, such agreement shall be as 23742
effectual against such minor or incompetent person, as if the 23743
person had been under no disability, and had performed such acts 23744
personally. An owner, not under any of such disabilities, may 23745
perform all such acts by an attorney in fact. The power of such 23746
attorney must be in writing and first recorded in the county 23747
recorder's office. 23748

Sec. 5305.17. As used in this section and sections 5305.18 23749
to 5305.22 of the Revised Code, "incompetent person" means a 23750
person who is so mentally impaired, as a result of a mental or 23751

physical illness or disability, ~~or mental retardation~~ as a result 23752
of an intellectual disability, or as a result of chronic 23753
substance abuse, that the person is incapable of taking proper 23754
care of the person's self or property or fails to provide for 23755
the person's family or other persons for whom the person is 23756
charged by law to provide. 23757

The guardian of a surviving spouse who has been adjudged 23758
to be an incompetent person may appear and answer for such 23759
incompetent person in an action under section 5305.15 of the 23760
Revised Code, subject to the approval of the court in which it 23761
is pending. Such answer has the same effect as if such spouse 23762
answered personally. The guardian shall be liable to such 23763
spouse, or the heirs, for all damage or loss sustained by the 23764
guardian's fraud or collusion, notwithstanding the approval of 23765
the court. 23766

Sec. 5307.19. As used in this section and section 5307.20 23767
of the Revised Code, "incompetent person" means a person who is 23768
so mentally impaired, ~~as a result of a mental or physical~~ 23769
illness or disability, ~~or mental retardation~~ as a result of an 23770
intellectual disability, or as a result of chronic substance 23771
abuse, that the person is incapable of taking proper care of the 23772
person's self or property or fails to provide for the person's 23773
family or other persons for whom the person is charged by law to 23774
provide. 23775

The guardian of a minor or incompetent person, on behalf 23776
of the guardian's ward, may perform any act, matter, or thing 23777
respecting the partition of an estate which such ward could do 23778
under sections 5307.01 to 5307.25 of the Revised Code, if the 23779
ward were of age and of sound mind. On behalf of such ward, the 23780
guardian may elect to take the estate, when it cannot be divided 23781

without injury, and make payments therefor on the ward's behalf. 23782

Sec. 5310.12. As used in this section, "incompetent 23783
person" means a person who is so mentally impaired, as a result 23784
of a mental or physical illness or disability, ~~or mental~~ 23785
~~retardation~~ as a result of an intellectual disability, or as a 23786
result of chronic substance abuse, that the person is incapable 23787
of taking proper care of the person's self or property or fails 23788
to provide for the person's family or other persons for whom the 23789
person is charged by law to provide. 23790

No action or proceeding for compensation from the 23791
assurance fund provided for in section 5310.05 of the Revised 23792
Code for, or by reason of, any deprivation, loss, or damage 23793
shall be made, brought or taken, except within a period of six 23794
years from the time when the right to bring such action or 23795
proceeding first accrued. If at the time when such right of 23796
action first accrues the person entitled to bring such action or 23797
take such proceedings is within the age of eighteen years, an 23798
incompetent person, imprisoned, or absent from the United States 23799
in the service of the United States or of this state, such 23800
person or anyone claiming from, by, or under the person, may 23801
bring the action at any time within two years after such 23802
disability is removed. 23803

Sec. 5321.01. As used in this chapter: 23804

(A) "Tenant" means a person entitled under a rental 23805
agreement to the use and occupancy of residential premises to 23806
the exclusion of others. 23807

(B) "Landlord" means the owner, lessor, or sublessor of 23808
residential premises, the agent of the owner, lessor, or 23809
sublessor, or any person authorized by the owner, lessor, or 23810

sublessor to manage the premises or to receive rent from a 23811
tenant under a rental agreement. 23812

(C) "Residential premises" means a dwelling unit for 23813
residential use and occupancy and the structure of which it is a 23814
part, the facilities and appurtenances in it, and the grounds, 23815
areas, and facilities for the use of tenants generally or the 23816
use of which is promised the tenant. "Residential premises" 23817
includes a dwelling unit that is owned or operated by a college 23818
or university. "Residential premises" does not include any of 23819
the following: 23820

(1) Prisons, jails, workhouses, and other places of 23821
incarceration or correction, including, but not limited to, 23822
halfway houses or residential arrangements that are used or 23823
occupied as a requirement of a community control sanction, a 23824
post-release control sanction, or parole; 23825

(2) Hospitals and similar institutions with the primary 23826
purpose of providing medical services, and homes licensed 23827
pursuant to Chapter 3721. of the Revised Code; 23828

(3) Tourist homes, hotels, motels, recreational vehicle 23829
parks, recreation camps, combined park-camps, temporary park- 23830
camps, and other similar facilities where circumstances indicate 23831
a transient occupancy; 23832

(4) Elementary and secondary boarding schools, where the 23833
cost of room and board is included as part of the cost of 23834
tuition; 23835

(5) Orphanages and similar institutions; 23836

(6) Farm residences furnished in connection with the 23837
rental of land of a minimum of two acres for production of 23838
agricultural products by one or more of the occupants; 23839

(7) Dwelling units subject to sections 3733.41 to 3733.49 of the Revised Code;	23840 23841
(8) Occupancy by an owner of a condominium unit;	23842
(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:	23843 23844 23845 23846 23847 23848 23849
(a) The occupancy is for a period of less than sixty days.	23850
(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:	23851 23852 23853 23854
(i) Services licensed, certified, registered, or approved by a governmental agency or private accrediting organization for the rehabilitation of mentally ill persons, developmentally disabled persons <u>with developmental disabilities</u> , adults or juveniles convicted of criminal offenses, or persons suffering from substance abuse;	23855 23856 23857 23858 23859 23860
(ii) Shelter for juvenile runaways, victims of domestic violence, or homeless persons.	23861 23862
(10) Emergency shelters operated by organizations exempt 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.	23863 23864 23865 23866 23867 23868

(D) "Rental agreement" means any agreement or lease, 23869
written or oral, which establishes or modifies the terms, 23870
conditions, rules, or any other provisions concerning the use 23871
and occupancy of residential premises by one of the parties. 23872

(E) "Security deposit" means any deposit of money or 23873
property to secure performance by the tenant under a rental 23874
agreement. 23875

(F) "Dwelling unit" means a structure or the part of a 23876
structure that is used as a home, residence, or sleeping place 23877
by one person who maintains a household or by two or more 23878
persons who maintain a common household. 23879

(G) "Controlled substance" has the same meaning as in 23880
section 3719.01 of the Revised Code. 23881

(H) "Student tenant" means a person who occupies a 23882
dwelling unit owned or operated by the college or university at 23883
which the person is a student, and who has a rental agreement 23884
that is contingent upon the person's status as a student. 23885

(I) "Recreational vehicle park," "recreation camp," 23886
"combined park-camp," and "temporary park-camp" have the same 23887
meanings as in section 3729.01 of the Revised Code. 23888

(J) "Community control sanction" has the same meaning as 23889
in section 2929.01 of the Revised Code. 23890

(K) "Post-release control sanction" has the same meaning 23891
as in section 2967.01 of the Revised Code. 23892

(L) "School premises" has the same meaning as in section 23893
2925.01 of the Revised Code. 23894

(M) "Sexually oriented offense" and "child-victim oriented 23895
offense" have the same meanings as in section 2950.01 of the 23896

Revised Code.	23897
(N) "Preschool or child day-care center premises" has the	23898
the same meaning as in section 2950.034 of the Revised Code.	23899
Sec. 5705.05. The purpose and intent of the general levy	23900
for current expenses is to provide one general operating fund	23901
derived from taxation from which any expenditures for current	23902
expenses of any kind may be made. The taxing authority of a	23903
political subdivision may include in such levy the amounts	23904
required for carrying into effect any of the general or special	23905
powers granted by law to such subdivision, including the	23906
acquisition or construction of permanent improvements and the	23907
payment of judgments, but excluding the payment of debt charges	23908
and, in the case of counties, the construction, reconstruction,	23909
resurfacing, or repair of roads and bridges. The power to	23910
include in the general levy for current expenses additional	23911
amounts for purposes for which a special tax is authorized shall	23912
not affect the right or obligation to levy such special tax.	23913
Without prejudice to the generality of the authority to levy a	23914
general tax for any current expense, such general levy shall	23915
include:	23916
(A) The amounts certified to be necessary for the payment	23917
of final judgments;	23918
(B) The amounts necessary for general, special, and	23919
primary elections;	23920
(C) The amounts necessary for boards and commissioners of	23921
health, and other special or district appropriating authorities	23922
deriving their revenue in whole or part from the subdivision;	23923
(D) In the case of municipal corporations, the amounts	23924
necessary for the maintenance, operation, and repair of public	23925

buildings, wharves, bridges, parks, and streets, for the 23926
prevention, control, and abatement of air pollution, and for a 23927
sanitary fund; 23928

(E) In the case of counties, the amounts necessary for the 23929
maintenance, operation, and repair of public buildings, for 23930
providing or maintaining senior citizens services or facilities, 23931
for the relief and support of the poor, for the relief of needy 23932
blind, for the support of mental health, ~~mental retardation~~, or 23933
developmental disability services, for the relief of honorably 23934
discharged soldiers, indigent soldiers, sailors, and marines, 23935
for the operation and maintenance and the acquisition, 23936
construction, or improvement of permanent improvements, 23937
including, without limitation, the acquisition and improvement 23938
of land and buildings owned or used by a county land 23939
reutilization corporation organized under Chapter 1724. of the 23940
Revised Code, for mothers' pension fund, support of soil and 23941
water conservation districts, watershed conservancy districts, 23942
and educational television, for the prevention, control, and 23943
abatement of air pollution, and for the county's share of the 23944
compensation paid judges; 23945

(F) In the case of a school district, the amounts 23946
necessary for tuition, the state teachers retirement system, and 23947
the maintenance, operation, and repair of schools; 23948

(G) In the case of a township, the amounts necessary for 23949
the relief of the poor and for the prevention, control, and 23950
abatement of air pollution. 23951

This section does not require the inclusion within the 23952
general levy of amounts for any purpose for which a special levy 23953
is authorized by section 5705.06 of the Revised Code. 23954

Sec. 5705.091. The board of county commissioners of each 23955
county shall establish a county developmental disabilities 23956
general fund. Notwithstanding section 5705.10 of the Revised 23957
Code, proceeds from levies under section 5705.222 and division 23958
(L) of section 5705.19 of the Revised Code shall be deposited to 23959
the credit of the county developmental disabilities general 23960
fund. Accounts shall be established within the county 23961
developmental disabilities general fund for each of the several 23962
particular purposes of the levies as specified in the 23963
resolutions under which the levies were approved, and proceeds 23964
from different levies that were approved for the same particular 23965
purpose shall be credited to accounts for that purpose. Other 23966
money received by the county for the purposes of Chapters 3323. 23967
and 5126. of the Revised Code and not required by state or 23968
federal law to be deposited to the credit of a different fund 23969
shall also be deposited to the credit of the county 23970
developmental disabilities general fund, in an account 23971
appropriate to the particular purpose for which the money was 23972
received. Unless otherwise provided by law, an unexpended 23973
balance at the end of a fiscal year in any account in the county 23974
developmental disabilities general fund shall be appropriated 23975
the next fiscal year to the same fund. 23976

A county board of developmental disabilities may request, 23977
by resolution, that the board of county commissioners establish 23978
a county developmental disabilities capital fund for money to be 23979
used for acquisition, construction, or improvement of capital 23980
facilities or acquisition of capital equipment used in providing 23981
services to ~~mentally retarded and developmentally disabled~~ 23982
persons with developmental disabilities. The county board of 23983
developmental disabilities shall transmit a certified copy of 23984
the resolution to the board of county commissioners. Upon 23985

receiving the resolution, the board of county commissioners 23986
shall establish a county developmental disabilities capital 23987
fund. 23988

Sec. 5705.19. This section does not apply to school 23989
districts, county school financing districts, or lake facilities 23990
authorities. 23991

The taxing authority of any subdivision at any time and in 23992
any year, by vote of two-thirds of all the members of the taxing 23993
authority, may declare by resolution and certify the resolution 23994
to the board of elections not less than ninety days before the 23995
election upon which it will be voted that the amount of taxes 23996
that may be raised within the ten-mill limitation will be 23997
insufficient to provide for the necessary requirements of the 23998
subdivision and that it is necessary to levy a tax in excess of 23999
that limitation for any of the following purposes: 24000

(A) For current expenses of the subdivision, except that 24001
the total levy for current expenses of a detention facility 24002
district or district organized under section 2151.65 of the 24003
Revised Code shall not exceed two mills and that the total levy 24004
for current expenses of a combined district organized under 24005
sections 2151.65 and 2152.41 of the Revised Code shall not 24006
exceed four mills; 24007

(B) For the payment of debt charges on certain described 24008
bonds, notes, or certificates of indebtedness of the subdivision 24009
issued subsequent to January 1, 1925; 24010

(C) For the debt charges on all bonds, notes, and 24011
certificates of indebtedness issued and authorized to be issued 24012
prior to January 1, 1925; 24013

(D) For a public library of, or supported by, the 24014

subdivision under whatever law organized or authorized to be supported;	24015 24016
(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;	24017 24018 24019
(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue;	24020 24021 24022
(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships;	24023 24024 24025
(H) For parks and recreational purposes;	24026
(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company;	24027 24028 24029 24030 24031 24032 24033 24034 24035 24036 24037 24038
(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate	24039 24040 24041 24042 24043

the same, including the payment of any employer contributions 24044
required for such personnel under section 145.48 or 742.33 of 24045
the Revised Code, or the payment of the costs incurred by 24046
townships as a result of contracts made with other political 24047
subdivisions in order to obtain police protection, or the 24048
provision of ambulance or emergency medical services operated by 24049
a police department; 24050

(K) For the maintenance and operation of a county home or 24051
detention facility; 24052

(L) For community ~~mental retardation and~~ developmental 24053
disabilities programs and services pursuant to Chapter 5126. of 24054
the Revised Code, except that the procedure for such levies 24055
shall be as provided in section 5705.222 of the Revised Code; 24056

(M) For regional planning; 24057

(N) For a county's share of the cost of maintaining and 24058
operating schools, district detention facilities, forestry 24059
camps, or other facilities, or any combination thereof, 24060
established under section 2151.65 or 2152.41 of the Revised Code 24061
or both of those sections; 24062

(O) For providing for flood defense, providing and 24063
maintaining a flood wall or pumps, and other purposes to prevent 24064
floods; 24065

(P) For maintaining and operating sewage disposal plants 24066
and facilities; 24067

(Q) For the purpose of purchasing, acquiring, 24068
constructing, enlarging, improving, equipping, repairing, 24069
maintaining, or operating, or any combination of the foregoing, 24070
a county transit system pursuant to sections 306.01 to 306.13 of 24071
the Revised Code, or of making any payment to a board of county 24072

commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;	24073 24074
(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	24075 24076 24077 24078 24079
(S) For the prevention, control, and abatement of air pollution;	24080 24081
(T) For maintaining and operating cemeteries;	24082
(U) For providing ambulance service, emergency medical service, or both;	24083 24084
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	24085 24086
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	24087 24088 24089
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	24090 24091
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	24092 24093 24094 24095
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	24096 24097 24098
(AA) For the maintenance and operation of a free public	24099

museum of art, science, or history;	24100
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 128.01 of the Revised Code;	24101 24102
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	24103 24104 24105 24106 24107 24108
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;	24109 24110 24111
(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;	24112 24113 24114 24115 24116 24117 24118 24119 24120 24121
(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;	24122 24123 24124 24125 24126
(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section	24127 24128

505.263 of the Revised Code in order to pay all or any part of 24129
the cost of constructing, maintaining, repairing, or operating a 24130
water supply improvement; 24131

(HH) For a board of township trustees to acquire, other 24132
than by appropriation, an ownership interest in land, water, or 24133
wetlands, or to restore or maintain land, water, or wetlands in 24134
which the board has an ownership interest, not for purposes of 24135
recreation, but for the purposes of protecting and preserving 24136
the natural, scenic, open, or wooded condition of the land, 24137
water, or wetlands against modification or encroachment 24138
resulting from occupation, development, or other use, which may 24139
be styled as protecting or preserving "greenspace" in the 24140
resolution, notice of election, or ballot form. Except as 24141
otherwise provided in this division, land is not acquired for 24142
purposes of recreation, even if the land is used for 24143
recreational purposes, so long as no building, structure, or 24144
fixture used for recreational purposes is permanently attached 24145
or affixed to the land. Except as otherwise provided in this 24146
division, land that previously has been acquired in a township 24147
for these greenspace purposes may subsequently be used for 24148
recreational purposes if the board of township trustees adopts a 24149
resolution approving that use and no building, structure, or 24150
fixture used for recreational purposes is permanently attached 24151
or affixed to the land. The authorization to use greenspace land 24152
for recreational use does not apply to land located in a 24153
township that had a population, at the time it passed its first 24154
greenspace levy, of more than thirty-eight thousand within a 24155
county that had a population, at that time, of at least eight 24156
hundred sixty thousand. 24157

(II) For the support by a county of a crime victim 24158
assistance program that is provided and maintained by a county 24159

agency or a private, nonprofit corporation or association under	24160
section 307.62 of the Revised Code;	24161
(JJ) For any or all of the purposes set forth in divisions	24162
(I) and (J) of this section. This division applies only to a	24163
township.	24164
(KK) For a countywide public safety communications system	24165
under section 307.63 of the Revised Code. This division applies	24166
only to counties.	24167
(LL) For the support by a county of criminal justice	24168
services under section 307.45 of the Revised Code;	24169
(MM) For the purpose of maintaining and operating a jail	24170
or other detention facility as defined in section 2921.01 of the	24171
Revised Code;	24172
(NN) For purchasing, maintaining, or improving, or any	24173
combination of the foregoing, real estate on which to hold, and	24174
the operating expenses of, agricultural fairs operated by a	24175
county agricultural society or independent agricultural society	24176
under Chapter 1711. of the Revised Code. This division applies	24177
only to a county.	24178
(OO) For constructing, rehabilitating, repairing, or	24179
maintaining sidewalks, walkways, trails, bicycle pathways, or	24180
similar improvements, or acquiring ownership interests in land	24181
necessary for the foregoing improvements;	24182
(PP) For both of the purposes set forth in divisions (G)	24183
and (OO) of this section.	24184
(QQ) For both of the purposes set forth in divisions (H)	24185
and (HH) of this section. This division applies only to a	24186
township.	24187

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.	24188 24189 24190 24191 24192
(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.	24193 24194 24195
(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.	24196 24197 24198
(UU) For the creation and operation of a county land reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;	24199 24200 24201 24202 24203
(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 1515. of the Revised Code;	24204 24205 24206
(WW) For the OSU extension fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.	24207 24208 24209 24210
(XX) For a municipal corporation that withdraws or proposes by resolution to withdraw from a regional transit authority under section 306.55 of the Revised Code to provide transportation services for the movement of persons within, from, or to the municipal corporation;	24211 24212 24213 24214 24215
(YY) For any combination of the purposes specified in	24216

divisions (NN), (VV), and (WW) of this section. This division 24217
applies only to a county. 24218

The resolution shall be confined to the purpose or 24219
purposes described in one division of this section, to which the 24220
revenue derived therefrom shall be applied. The existence in any 24221
other division of this section of authority to levy a tax for 24222
any part or all of the same purpose or purposes does not 24223
preclude the use of such revenues for any part of the purpose or 24224
purposes of the division under which the resolution is adopted. 24225

The resolution shall specify the amount of the increase in 24226
rate that it is necessary to levy, the purpose of that increase 24227
in rate, and the number of years during which the increase in 24228
rate shall be in effect, which may or may not include a levy 24229
upon the duplicate of the current year. The number of years may 24230
be any number not exceeding five, except as follows: 24231

(1) When the additional rate is for the payment of debt 24232
charges, the increased rate shall be for the life of the 24233
indebtedness. 24234

(2) When the additional rate is for any of the following, 24235
the increased rate shall be for a continuing period of time: 24236

(a) For the current expenses for a detention facility 24237
district, a district organized under section 2151.65 of the 24238
Revised Code, or a combined district organized under sections 24239
2151.65 and 2152.41 of the Revised Code; 24240

(b) For providing a county's share of the cost of 24241
maintaining and operating schools, district detention 24242
facilities, forestry camps, or other facilities, or any 24243
combination thereof, established under section 2151.65 or 24244
2152.41 of the Revised Code or under both of those sections. 24245

(3) When the additional rate is for either of the 24246
following, the increased rate may be for a continuing period of 24247
time: 24248

(a) For the purposes set forth in division (I), (J), (U), 24249
or (KK) of this section; 24250

(b) For the maintenance and operation of a joint 24251
recreation district. 24252

(4) When the increase is for the purpose or purposes set 24253
forth in division (D), (G), (H), (Z), (CC), or (PP) of this 24254
section, the tax levy may be for any specified number of years 24255
or for a continuing period of time, as set forth in the 24256
resolution. 24257

A levy for one of the purposes set forth in division (G), 24258
(I), (J), or (U) of this section may be reduced pursuant to 24259
section 5705.261 or 5705.31 of the Revised Code. A levy for one 24260
of the purposes set forth in division (G), (I), (J), or (U) of 24261
this section may also be terminated or permanently reduced by 24262
the taxing authority if it adopts a resolution stating that the 24263
continuance of the levy is unnecessary and the levy shall be 24264
terminated or that the millage is excessive and the levy shall 24265
be decreased by a designated amount. 24266

A resolution of a detention facility district, a district 24267
organized under section 2151.65 of the Revised Code, or a 24268
combined district organized under both sections 2151.65 and 24269
2152.41 of the Revised Code may include both current expenses 24270
and other purposes, provided that the resolution shall apportion 24271
the annual rate of levy between the current expenses and the 24272
other purpose or purposes. The apportionment need not be the 24273
same for each year of the levy, but the respective portions of 24274

the rate actually levied each year for the current expenses and 24275
the other purpose or purposes shall be limited by the 24276
apportionment. 24277

Whenever a board of county commissioners, acting either as 24278
the taxing authority of its county or as the taxing authority of 24279
a sewer district or subdistrict created under Chapter 6117. of 24280
the Revised Code, by resolution declares it necessary to levy a 24281
tax in excess of the ten-mill limitation for the purpose of 24282
constructing, improving, or extending sewage disposal plants or 24283
sewage systems, the tax may be in effect for any number of years 24284
not exceeding twenty, and the proceeds of the tax, 24285
notwithstanding the general provisions of this section, may be 24286
used to pay debt charges on any obligations issued and 24287
outstanding on behalf of the subdivision for the purposes 24288
enumerated in this paragraph, provided that any such obligations 24289
have been specifically described in the resolution. 24290

A resolution adopted by the legislative authority of a 24291
municipal corporation that is for the purpose in division (XX) 24292
of this section may be combined with the purpose provided in 24293
section 306.55 of the Revised Code, by vote of two-thirds of all 24294
members of the legislative authority. The legislative authority 24295
may certify the resolution to the board of elections as a 24296
combined question. The question appearing on the ballot shall be 24297
as provided in section 5705.252 of the Revised Code. 24298

The resolution shall go into immediate effect upon its 24299
passage, and no publication of the resolution is necessary other 24300
than that provided for in the notice of election. 24301

When the electors of a subdivision or, in the case of a 24302
qualifying library levy for the support of a library association 24303
or private corporation, the electors of the association library 24304

district, have approved a tax levy under this section, the 24305
taxing authority of the subdivision may anticipate a fraction of 24306
the proceeds of the levy and issue anticipation notes in 24307
accordance with section 5705.191 or 5705.193 of the Revised 24308
Code. 24309

Sec. 5705.222. (A) At any time the board of county 24310
commissioners of any county by a majority vote of the full 24311
membership may declare by resolution and certify to the board of 24312
elections of the county that the amount of taxes which may be 24313
raised within the ten-mill limitation by levies on the current 24314
tax duplicate will be insufficient to provide the necessary 24315
requirements of the county board of developmental disabilities 24316
established pursuant to Chapter 5126. of the Revised Code and 24317
that it is necessary to levy a tax in excess of such limitation 24318
for the operation of programs and services by county boards of 24319
developmental disabilities and for the acquisition, 24320
construction, renovation, financing, maintenance, and operation 24321
of ~~mental retardation and~~ developmental disabilities facilities. 24322

Such resolution shall conform to section 5705.19 of the 24323
Revised Code, except that the increased rate may be in effect 24324
for any number of years not exceeding ten or for a continuing 24325
period of time. 24326

The resolution shall be certified and submitted in the 24327
manner provided in section 5705.25 of the Revised Code, except 24328
that it may be placed on the ballot in any election, and shall 24329
be certified to the board of elections not less than ninety days 24330
before the election at which it will be voted upon. 24331

If the majority of the electors voting on a levy for the 24332
support of the programs and services of the county board of 24333
developmental disabilities vote in favor of the levy, the board 24334

of county commissioners may levy a tax within the county at the 24335
additional rate outside the ten-mill limitation during the 24336
specified or continuing period, for the purpose stated in the 24337
resolution. The county board of developmental disabilities, 24338
within its budget and with the approval of the board of county 24339
commissioners through annual appropriations, shall use the 24340
proceeds of a levy approved under this section solely for the 24341
purposes authorized by this section. 24342

(B) When electors have approved a tax levy under this 24343
section, the county commissioners may anticipate a fraction of 24344
the proceeds of the levy and issue anticipation notes in 24345
accordance with section 5705.191 or 5705.193 of the Revised 24346
Code. 24347

(C) The county auditor, upon receipt of a resolution from 24348
the county board of developmental disabilities, shall establish 24349
a capital improvements account or a reserve balance account, or 24350
both, as specified in the resolution. The capital improvements 24351
account shall be a contingency account for the necessary 24352
acquisition, replacement, renovation, or construction of 24353
facilities and movable and fixed equipment. Upon the request of 24354
the county board of developmental disabilities, moneys not 24355
needed to pay for current expenses may be appropriated to this 24356
account, in amounts such that this account does not exceed 24357
twenty-five per cent of the replacement value of all capital 24358
facilities and equipment currently used by the county board of 24359
developmental disabilities for ~~mental retardation and~~ 24360
developmental disabilities programs and services. Other moneys 24361
available for current capital expenses from federal, state, or 24362
local sources may also be appropriated to this account. 24363

The reserve balance account shall contain those moneys 24364

that are not needed to pay for current operating expenses and 24365
not deposited in the capital improvements account but that will 24366
be needed to pay for operating expenses in the future. Upon the 24367
request of a county board of developmental disabilities, the 24368
board of county commissioners may appropriate moneys to the 24369
reserve balance account. 24370

Sec. 5709.40. (A) As used in this section: 24371

(1) "Blighted area" and "impacted city" have the same 24372
meanings as in section 1728.01 of the Revised Code. 24373

(2) "Business day" means a day of the week excluding 24374
Saturday, Sunday, and a legal holiday as defined under section 24375
1.14 of the Revised Code. 24376

(3) "Housing renovation" means a project carried out for 24377
residential purposes. 24378

(4) "Improvement" means the increase in the assessed value 24379
of any real property that would first appear on the tax list and 24380
duplicate of real and public utility property after the 24381
effective date of an ordinance adopted under this section were 24382
it not for the exemption granted by that ordinance. 24383

(5) "Incentive district" means an area not more than three 24384
hundred acres in size enclosed by a continuous boundary in which 24385
a project is being, or will be, undertaken and having one or 24386
more of the following distress characteristics: 24387

(a) At least fifty-one per cent of the residents of the 24388
district have incomes of less than eighty per cent of the median 24389
income of residents of the political subdivision in which the 24390
district is located, as determined in the same manner specified 24391
under section 119(b) of the "Housing and Community Development 24392
Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 24393

(b) The average rate of unemployment in the district	24394
during the most recent twelve-month period for which data are	24395
available is equal to at least one hundred fifty per cent of the	24396
average rate of unemployment for this state for the same period.	24397
(c) At least twenty per cent of the people residing in the	24398
district live at or below the poverty level as defined in the	24399
federal Housing and Community Development Act of 1974, 42 U.S.C.	24400
5301, as amended, and regulations adopted pursuant to that act.	24401
(d) The district is a blighted area.	24402
(e) The district is in a situational distress area as	24403
designated by the director of development services under	24404
division (F) of section 122.23 of the Revised Code.	24405
(f) As certified by the engineer for the political	24406
subdivision, the public infrastructure serving the district is	24407
inadequate to meet the development needs of the district as	24408
evidenced by a written economic development plan or urban	24409
renewal plan for the district that has been adopted by the	24410
legislative authority of the subdivision.	24411
(g) The district is comprised entirely of unimproved land	24412
that is located in a distressed area as defined in section	24413
122.23 of the Revised Code.	24414
(6) "Project" means development activities undertaken on	24415
one or more parcels, including, but not limited to,	24416
construction, expansion, and alteration of buildings or	24417
structures, demolition, remediation, and site development, and	24418
any building or structure that results from those activities.	24419
(7) "Public infrastructure improvement" includes, but is	24420
not limited to, public roads and highways; water and sewer	24421
lines; environmental remediation; land acquisition, including	24422

acquisition in aid of industry, commerce, distribution, or 24423
research; demolition, including demolition on private property 24424
when determined to be necessary for economic development 24425
purposes; stormwater and flood remediation projects, including 24426
such projects on private property when determined to be 24427
necessary for public health, safety, and welfare; the provision 24428
of gas, electric, and communications service facilities, 24429
including the provision of gas or electric service facilities 24430
owned by nongovernmental entities when such improvements are 24431
determined to be necessary for economic development purposes; 24432
and the enhancement of public waterways through improvements 24433
that allow for greater public access. 24434

(B) The legislative authority of a municipal corporation, 24435
by ordinance, may declare improvements to certain parcels of 24436
real property located in the municipal corporation to be a 24437
public purpose. Improvements with respect to a parcel that is 24438
used or to be used for residential purposes may be declared a 24439
public purpose under this division only if the parcel is located 24440
in a blighted area of an impacted city. For this purpose, 24441
"parcel that is used or to be used for residential purposes" 24442
means a parcel that, as improved, is used or to be used for 24443
purposes that would cause the tax commissioner to classify the 24444
parcel as residential property in accordance with rules adopted 24445
by the commissioner under section 5713.041 of the Revised Code. 24446
Except with the approval under division (D) of this section of 24447
the board of education of each city, local, or exempted village 24448
school district within which the improvements are located, not 24449
more than seventy-five per cent of an improvement thus declared 24450
to be a public purpose may be exempted from real property 24451
taxation for a period of not more than ten years. The ordinance 24452
shall specify the percentage of the improvement to be exempted 24453

from taxation and the life of the exemption. 24454

An ordinance adopted or amended under this division shall 24455
designate the specific public infrastructure improvements made, 24456
to be made, or in the process of being made by the municipal 24457
corporation that directly benefit, or that once made will 24458
directly benefit, the parcels for which improvements are 24459
declared to be a public purpose. The service payments provided 24460
for in section 5709.42 of the Revised Code shall be used to 24461
finance the public infrastructure improvements designated in the 24462
ordinance, for the purpose described in division (D) (1) of this 24463
section or as provided in section 5709.43 of the Revised Code. 24464

(C) (1) The legislative authority of a municipal 24465
corporation may adopt an ordinance creating an incentive 24466
district and declaring improvements to parcels within the 24467
district to be a public purpose and, except as provided in 24468
division (F) of this section, exempt from taxation as provided 24469
in this section, but no legislative authority of a municipal 24470
corporation that has a population that exceeds twenty-five 24471
thousand, as shown by the most recent federal decennial census, 24472
shall adopt an ordinance that creates an incentive district if 24473
the sum of the taxable value of real property in the proposed 24474
district for the preceding tax year and the taxable value of all 24475
real property in the municipal corporation that would have been 24476
taxable in the preceding year were it not for the fact that the 24477
property was in an existing incentive district and therefore 24478
exempt from taxation exceeds twenty-five per cent of the taxable 24479
value of real property in the municipal corporation for the 24480
preceding tax year. The ordinance shall delineate the boundary 24481
of the district and specifically identify each parcel within the 24482
district. A district may not include any parcel that is or has 24483
been exempted from taxation under division (B) of this section 24484

or that is or has been within another district created under 24485
this division. An ordinance may create more than one such 24486
district, and more than one ordinance may be adopted under 24487
division (C) (1) of this section. 24488

(2) Not later than thirty days prior to adopting an 24489
ordinance under division (C) (1) of this section, if the 24490
municipal corporation intends to apply for exemptions from 24491
taxation under section 5709.911 of the Revised Code on behalf of 24492
owners of real property located within the proposed incentive 24493
district, the legislative authority of a municipal corporation 24494
shall conduct a public hearing on the proposed ordinance. Not 24495
later than thirty days prior to the public hearing, the 24496
legislative authority shall give notice of the public hearing 24497
and the proposed ordinance by first class mail to every real 24498
property owner whose property is located within the boundaries 24499
of the proposed incentive district that is the subject of the 24500
proposed ordinance. 24501

(3) (a) An ordinance adopted under division (C) (1) of this 24502
section shall specify the life of the incentive district and the 24503
percentage of the improvements to be exempted, shall designate 24504
the public infrastructure improvements made, to be made, or in 24505
the process of being made, that benefit or serve, or, once made, 24506
will benefit or serve parcels in the district. The ordinance 24507
also shall identify one or more specific projects being, or to 24508
be, undertaken in the district that place additional demand on 24509
the public infrastructure improvements designated in the 24510
ordinance. The project identified may, but need not be, the 24511
project under division (C) (3) (b) of this section that places 24512
real property in use for commercial or industrial purposes. 24513
Except as otherwise permitted under that division, the service 24514
payments provided for in section 5709.42 of the Revised Code 24515

shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D) (1) or (E) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C) (1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C) (1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an

incentive district shall not exceed ten years, and the 24546
percentage of improvements to be exempted shall not exceed 24547
seventy-five per cent. With approval of the board of education, 24548
the life of a district may be not more than thirty years, and 24549
the percentage of improvements to be exempted may be not more 24550
than one hundred per cent. The approval of a board of education 24551
shall be obtained in the manner provided in division (D) of this 24552
section. 24553

(D) (1) If the ordinance declaring improvements to a parcel 24554
to be a public purpose or creating an incentive district 24555
specifies that payments in lieu of taxes provided for in section 24556
5709.42 of the Revised Code shall be paid to the city, local, or 24557
exempted village, and joint vocational school district in which 24558
the parcel or incentive district is located in the amount of the 24559
taxes that would have been payable to the school district if the 24560
improvements had not been exempted from taxation, the percentage 24561
of the improvement that may be exempted from taxation may exceed 24562
seventy-five per cent, and the exemption may be granted for up 24563
to thirty years, without the approval of the board of education 24564
as otherwise required under division (D) (2) of this section. 24565

(2) Improvements with respect to a parcel may be exempted 24566
from taxation under division (B) of this section, and 24567
improvements to parcels within an incentive district may be 24568
exempted from taxation under division (C) of this section, for 24569
up to ten years or, with the approval under this paragraph of 24570
the board of education of the city, local, or exempted village 24571
school district within which the parcel or district is located, 24572
for up to thirty years. The percentage of the improvement 24573
exempted from taxation may, with such approval, exceed seventy- 24574
five per cent, but shall not exceed one hundred per cent. Not 24575
later than forty-five business days prior to adopting an 24576

ordinance under this section declaring improvements to be a 24577
public purpose that is subject to approval by a board of 24578
education under this division, the legislative authority shall 24579
deliver to the board of education a notice stating its intent to 24580
adopt an ordinance making that declaration. The notice regarding 24581
improvements with respect to a parcel under division (B) of this 24582
section shall identify the parcels for which improvements are to 24583
be exempted from taxation, provide an estimate of the true value 24584
in money of the improvements, specify the period for which the 24585
improvements would be exempted from taxation and the percentage 24586
of the improvement that would be exempted, and indicate the date 24587
on which the legislative authority intends to adopt the 24588
ordinance. The notice regarding improvements to parcels within 24589
an incentive district under division (C) of this section shall 24590
delineate the boundaries of the district, specifically identify 24591
each parcel within the district, identify each anticipated 24592
improvement in the district, provide an estimate of the true 24593
value in money of each such improvement, specify the life of the 24594
district and the percentage of improvements that would be 24595
exempted, and indicate the date on which the legislative 24596
authority intends to adopt the ordinance. The board of 24597
education, by resolution adopted by a majority of the board, may 24598
approve the exemption for the period or for the exemption 24599
percentage specified in the notice; may disapprove the exemption 24600
for the number of years in excess of ten, may disapprove the 24601
exemption for the percentage of the improvement to be exempted 24602
in excess of seventy-five per cent, or both; or may approve the 24603
exemption on the condition that the legislative authority and 24604
the board negotiate an agreement providing for compensation to 24605
the school district equal in value to a percentage of the amount 24606
of taxes exempted in the eleventh and subsequent years of the 24607
exemption period or, in the case of exemption percentages in 24608

excess of seventy-five per cent, compensation equal in value to 24609
a percentage of the taxes that would be payable on the portion 24610
of the improvement in excess of seventy-five per cent were that 24611
portion to be subject to taxation, or other mutually agreeable 24612
compensation. If an agreement is negotiated between the 24613
legislative authority and the board to compensate the school 24614
district for all or part of the taxes exempted, including 24615
agreements for payments in lieu of taxes under section 5709.42 24616
of the Revised Code, the legislative authority shall compensate 24617
the joint vocational school district within which the parcel or 24618
district is located at the same rate and under the same terms 24619
received by the city, local, or exempted village school 24620
district. 24621

(3) The board of education shall certify its resolution to 24622
the legislative authority not later than fourteen days prior to 24623
the date the legislative authority intends to adopt the 24624
ordinance as indicated in the notice. If the board of education 24625
and the legislative authority negotiate a mutually acceptable 24626
compensation agreement, the ordinance may declare the 24627
improvements a public purpose for the number of years specified 24628
in the ordinance or, in the case of exemption percentages in 24629
excess of seventy-five per cent, for the exemption percentage 24630
specified in the ordinance. In either case, if the board and the 24631
legislative authority fail to negotiate a mutually acceptable 24632
compensation agreement, the ordinance may declare the 24633
improvements a public purpose for not more than ten years, and 24634
shall not exempt more than seventy-five per cent of the 24635
improvements from taxation. If the board fails to certify a 24636
resolution to the legislative authority within the time 24637
prescribed by this division, the legislative authority thereupon 24638
may adopt the ordinance and may declare the improvements a 24639

public purpose for up to thirty years, or, in the case of 24640
exemption percentages proposed in excess of seventy-five per 24641
cent, for the exemption percentage specified in the ordinance. 24642
The legislative authority may adopt the ordinance at any time 24643
after the board of education certifies its resolution approving 24644
the exemption to the legislative authority, or, if the board 24645
approves the exemption on the condition that a mutually 24646
acceptable compensation agreement be negotiated, at any time 24647
after the compensation agreement is agreed to by the board and 24648
the legislative authority. 24649

(4) If a board of education has adopted a resolution 24650
waiving its right to approve exemptions from taxation under this 24651
section and the resolution remains in effect, approval of 24652
exemptions by the board is not required under division (D) of 24653
this section. If a board of education has adopted a resolution 24654
allowing a legislative authority to deliver the notice required 24655
under division (D) of this section fewer than forty-five 24656
business days prior to the legislative authority's adoption of 24657
the ordinance, the legislative authority shall deliver the 24658
notice to the board not later than the number of days prior to 24659
such adoption as prescribed by the board in its resolution. If a 24660
board of education adopts a resolution waiving its right to 24661
approve agreements or shortening the notification period, the 24662
board shall certify a copy of the resolution to the legislative 24663
authority. If the board of education rescinds such a resolution, 24664
it shall certify notice of the rescission to the legislative 24665
authority. 24666

(5) If the legislative authority is not required by 24667
division (D) of this section to notify the board of education of 24668
the legislative authority's intent to declare improvements to be 24669
a public purpose, the legislative authority shall comply with 24670

the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(E) (1) If a proposed ordinance under division (C) (1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the legislative authority intends to adopt the ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the legislative authority. In no case shall the compensation provided to the board exceed the property taxes forgone due to the exemption. If the board of county commissioners objects, and the board and

legislative authority fail to negotiate a mutually acceptable 24702
compensation agreement, the ordinance adopted under division (C) 24703
(1) of this section shall provide to the board compensation in 24704
the eleventh and subsequent years of the exemption period equal 24705
in value to not more than fifty per cent of the taxes that would 24706
be payable to the county or, if the board's objection includes 24707
an objection to an exemption percentage in excess of seventy- 24708
five per cent, compensation equal in value to not more than 24709
fifty per cent of the taxes that would be payable to the county, 24710
on the portion of the improvement in excess of seventy-five per 24711
cent, were that portion to be subject to taxation. The board of 24712
county commissioners shall certify its resolution to the 24713
legislative authority not later than thirty days after receipt 24714
of the notice. 24715

(3) If the board of county commissioners does not object 24716
or fails to certify its resolution objecting to an exemption 24717
within thirty days after receipt of the notice, the legislative 24718
authority may adopt the ordinance, and no compensation shall be 24719
provided to the board of county commissioners. If the board 24720
timely certifies its resolution objecting to the ordinance, the 24721
legislative authority may adopt the ordinance at any time after 24722
a mutually acceptable compensation agreement is agreed to by the 24723
board and the legislative authority, or, if no compensation 24724
agreement is negotiated, at any time after the legislative 24725
authority agrees in the proposed ordinance to provide 24726
compensation to the board of fifty per cent of the taxes that 24727
would be payable to the county in the eleventh and subsequent 24728
years of the exemption period or on the portion of the 24729
improvement in excess of seventy-five per cent, were that 24730
portion to be subject to taxation. 24731

(F) Service payments in lieu of taxes that are 24732

attributable to any amount by which the effective tax rate of 24733
either a renewal levy with an increase or a replacement levy 24734
exceeds the effective tax rate of the levy renewed or replaced, 24735
or that are attributable to an additional levy, for a levy 24736
authorized by the voters for any of the following purposes on or 24737
after January 1, 2006, and which are provided pursuant to an 24738
ordinance creating an incentive district under division (C) (1) 24739
of this section that is adopted on or after January 1, 2006, 24740
shall be distributed to the appropriate taxing authority as 24741
required under division (C) of section 5709.42 of the Revised 24742
Code in an amount equal to the amount of taxes from that 24743
additional levy or from the increase in the effective tax rate 24744
of such renewal or replacement levy that would have been payable 24745
to that taxing authority from the following levies were it not 24746
for the exemption authorized under division (C) of this section: 24747

(1) A tax levied under division (L) of section 5705.19 or 24748
section 5705.191 of the Revised Code for community ~~mental-~~ 24749
~~retardation and~~ developmental disabilities programs and services 24750
pursuant to Chapter 5126. of the Revised Code; 24751

(2) A tax levied under division (Y) of section 5705.19 of 24752
the Revised Code for providing or maintaining senior citizens 24753
services or facilities; 24754

(3) A tax levied under section 5705.22 of the Revised Code 24755
for county hospitals; 24756

(4) A tax levied by a joint-county district or by a county 24757
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 24758
for alcohol, drug addiction, and mental health services or 24759
facilities; 24760

(5) A tax levied under section 5705.23 of the Revised Code 24761

for library purposes;	24762
(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;	24763 24764 24765
(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;	24766 24767 24768 24769
(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;	24770 24771 24772
(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;	24773 24774 24775 24776
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	24777 24778
(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;	24779 24780 24781 24782 24783
(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.	24784 24785
(G) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a	24786 24787 24788 24789

year commencing before the effective date of the resolution or 24790
specifies no year whatsoever, the exemption commences with the 24791
tax year in which an exempted improvement first appears on the 24792
tax list and duplicate of real and public utility property and 24793
that commences after the effective date of the ordinance. In 24794
lieu of stating a specific year, the ordinance may provide that 24795
the exemption commences in the tax year in which the value of an 24796
improvement exceeds a specified amount or in which the 24797
construction of one or more improvements is completed, provided 24798
that such tax year commences after the effective date of the 24799
ordinance. With respect to the exemption of improvements to 24800
parcels under division (B) of this section, the ordinance may 24801
allow for the exemption to commence in different tax years on a 24802
parcel-by-parcel basis, with a separate exemption term specified 24803
for each parcel. 24804

Except as otherwise provided in this division, the 24805
exemption ends on the date specified in the ordinance as the 24806
date the improvement ceases to be a public purpose or the 24807
incentive district expires, or ends on the date on which the 24808
public infrastructure improvements and housing renovations are 24809
paid in full from the municipal public improvement tax increment 24810
equivalent fund established under division (A) of section 24811
5709.43 of the Revised Code, whichever occurs first. The 24812
exemption of an improvement with respect to a parcel or within 24813
an incentive district may end on a later date, as specified in 24814
the ordinance, if the legislative authority and the board of 24815
education of the city, local, or exempted village school 24816
district within which the parcel or district is located have 24817
entered into a compensation agreement under section 5709.82 of 24818
the Revised Code with respect to the improvement, and the board 24819
of education has approved the term of the exemption under 24820

division (D) (2) of this section, but in no case shall the 24821
improvement be exempted from taxation for more than thirty 24822
years. Exemptions shall be claimed and allowed in the same 24823
manner as in the case of other real property exemptions. If an 24824
exemption status changes during a year, the procedure for the 24825
apportionment of the taxes for that year is the same as in the 24826
case of other changes in tax exemption status during the year. 24827

(H) Additional municipal financing of public 24828
infrastructure improvements and housing renovations may be 24829
provided by any methods that the municipal corporation may 24830
otherwise use for financing such improvements or renovations. If 24831
the municipal corporation issues bonds or notes to finance the 24832
public infrastructure improvements and housing renovations and 24833
pledges money from the municipal public improvement tax 24834
increment equivalent fund to pay the interest on and principal 24835
of the bonds or notes, the bonds or notes are not subject to 24836
Chapter 133. of the Revised Code. 24837

(I) The municipal corporation, not later than fifteen days 24838
after the adoption of an ordinance under this section, shall 24839
submit to the director of development services a copy of the 24840
ordinance. On or before the thirty-first day of March of each 24841
year, the municipal corporation shall submit a status report to 24842
the director of development services. The report shall indicate, 24843
in the manner prescribed by the director, the progress of the 24844
project during each year that an exemption remains in effect, 24845
including a summary of the receipts from service payments in 24846
lieu of taxes; expenditures of money from the funds created 24847
under section 5709.43 of the Revised Code; a description of the 24848
public infrastructure improvements and housing renovations 24849
financed with such expenditures; and a quantitative summary of 24850
changes in employment and private investment resulting from each 24851

project. 24852

(J) Nothing in this section shall be construed to prohibit 24853
a legislative authority from declaring to be a public purpose 24854
improvements with respect to more than one parcel. 24855

(K) If a parcel is located in a new community district in 24856
which the new community authority imposes a community 24857
development charge on the basis of rentals received from leases 24858
of real property as described in division (L) (2) of section 24859
349.01 of the Revised Code, the parcel may not be exempted from 24860
taxation under this section. 24861

Sec. 5709.73. (A) As used in this section and section 24862
5709.74 of the Revised Code: 24863

(1) "Business day" means a day of the week excluding 24864
Saturday, Sunday, and a legal holiday as defined in section 1.14 24865
of the Revised Code. 24866

(2) "Further improvements" or "improvements" means the 24867
increase in the assessed value of real property that would first 24868
appear on the tax list and duplicate of real and public utility 24869
property after the effective date of a resolution adopted under 24870
this section were it not for the exemption granted by that 24871
resolution. For purposes of division (B) of this section, 24872
"improvements" do not include any property used or to be used 24873
for residential purposes. For this purpose, "property that is 24874
used or to be used for residential purposes" means property 24875
that, as improved, is used or to be used for purposes that would 24876
cause the tax commissioner to classify the property as 24877
residential property in accordance with rules adopted by the 24878
commissioner under section 5713.041 of the Revised Code. 24879

(3) "Housing renovation" means a project carried out for 24880

residential purposes. 24881

(4) "Incentive district" has the same meaning as in 24882
section 5709.40 of the Revised Code, except that a blighted area 24883
is in the unincorporated area of a township. 24884

(5) "Project" and "public infrastructure improvement" have 24885
the same meanings as in section 5709.40 of the Revised Code. 24886

(B) A board of township trustees may, by unanimous vote, 24887
adopt a resolution that declares to be a public purpose any 24888
public infrastructure improvements made that are necessary for 24889
the development of certain parcels of land located in the 24890
unincorporated area of the township. Except with the approval 24891
under division (D) of this section of the board of education of 24892
each city, local, or exempted village school district within 24893
which the improvements are located, the resolution may exempt 24894
from real property taxation not more than seventy-five per cent 24895
of further improvements to a parcel of land that directly 24896
benefits from the public infrastructure improvements, for a 24897
period of not more than ten years. The resolution shall specify 24898
the percentage of the further improvements to be exempted and 24899
the life of the exemption. 24900

(C) (1) A board of township trustees may adopt, by 24901
unanimous vote, a resolution creating an incentive district and 24902
declaring improvements to parcels within the district to be a 24903
public purpose and, except as provided in division (F) of this 24904
section, exempt from taxation as provided in this section, but 24905
no board of township trustees of a township that has a 24906
population that exceeds twenty-five thousand, as shown by the 24907
most recent federal decennial census, shall adopt a resolution 24908
that creates an incentive district if the sum of the taxable 24909
value of real property in the proposed district for the 24910

preceding tax year and the taxable value of all real property in 24911
the township that would have been taxable in the preceding year 24912
were it not for the fact that the property was in an existing 24913
incentive district and therefore exempt from taxation exceeds 24914
twenty-five per cent of the taxable value of real property in 24915
the township for the preceding tax year. The district shall be 24916
located within the unincorporated area of the township and shall 24917
not include any territory that is included within a district 24918
created under division (B) of section 5709.78 of the Revised 24919
Code. The resolution shall delineate the boundary of the 24920
district and specifically identify each parcel within the 24921
district. A district may not include any parcel that is or has 24922
been exempted from taxation under division (B) of this section 24923
or that is or has been within another district created under 24924
this division. A resolution may create more than one district, 24925
and more than one resolution may be adopted under division (C) 24926
(1) of this section. 24927

(2) Not later than thirty days prior to adopting a 24928
resolution under division (C)(1) of this section, if the 24929
township intends to apply for exemptions from taxation under 24930
section 5709.911 of the Revised Code on behalf of owners of real 24931
property located within the proposed incentive district, the 24932
board shall conduct a public hearing on the proposed resolution. 24933
Not later than thirty days prior to the public hearing, the 24934
board shall give notice of the public hearing and the proposed 24935
resolution by first class mail to every real property owner 24936
whose property is located within the boundaries of the proposed 24937
incentive district that is the subject of the proposed 24938
resolution. 24939

(3) (a) A resolution adopted under division (C)(1) of this 24940
section shall specify the life of the incentive district and the 24941

percentage of the improvements to be exempted, shall designate 24942
the public infrastructure improvements made, to be made, or in 24943
the process of being made, that benefit or serve, or, once made, 24944
will benefit or serve parcels in the district. The resolution 24945
also shall identify one or more specific projects being, or to 24946
be, undertaken in the district that place additional demand on 24947
the public infrastructure improvements designated in the 24948
resolution. The project identified may, but need not be, the 24949
project under division (C) (3) (b) of this section that places 24950
real property in use for commercial or industrial purposes. 24951

A resolution adopted under division (C) (1) of this section 24952
on or after March 30, 2006, shall not designate police or fire 24953
equipment as public infrastructure improvements, and no service 24954
payment provided for in section 5709.74 of the Revised Code and 24955
received by the township under the resolution shall be used for 24956
police or fire equipment. 24957

(b) A resolution adopted under division (C) (1) of this 24958
section may authorize the use of service payments provided for 24959
in section 5709.74 of the Revised Code for the purpose of 24960
housing renovations within the incentive district, provided that 24961
the resolution also designates public infrastructure 24962
improvements that benefit or serve the district, and that a 24963
project within the district places real property in use for 24964
commercial or industrial purposes. Service payments may be used 24965
to finance or support loans, deferred loans, and grants to 24966
persons for the purpose of housing renovations within the 24967
district. The resolution shall designate the parcels within the 24968
district that are eligible for housing renovations. The 24969
resolution shall state separately the amount or the percentages 24970
of the expected aggregate service payments that are designated 24971
for each public infrastructure improvement and for the purpose 24972

of housing renovations. 24973

(4) Except with the approval of the board of education of 24974
each city, local, or exempted village school district within the 24975
territory of which the incentive district is or will be located, 24976
and subject to division (E) of this section, the life of an 24977
incentive district shall not exceed ten years, and the 24978
percentage of improvements to be exempted shall not exceed 24979
seventy-five per cent. With approval of the board of education, 24980
the life of a district may be not more than thirty years, and 24981
the percentage of improvements to be exempted may be not more 24982
than one hundred per cent. The approval of a board of education 24983
shall be obtained in the manner provided in division (D) of this 24984
section. 24985

(D) Improvements with respect to a parcel may be exempted 24986
from taxation under division (B) of this section, and 24987
improvements to parcels within an incentive district may be 24988
exempted from taxation under division (C) of this section, for 24989
up to ten years or, with the approval of the board of education 24990
of the city, local, or exempted village school district within 24991
which the parcel or district is located, for up to thirty years. 24992
The percentage of the improvements exempted from taxation may, 24993
with such approval, exceed seventy-five per cent, but shall not 24994
exceed one hundred per cent. Not later than forty-five business 24995
days prior to adopting a resolution under this section declaring 24996
improvements to be a public purpose that is subject to approval 24997
by a board of education under this division, the board of 24998
township trustees shall deliver to the board of education a 24999
notice stating its intent to adopt a resolution making that 25000
declaration. The notice regarding improvements with respect to a 25001
parcel under division (B) of this section shall identify the 25002
parcels for which improvements are to be exempted from taxation, 25003

provide an estimate of the true value in money of the 25004
improvements, specify the period for which the improvements 25005
would be exempted from taxation and the percentage of the 25006
improvements that would be exempted, and indicate the date on 25007
which the board of township trustees intends to adopt the 25008
resolution. The notice regarding improvements made under 25009
division (C) of this section to parcels within an incentive 25010
district shall delineate the boundaries of the district, 25011
specifically identify each parcel within the district, identify 25012
each anticipated improvement in the district, provide an 25013
estimate of the true value in money of each such improvement, 25014
specify the life of the district and the percentage of 25015
improvements that would be exempted, and indicate the date on 25016
which the board of township trustees intends to adopt the 25017
resolution. The board of education, by resolution adopted by a 25018
majority of the board, may approve the exemption for the period 25019
or for the exemption percentage specified in the notice; may 25020
disapprove the exemption for the number of years in excess of 25021
ten, may disapprove the exemption for the percentage of the 25022
improvements to be exempted in excess of seventy-five per cent, 25023
or both; or may approve the exemption on the condition that the 25024
board of township trustees and the board of education negotiate 25025
an agreement providing for compensation to the school district 25026
equal in value to a percentage of the amount of taxes exempted 25027
in the eleventh and subsequent years of the exemption period or, 25028
in the case of exemption percentages in excess of seventy-five 25029
per cent, compensation equal in value to a percentage of the 25030
taxes that would be payable on the portion of the improvements 25031
in excess of seventy-five per cent were that portion to be 25032
subject to taxation, or other mutually agreeable compensation. 25033

The board of education shall certify its resolution to the 25034

board of township trustees not later than fourteen days prior to 25035
the date the board of township trustees intends to adopt the 25036
resolution as indicated in the notice. If the board of education 25037
and the board of township trustees negotiate a mutually 25038
acceptable compensation agreement, the resolution may declare 25039
the improvements a public purpose for the number of years 25040
specified in the resolution or, in the case of exemption 25041
percentages in excess of seventy-five per cent, for the 25042
exemption percentage specified in the resolution. In either 25043
case, if the board of education and the board of township 25044
trustees fail to negotiate a mutually acceptable compensation 25045
agreement, the resolution may declare the improvements a public 25046
purpose for not more than ten years, and shall not exempt more 25047
than seventy-five per cent of the improvements from taxation. If 25048
the board of education fails to certify a resolution to the 25049
board of township trustees within the time prescribed by this 25050
section, the board of township trustees thereupon may adopt the 25051
resolution and may declare the improvements a public purpose for 25052
up to thirty years or, in the case of exemption percentages 25053
proposed in excess of seventy-five per cent, for the exemption 25054
percentage specified in the resolution. The board of township 25055
trustees may adopt the resolution at any time after the board of 25056
education certifies its resolution approving the exemption to 25057
the board of township trustees, or, if the board of education 25058
approves the exemption on the condition that a mutually 25059
acceptable compensation agreement be negotiated, at any time 25060
after the compensation agreement is agreed to by the board of 25061
education and the board of township trustees. If a mutually 25062
acceptable compensation agreement is negotiated between the 25063
board of township trustees and the board of education, including 25064
agreements for payments in lieu of taxes under section 5709.74 25065
of the Revised Code, the board of township trustees shall 25066

compensate the joint vocational school district within which the 25067
parcel or district is located at the same rate and under the 25068
same terms received by the city, local, or exempted village 25069
school district. 25070

If a board of education has adopted a resolution waiving 25071
its right to approve exemptions from taxation under this section 25072
and the resolution remains in effect, approval of such 25073
exemptions by the board of education is not required under 25074
division (D) of this section. If a board of education has 25075
adopted a resolution allowing a board of township trustees to 25076
deliver the notice required under division (D) of this section 25077
fewer than forty-five business days prior to adoption of the 25078
resolution by the board of township trustees, the board of 25079
township trustees shall deliver the notice to the board of 25080
education not later than the number of days prior to the 25081
adoption as prescribed by the board of education in its 25082
resolution. If a board of education adopts a resolution waiving 25083
its right to approve exemptions or shortening the notification 25084
period, the board of education shall certify a copy of the 25085
resolution to the board of township trustees. If the board of 25086
education rescinds the resolution, it shall certify notice of 25087
the rescission to the board of township trustees. 25088

If the board of township trustees is not required by 25089
division (D) of this section to notify the board of education of 25090
the board of township trustees' intent to declare improvements 25091
to be a public purpose, the board of township trustees shall 25092
comply with the notice requirements imposed under section 25093
5709.83 of the Revised Code before taking formal action to adopt 25094
the resolution making that declaration, unless the board of 25095
education has adopted a resolution under that section waiving 25096
its right to receive the notice. 25097

(E) (1) If a proposed resolution under division (C) (1) of 25098
this section exempts improvements with respect to a parcel 25099
within an incentive district for more than ten years, or the 25100
percentage of the improvement exempted from taxation exceeds 25101
seventy-five per cent, not later than forty-five business days 25102
prior to adopting the resolution the board of township trustees 25103
shall deliver to the board of county commissioners of the county 25104
within which the incentive district is or will be located a 25105
notice that states its intent to adopt a resolution creating an 25106
incentive district. The notice shall include a copy of the 25107
proposed resolution, identify the parcels for which improvements 25108
are to be exempted from taxation, provide an estimate of the 25109
true value in money of the improvements, specify the period of 25110
time for which the improvements would be exempted from taxation, 25111
specify the percentage of the improvements that would be 25112
exempted from taxation, and indicate the date on which the board 25113
of township trustees intends to adopt the resolution. 25114

(2) The board of county commissioners, by resolution 25115
adopted by a majority of the board, may object to the exemption 25116
for the number of years in excess of ten, may object to the 25117
exemption for the percentage of the improvement to be exempted 25118
in excess of seventy-five per cent, or both. If the board of 25119
county commissioners objects, the board may negotiate a mutually 25120
acceptable compensation agreement with the board of township 25121
trustees. In no case shall the compensation provided to the 25122
board of county commissioners exceed the property taxes foregone 25123
due to the exemption. If the board of county commissioners 25124
objects, and the board of county commissioners and board of 25125
township trustees fail to negotiate a mutually acceptable 25126
compensation agreement, the resolution adopted under division 25127
(C) (1) of this section shall provide to the board of county 25128

commissioners compensation in the eleventh and subsequent years 25129
of the exemption period equal in value to not more than fifty 25130
per cent of the taxes that would be payable to the county or, if 25131
the board of county commissioner's objection includes an 25132
objection to an exemption percentage in excess of seventy-five 25133
per cent, compensation equal in value to not more than fifty per 25134
cent of the taxes that would be payable to the county, on the 25135
portion of the improvement in excess of seventy-five per cent, 25136
were that portion to be subject to taxation. The board of county 25137
commissioners shall certify its resolution to the board of 25138
township trustees not later than thirty days after receipt of 25139
the notice. 25140

(3) If the board of county commissioners does not object 25141
or fails to certify its resolution objecting to an exemption 25142
within thirty days after receipt of the notice, the board of 25143
township trustees may adopt its resolution, and no compensation 25144
shall be provided to the board of county commissioners. If the 25145
board of county commissioners timely certifies its resolution 25146
objecting to the trustees' resolution, the board of township 25147
trustees may adopt its resolution at any time after a mutually 25148
acceptable compensation agreement is agreed to by the board of 25149
county commissioners and the board of township trustees, or, if 25150
no compensation agreement is negotiated, at any time after the 25151
board of township trustees agrees in the proposed resolution to 25152
provide compensation to the board of county commissioners of 25153
fifty per cent of the taxes that would be payable to the county 25154
in the eleventh and subsequent years of the exemption period or 25155
on the portion of the improvement in excess of seventy-five per 25156
cent, were that portion to be subject to taxation. 25157

(F) Service payments in lieu of taxes that are 25158
attributable to any amount by which the effective tax rate of 25159

either a renewal levy with an increase or a replacement levy 25160
exceeds the effective tax rate of the levy renewed or replaced, 25161
or that are attributable to an additional levy, for a levy 25162
authorized by the voters for any of the following purposes on or 25163
after January 1, 2006, and which are provided pursuant to a 25164
resolution creating an incentive district under division (C)(1) 25165
of this section that is adopted on or after January 1, 2006, 25166
shall be distributed to the appropriate taxing authority as 25167
required under division (C) of section 5709.74 of the Revised 25168
Code in an amount equal to the amount of taxes from that 25169
additional levy or from the increase in the effective tax rate 25170
of such renewal or replacement levy that would have been payable 25171
to that taxing authority from the following levies were it not 25172
for the exemption authorized under division (C) of this section: 25173

(1) A tax levied under division (L) of section 5705.19 or 25174
section 5705.191 of the Revised Code for community ~~mental-~~ 25175
~~retardation and~~ developmental disabilities programs and services 25176
pursuant to Chapter 5126. of the Revised Code; 25177

(2) A tax levied under division (Y) of section 5705.19 of 25178
the Revised Code for providing or maintaining senior citizens 25179
services or facilities; 25180

(3) A tax levied under section 5705.22 of the Revised Code 25181
for county hospitals; 25182

(4) A tax levied by a joint-county district or by a county 25183
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 25184
for alcohol, drug addiction, and mental health services or 25185
families; 25186

(5) A tax levied under section 5705.23 of the Revised Code 25187
for library purposes; 25188

(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;	25189 25190 25191
(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;	25192 25193 25194 25195
(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;	25196 25197 25198
(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;	25199 25200 25201 25202
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	25203 25204
(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;	25205 25206 25207 25208 25209
(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.	25210 25211
(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the	25212 25213 25214 25215 25216 25217

tax year in which an exempted improvement first appears on the 25218
tax list and duplicate of real and public utility property and 25219
that commences after the effective date of the resolution. In 25220
lieu of stating a specific year, the resolution may provide that 25221
the exemption commences in the tax year in which the value of an 25222
improvement exceeds a specified amount or in which the 25223
construction of one or more improvements is completed, provided 25224
that such tax year commences after the effective date of the 25225
resolution. With respect to the exemption of improvements to 25226
parcels under division (B) of this section, the resolution may 25227
allow for the exemption to commence in different tax years on a 25228
parcel-by-parcel basis, with a separate exemption term specified 25229
for each parcel. 25230

Except as otherwise provided in this division, the 25231
exemption ends on the date specified in the resolution as the 25232
date the improvement ceases to be a public purpose or the 25233
incentive district expires, or ends on the date on which the 25234
public infrastructure improvements and housing renovations are 25235
paid in full from the township public improvement tax increment 25236
equivalent fund established under section 5709.75 of the Revised 25237
Code, whichever occurs first. The exemption of an improvement 25238
with respect to a parcel or within an incentive district may end 25239
on a later date, as specified in the resolution, if the board of 25240
township trustees and the board of education of the city, local, 25241
or exempted village school district within which the parcel or 25242
district is located have entered into a compensation agreement 25243
under section 5709.82 of the Revised Code with respect to the 25244
improvement and the board of education has approved the term of 25245
the exemption under division (D) of this section, but in no case 25246
shall the improvement be exempted from taxation for more than 25247
thirty years. The board of township trustees may, by majority 25248

vote, adopt a resolution permitting the township to enter into 25249
such agreements as the board finds necessary or appropriate to 25250
provide for the construction or undertaking of public 25251
infrastructure improvements and housing renovations. Any 25252
exemption shall be claimed and allowed in the same or a similar 25253
manner as in the case of other real property exemptions. If an 25254
exemption status changes during a tax year, the procedure for 25255
the apportionment of the taxes for that year is the same as in 25256
the case of other changes in tax exemption status during the 25257
year. 25258

(H) The board of township trustees may issue the notes of 25259
the township to finance all costs pertaining to the construction 25260
or undertaking of public infrastructure improvements and housing 25261
renovations made pursuant to this section. The notes shall be 25262
signed by the board and attested by the signature of the 25263
township fiscal officer, shall bear interest not to exceed the 25264
rate provided in section 9.95 of the Revised Code, and are not 25265
subject to Chapter 133. of the Revised Code. The resolution 25266
authorizing the issuance of the notes shall pledge the funds of 25267
the township public improvement tax increment equivalent fund 25268
established pursuant to section 5709.75 of the Revised Code to 25269
pay the interest on and principal of the notes. The notes, which 25270
may contain a clause permitting prepayment at the option of the 25271
board, shall be offered for sale on the open market or given to 25272
the vendor or contractor if no sale is made. 25273

(I) The township, not later than fifteen days after the 25274
adoption of a resolution under this section, shall submit to the 25275
director of development services a copy of the resolution. On or 25276
before the thirty-first day of March of each year, the township 25277
shall submit a status report to the director of development 25278
services. The report shall indicate, in the manner prescribed by 25279

the director, the progress of the project during each year that 25280
the exemption remains in effect, including a summary of the 25281
receipts from service payments in lieu of taxes; expenditures of 25282
money from the fund created under section 5709.75 of the Revised 25283
Code; a description of the public infrastructure improvements 25284
and housing renovations financed with the expenditures; and a 25285
quantitative summary of changes in private investment resulting 25286
from each project. 25287

(J) Nothing in this section shall be construed to prohibit 25288
a board of township trustees from declaring to be a public 25289
purpose improvements with respect to more than one parcel. 25290

If a parcel is located in a new community district in 25291
which the new community authority imposes a community 25292
development charge on the basis of rentals received from leases 25293
of real property as described in division (L) (2) of section 25294
349.01 of the Revised Code, the parcel may not be exempted from 25295
taxation under this section. 25296

(K) A board of township trustees that adopted a resolution 25297
under this section prior to July 21, 1994, may amend that 25298
resolution to include any additional public infrastructure 25299
improvement. A board of township trustees that seeks by the 25300
amendment to utilize money from its township public improvement 25301
tax increment equivalent fund for land acquisition in aid of 25302
industry, commerce, distribution, or research, demolition on 25303
private property, or stormwater and flood remediation projects 25304
may do so provided that the board currently is a party to a 25305
hold-harmless agreement with the board of education of the city, 25306
local, or exempted village school district within the territory 25307
of which are located the parcels that are subject to an 25308
exemption. For the purposes of this division, a "hold-harmless 25309

agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

Sec. 5709.78. (A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except with the approval under division (C) 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 taxation, for a period of not more than ten years. The resolution shall specify the percentage of the improvement to be exempted and the life of the exemption.

A resolution adopted under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution, or as provided in section 5709.80 of the Revised Code.

(B) (1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (E) of this section,

exempt from taxation as provided in this section, but no board 25340
of county commissioners of a county that has a population that 25341
exceeds twenty-five thousand, as shown by the most recent 25342
federal decennial census, shall adopt a resolution that creates 25343
an incentive district if the sum of the taxable value of real 25344
property in the proposed district for the preceding tax year and 25345
the taxable value of all real property in the county that would 25346
have been taxable in the preceding year were it not for the fact 25347
that the property was in an existing incentive district and 25348
therefore exempt from taxation exceeds twenty-five per cent of 25349
the taxable value of real property in the county for the 25350
preceding tax year. The district shall be located within the 25351
unincorporated territory of the county and shall not include any 25352
territory that is included within a district created under 25353
division (C) of section 5709.73 of the Revised Code. The 25354
resolution shall delineate the boundary of the district and 25355
specifically identify each parcel within the district. A 25356
district may not include any parcel that is or has been exempted 25357
from taxation under division (A) of this section or that is or 25358
has been within another district created under this division. A 25359
resolution may create more than one such district, and more than 25360
one resolution may be adopted under division (B)(1) of this 25361
section. 25362

(2) Not later than thirty days prior to adopting a 25363
resolution under division (B)(1) of this section, if the county 25364
intends to apply for exemptions from taxation under section 25365
5709.911 of the Revised Code on behalf of owners of real 25366
property located within the proposed incentive district, the 25367
board of county commissioners shall conduct a public hearing on 25368
the proposed resolution. Not later than thirty days prior to the 25369
public hearing, the board shall give notice of the public 25370

hearing and the proposed resolution by first class mail to every 25371
real property owner whose property is located within the 25372
boundaries of the proposed incentive district that is the 25373
subject of the proposed resolution. The board also shall provide 25374
the notice by first class mail to the clerk of each township in 25375
which the proposed incentive district will be located. 25376

(3) (a) A resolution adopted under division (B) (1) of this 25377
section shall specify the life of the incentive district and the 25378
percentage of the improvements to be exempted, shall designate 25379
the public infrastructure improvements made, to be made, or in 25380
the process of being made, that benefit or serve, or, once made, 25381
will benefit or serve parcels in the district. The resolution 25382
also shall identify one or more specific projects being, or to 25383
be, undertaken in the district that place additional demand on 25384
the public infrastructure improvements designated in the 25385
resolution. The project identified may, but need not be, the 25386
project under division (B) (3) (b) of this section that places 25387
real property in use for commercial or industrial purposes. 25388

A resolution adopted under division (B) (1) of this section 25389
on or after March 30, 2006, shall not designate police or fire 25390
equipment as public infrastructure improvements, and no service 25391
payment provided for in section 5709.79 of the Revised Code and 25392
received by the county under the resolution shall be used for 25393
police or fire equipment. 25394

(b) A resolution adopted under division (B) (1) of this 25395
section may authorize the use of service payments provided for 25396
in section 5709.79 of the Revised Code for the purpose of 25397
housing renovations within the incentive district, provided that 25398
the resolution also designates public infrastructure 25399
improvements that benefit or serve the district, and that a 25400

project within the district places real property in use for 25401
commercial or industrial purposes. Service payments may be used 25402
to finance or support loans, deferred loans, and grants to 25403
persons for the purpose of housing renovations within the 25404
district. The resolution shall designate the parcels within the 25405
district that are eligible for housing renovations. The 25406
resolution shall state separately the amount or the percentages 25407
of the expected aggregate service payments that are designated 25408
for each public infrastructure improvement and for the purpose 25409
of housing renovations. 25410

(4) Except with the approval of the board of education of 25411
each city, local, or exempted village school district within the 25412
territory of which the incentive district is or will be located, 25413
and subject to division (D) of this section, the life of an 25414
incentive district shall not exceed ten years, and the 25415
percentage of improvements to be exempted shall not exceed 25416
seventy-five per cent. With approval of the board of education, 25417
the life of a district may be not more than thirty years, and 25418
the percentage of improvements to be exempted may be not more 25419
than one hundred per cent. The approval of a board of education 25420
shall be obtained in the manner provided in division (C) of this 25421
section. 25422

(C) (1) Improvements with respect to a parcel may be 25423
exempted from taxation under division (A) of this section, and 25424
improvements to parcels within an incentive district may be 25425
exempted from taxation under division (B) of this section, for 25426
up to ten years or, with the approval of the board of education 25427
of each city, local, or exempted village school district within 25428
which the parcel or district is located, for up to thirty years. 25429
The percentage of the improvements exempted from taxation may, 25430
with such approval, exceed seventy-five per cent, but shall not 25431

exceed one hundred per cent. Not later than forty-five business 25432
days prior to adopting a resolution under this section declaring 25433
improvements to be a public purpose that is subject to the 25434
approval of a board of education under this division, the board 25435
of county commissioners shall deliver to the board of education 25436
a notice stating its intent to adopt a resolution making that 25437
declaration. The notice regarding improvements with respect to a 25438
parcel under division (A) of this section shall identify the 25439
parcels for which improvements are to be exempted from taxation, 25440
provide an estimate of the true value in money of the 25441
improvements, specify the period for which the improvements 25442
would be exempted from taxation and the percentage of the 25443
improvements that would be exempted, and indicate the date on 25444
which the board of county commissioners intends to adopt the 25445
resolution. The notice regarding improvements to parcels within 25446
an incentive district under division (B) of this section shall 25447
delineate the boundaries of the district, specifically identify 25448
each parcel within the district, identify each anticipated 25449
improvement in the district, provide an estimate of the true 25450
value in money of each such improvement, specify the life of the 25451
district and the percentage of improvements that would be 25452
exempted, and indicate the date on which the board of county 25453
commissioners intends to adopt the resolution. The board of 25454
education, by resolution adopted by a majority of the board, may 25455
approve the exemption for the period or for the exemption 25456
percentage specified in the notice; may disapprove the exemption 25457
for the number of years in excess of ten, may disapprove the 25458
exemption for the percentage of the improvements to be exempted 25459
in excess of seventy-five per cent, or both; or may approve the 25460
exemption on the condition that the board of county 25461
commissioners and the board of education negotiate an agreement 25462
providing for compensation to the school district equal in value 25463

to a percentage of the amount of taxes exempted in the eleventh 25464
and subsequent years of the exemption period or, in the case of 25465
exemption percentages in excess of seventy-five per cent, 25466
compensation equal in value to a percentage of the taxes that 25467
would be payable on the portion of the improvements in excess of 25468
seventy-five per cent were that portion to be subject to 25469
taxation, or other mutually agreeable compensation. 25470

(2) The board of education shall certify its resolution to 25471
the board of county commissioners not later than fourteen days 25472
prior to the date the board of county commissioners intends to 25473
adopt its resolution as indicated in the notice. If the board of 25474
education and the board of county commissioners negotiate a 25475
mutually acceptable compensation agreement, the resolution of 25476
the board of county commissioners may declare the improvements a 25477
public purpose for the number of years specified in that 25478
resolution or, in the case of exemption percentages in excess of 25479
seventy-five per cent, for the exemption percentage specified in 25480
the resolution. In either case, if the board of education and 25481
the board of county commissioners fail to negotiate a mutually 25482
acceptable compensation agreement, the resolution may declare 25483
the improvements a public purpose for not more than ten years, 25484
and shall not exempt more than seventy-five per cent of the 25485
improvements from taxation. If the board of education fails to 25486
certify a resolution to the board of county commissioners within 25487
the time prescribed by this section, the board of county 25488
commissioners thereupon may adopt the resolution and may declare 25489
the improvements a public purpose for up to thirty years or, in 25490
the case of exemption percentages proposed in excess of seventy- 25491
five per cent, for the exemption percentage specified in the 25492
resolution. The board of county commissioners may adopt the 25493
resolution at any time after the board of education certifies 25494

its resolution approving the exemption to the board of county 25495
commissioners, or, if the board of education approves the 25496
exemption on the condition that a mutually acceptable 25497
compensation agreement be negotiated, at any time after the 25498
compensation agreement is agreed to by the board of education 25499
and the board of county commissioners. If a mutually acceptable 25500
compensation agreement is negotiated between the board of county 25501
commissioners and the board of education, including agreements 25502
for payments in lieu of taxes under section 5709.79 of the 25503
Revised Code, the board of county commissioners shall compensate 25504
the joint vocational school district within which the parcel or 25505
district is located at the same rate and under the same terms 25506
received by the city, local, or exempted village school 25507
district. 25508

(3) If a board of education has adopted a resolution 25509
waiving its right to approve exemptions from taxation under this 25510
section and the resolution remains in effect, approval of such 25511
exemptions by the board of education is not required under 25512
division (C) of this section. If a board of education has 25513
adopted a resolution allowing a board of county commissioners to 25514
deliver the notice required under division (C) of this section 25515
fewer than forty-five business days prior to approval of the 25516
resolution by the board of county commissioners, the board of 25517
county commissioners shall deliver the notice to the board of 25518
education not later than the number of days prior to such 25519
approval as prescribed by the board of education in its 25520
resolution. If a board of education adopts a resolution waiving 25521
its right to approve exemptions or shortening the notification 25522
period, the board of education shall certify a copy of the 25523
resolution to the board of county commissioners. If the board of 25524
education rescinds such a resolution, it shall certify notice of 25525

the rescission to the board of county commissioners. 25526

(D) (1) If a proposed resolution under division (B) (1) of 25527
this section exempts improvements with respect to a parcel 25528
within an incentive district for more than ten years, or the 25529
percentage of the improvement exempted from taxation exceeds 25530
seventy-five per cent, not later than forty-five business days 25531
prior to adopting the resolution the board of county 25532
commissioners shall deliver to the board of township trustees of 25533
any township within which the incentive district is or will be 25534
located a notice that states its intent to adopt a resolution 25535
creating an incentive district. The notice shall include a copy 25536
of the proposed resolution, identify the parcels for which 25537
improvements are to be exempted from taxation, provide an 25538
estimate of the true value in money of the improvements, specify 25539
the period of time for which the improvements would be exempted 25540
from taxation, specify the percentage of the improvements that 25541
would be exempted from taxation, and indicate the date on which 25542
the board intends to adopt the resolution. 25543

(2) The board of township trustees, by resolution adopted 25544
by a majority of the board, may object to the exemption for the 25545
number of years in excess of ten, may object to the exemption 25546
for the percentage of the improvement to be exempted in excess 25547
of seventy-five per cent, or both. If the board of township 25548
trustees objects, the board of township trustees may negotiate a 25549
mutually acceptable compensation agreement with the board of 25550
county commissioners. In no case shall the compensation provided 25551
to the board of township trustees exceed the property taxes 25552
forgone due to the exemption. If the board of township trustees 25553
objects, and the board of township trustees and the board of 25554
county commissioners fail to negotiate a mutually acceptable 25555
compensation agreement, the resolution adopted under division 25556

(B) (1) of this section shall provide to the board of township trustees compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the township or, if the board of township trustee's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the township on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees. If the board of township trustees certifies its resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees. If the board of township trustees certifies a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of county commissioners in the proposed resolution to provide compensation to the board of township trustees of fifty

per cent of the taxes that would be payable to the township in 25588
the eleventh and subsequent years of the exemption period or on 25589
the portion of the improvement in excess of seventy-five per 25590
cent, were that portion to be subject to taxation. 25591

(E) Service payments in lieu of taxes that are 25592
attributable to any amount by which the effective tax rate of 25593
either a renewal levy with an increase or a replacement levy 25594
exceeds the effective tax rate of the levy renewed or replaced, 25595
or that are attributable to an additional levy, for a levy 25596
authorized by the voters for any of the following purposes on or 25597
after January 1, 2006, and which are provided pursuant to a 25598
resolution creating an incentive district under division (B)(1) 25599
of this section that is adopted on or after January 1, 2006, 25600
shall be distributed to the appropriate taxing authority as 25601
required under division (D) of section 5709.79 of the Revised 25602
Code in an amount equal to the amount of taxes from that 25603
additional levy or from the increase in the effective tax rate 25604
of such renewal or replacement levy that would have been payable 25605
to that taxing authority from the following levies were it not 25606
for the exemption authorized under division (B) of this section: 25607

(1) A tax levied under division (L) of section 5705.19 or 25608
section 5705.191 of the Revised Code for community ~~mental-~~ 25609
~~retardation and~~ developmental disabilities programs and services 25610
pursuant to Chapter 5126. of the Revised Code; 25611

(2) A tax levied under division (Y) of section 5705.19 of 25612
the Revised Code for providing or maintaining senior citizens 25613
services or facilities; 25614

(3) A tax levied under section 5705.22 of the Revised Code 25615
for county hospitals; 25616

(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;	25617 25618 25619 25620
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	25621 25622
(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;	25623 25624 25625
(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;	25626 25627 25628 25629
(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;	25630 25631 25632
(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;	25633 25634 25635 25636
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	25637 25638
(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;	25639 25640 25641 25642 25643
(12) A tax levied under section 3709.29 of the Revised	25644

Code for a general health district program. 25645

(F) An exemption from taxation granted under this section 25646
commences with the tax year specified in the resolution so long 25647
as the year specified in the resolution commences after the 25648
effective date of the resolution. If the resolution specifies a 25649
year commencing before the effective date of the resolution or 25650
specifies no year whatsoever, the exemption commences with the 25651
tax year in which an exempted improvement first appears on the 25652
tax list and duplicate of real and public utility property and 25653
that commences after the effective date of the resolution. In 25654
lieu of stating a specific year, the resolution may provide that 25655
the exemption commences in the tax year in which the value of an 25656
improvement exceeds a specified amount or in which the 25657
construction of one or more improvements is completed, provided 25658
that such tax year commences after the effective date of the 25659
resolution. With respect to the exemption of improvements to 25660
parcels under division (A) of this section, the resolution may 25661
allow for the exemption to commence in different tax years on a 25662
parcel-by-parcel basis, with a separate exemption term specified 25663
for each parcel. 25664

Except as otherwise provided in this division, the 25665
exemption ends on the date specified in the resolution as the 25666
date the improvement ceases to be a public purpose or the 25667
incentive district expires, or ends on the date on which the 25668
county can no longer require annual service payments in lieu of 25669
taxes under section 5709.79 of the Revised Code, whichever 25670
occurs first. The exemption of an improvement with respect to a 25671
parcel or within an incentive district may end on a later date, 25672
as specified in the resolution, if the board of commissioners 25673
and the board of education of the city, local, or exempted 25674
village school district within which the parcel or district is 25675

located have entered into a compensation agreement under section 25676
5709.82 of the Revised Code with respect to the improvement, and 25677
the board of education has approved the term of the exemption 25678
under division (C) (1) of this section, but in no case shall the 25679
improvement be exempted from taxation for more than thirty 25680
years. Exemptions shall be claimed and allowed in the same or a 25681
similar manner as in the case of other real property exemptions. 25682
If an exemption status changes during a tax year, the procedure 25683
for the apportionment of the taxes for that year is the same as 25684
in the case of other changes in tax exemption status during the 25685
year. 25686

(G) If the board of county commissioners is not required 25687
by this section to notify the board of education of the board of 25688
county commissioners' intent to declare improvements to be a 25689
public purpose, the board of county commissioners shall comply 25690
with the notice requirements imposed under section 5709.83 of 25691
the Revised Code before taking formal action to adopt the 25692
resolution making that declaration, unless the board of 25693
education has adopted a resolution under that section waiving 25694
its right to receive such a notice. 25695

(H) The county, not later than fifteen days after the 25696
adoption of a resolution under this section, shall submit to the 25697
director of development services a copy of the resolution. On or 25698
before the thirty-first day of March of each year, the county 25699
shall submit a status report to the director of development 25700
services. The report shall indicate, in the manner prescribed by 25701
the director, the progress of the project during each year that 25702
an exemption remains in effect, including a summary of the 25703
receipts from service payments in lieu of taxes; expenditures of 25704
money from the fund created under section 5709.80 of the Revised 25705
Code; a description of the public infrastructure improvements 25706

and housing renovations financed with such expenditures; and a 25707
quantitative summary of changes in employment and private 25708
investment resulting from each project. 25709

(I) Nothing in this section shall be construed to prohibit 25710
a board of county commissioners from declaring to be a public 25711
purpose improvements with respect to more than one parcel. 25712

(J) If a parcel is located in a new community district in 25713
which the new community authority imposes a community 25714
development charge on the basis of rentals received from leases 25715
of real property as described in division (L)(2) of section 25716
349.01 of the Revised Code, the parcel may not be exempted from 25717
taxation under this section. 25718

Sec. 5711.07. Personal property used in business shall be 25719
listed and assessed in the taxing district in which such 25720
business is carried on. If such business is carried on in more 25721
than one taxing district in the same county, the return shall 25722
set forth the amount of the property used therein which is 25723
situated in each taxing district in such county, and the value 25724
of all the personal property used in business shall be 25725
apportioned to and assessed in each of such taxing districts in 25726
proportion to the value of the personal property situated 25727
therein. Domestic animals not used in business shall be listed 25728
and assessed in the taxing district where kept. Ships, vessels, 25729
boats, and aircraft, and shares and interests therein, shall be 25730
listed and assessed in the taxing district in which the owner 25731
resides. All other taxable property shall be listed and assessed 25732
in the municipal corporation in which the owner resides, or, if 25733
the owner resides outside a municipal corporation, then in the 25734
county in which the owner resides except as provided in sections 25735
5711.01 to 5711.36 of the Revised Code. Whenever, under such 25736

sections, taxable property required by this section to be listed 25737
and assessed in the taxing district or county in which the owner 25738
resides is required to be listed by a fiduciary, such property 25739
shall be listed and assessed by such fiduciary in the taxing 25740
district or county in which such fiduciary resides, or, in the 25741
case of joint fiduciaries, in which either such fiduciary 25742
resides; but such property belonging to the estate of a deceased 25743
resident of this state shall be listed and assessed in the 25744
taxing district or county in which the deceased resident resided 25745
at the time of death, regardless of the residence of the 25746
deceased resident's executors, administrators, or personal 25747
representatives, and such property belonging to a ward, minor, 25748
incompetent person, or beneficiary of a trust residing in this 25749
state, title, custody, or possession of which is vested in a 25750
nonresident fiduciary, shall be listed and assessed in the 25751
taxing district or county in which such ward, minor, incompetent 25752
person, or beneficiary resides. 25753

As used in this section, "incompetent person" means a 25754
person who is so mentally impaired, as a result of a mental or 25755
physical illness or disability, ~~or mental retardation~~ as a result 25756
of an intellectual disability, or as a result of chronic 25757
substance abuse, that the person is incapable of taking proper 25758
care of the person's self or property or fails to provide for 25759
the person's family or other persons for whom the person is 25760
charged by law to provide. 25761

Sec. 5747.03. (A) All money collected under this chapter 25762
arising from the taxes imposed by section 5747.02 or 5747.41 of 25763
the Revised Code shall be credited to the general revenue fund, 25764
except that the treasurer of state shall, at the beginning of 25765
each calendar quarter, credit to the Ohio political party fund, 25766
pursuant to section 3517.16 of the Revised Code, an amount equal 25767

to the total dollar value realized from the taxpayer exercise of 25768
the income tax checkoff option on tax forms processed during the 25769
preceding calendar quarter. 25770

(B) (1) Following the crediting of moneys pursuant to 25771
division (A) of this section, the remainder deposited in the 25772
general revenue fund shall be distributed pursuant to division 25773
(F) of section 321.24 and section 323.156 of the Revised Code; 25774
to make subsidy payments to institutions of higher education 25775
from appropriations to the Ohio board of regents; to support 25776
expenditures for programs and services for the mentally ill, 25777
~~mentally retarded, developmentally disabled~~persons with 25778
developmental disabilities, and the elderly; for primary and 25779
secondary education; for medical assistance; and for any other 25780
purposes authorized by law, subject to the limitation that at 25781
least fifty per cent of the income tax collected by the state 25782
from the tax imposed by section 5747.02 of the Revised Code 25783
shall be returned pursuant to Section 9 of Article XII, Ohio 25784
Constitution. 25785

(2) To ensure that such constitutional requirement is 25786
satisfied the tax commissioner shall, on or before the thirtieth 25787
day of June of each year, from the best information available to 25788
the tax commissioner, determine and certify for each county to 25789
the director of budget and management the amount of taxes 25790
collected under this chapter from the tax imposed under section 25791
5747.02 of the Revised Code during the preceding calendar year 25792
that are required to be returned to the county by Section 9 of 25793
Article XII, Ohio Constitution. The director shall provide for 25794
payment from the general revenue fund to the county in the 25795
amount, if any, that the sum of the amount so certified for that 25796
county exceeds the sum of the following: 25797

(a) The sum of the payments from the general revenue fund 25798
for the preceding calendar year credited to the county's 25799
undivided income tax fund pursuant to division (F) of section 25800
321.24 and section 323.156 of the Revised Code or made directly 25801
from the general revenue fund to political subdivisions located 25802
in the county; 25803

(b) The sum of the amounts from the general revenue fund 25804
distributed in the county during the preceding calendar year for 25805
subsidy payments to institutions of higher education from 25806
appropriations to the Ohio board of regents; for programs and 25807
services for mentally ill persons, ~~mentally retarded,~~ 25808
~~developmentally disabled~~ persons with developmental 25809
disabilities, and elderly persons; for primary and secondary 25810
education; and for medical assistance. 25811

(c) In the case of payments made by the director under 25812
this division in 2007, the total amount distributed to the 25813
county during the preceding calendar year from the local 25814
government fund and the local government revenue assistance 25815
fund, and, in the case of payments made by the director under 25816
this division in subsequent calendar years, the amount 25817
distributed to the county from the local government fund; 25818

(d) In the case of payments made by the director under 25819
this division, the total amount distributed to the county during 25820
the preceding calendar year from the public library fund. 25821

Payments under this division shall be credited to the 25822
county's undivided income tax fund, except that, notwithstanding 25823
section 5705.14 of the Revised Code, such payments may be 25824
transferred by the board of county commissioners to the county 25825
general fund by resolution adopted with the affirmative vote of 25826
two-thirds of the members thereof. 25827

(C) All payments received in each month from taxes imposed 25828
under Chapter 5748. of the Revised Code and any penalties or 25829
interest thereon shall be paid into the school district income 25830
tax fund, which is hereby created in the state treasury, except 25831
that an amount equal to the following portion of such payments 25832
shall be paid into the general school district income tax 25833
administrative fund, which is hereby created in the state 25834
treasury: 25835

(1) One and three-quarters of one per cent of those 25836
received in fiscal year 1996; 25837

(2) One and one-half per cent of those received in fiscal 25838
year 1997 and thereafter. 25839

Money in the school district income tax administrative 25840
fund shall be used by the tax commissioner to defray costs 25841
incurred in administering the school district's income tax, 25842
including the cost of providing employers with information 25843
regarding the rate of tax imposed by any school district. Any 25844
moneys remaining in the fund after such use shall be deposited 25845
in the school district income tax fund. 25846

All interest earned on moneys in the school district 25847
income tax fund shall be credited to the fund. 25848

(D) (1) (a) Within thirty days of the end of each calendar 25849
quarter ending on the last day of March, June, September, and 25850
December, the director of budget and management shall make a 25851
payment from the school district income tax fund to each school 25852
district for which school district income tax revenue was 25853
received during that quarter. The amount of the payment shall 25854
equal the balance in the school district's account at the end of 25855
that quarter. 25856

(b) After a school district ceases to levy an income tax, 25857
the director of budget and management shall adjust the payments 25858
under division (D) (1) (a) of this section to retain sufficient 25859
money in the school district's account to pay refunds. For the 25860
calendar quarters ending on the last day of March and December 25861
of the calendar year following the last calendar year the tax is 25862
levied, the director shall make the payments in the amount 25863
required under division (D) (1) (a) of this section. For the 25864
calendar quarter ending on the last day of June of the calendar 25865
year following the last calendar year the tax is levied, the 25866
director shall make a payment equal to nine-tenths of the 25867
balance in the account at the end of that quarter. For the 25868
calendar quarter ending on the last day of September of the 25869
calendar year following the last calendar year the tax is 25870
levied, the director shall make no payment. For the second and 25871
succeeding calendar years following the last calendar year the 25872
tax is levied, the director shall make one payment each year, 25873
within thirty days of the last day of June, in an amount equal 25874
to the balance in the district's account on the last day of 25875
June. 25876

(2) Moneys paid to a school district under this division 25877
shall be deposited in its school district income tax fund. All 25878
interest earned on moneys in the school district income tax fund 25879
shall be apportioned by the tax commissioner pro rata among the 25880
school districts in the proportions and at the times the 25881
districts are entitled to receive payments under this division. 25882

Sec. 5815.28. (A) As used in this section: 25883

(1) "Ascertainable standard" includes a standard in a 25884
trust instrument requiring the trustee to provide for the care, 25885
comfort, maintenance, welfare, education, or general well-being 25886

of the beneficiary. 25887

(2) "Disability" means any substantial, medically 25888
determinable impairment that can be expected to result in death 25889
or that has lasted or can be expected to last for a continuous 25890
period of at least twelve months, except that "disability" does 25891
not include an impairment that is the result of abuse of alcohol 25892
or drugs. 25893

(3) "Political subdivision" and "state" have the same 25894
meanings as in section 2744.01 of the Revised Code. 25895

(4) "Supplemental services" means services specified by 25896
rule of the department of mental health and addiction services 25897
under section 5119.10 of the Revised Code or the department of 25898
developmental disabilities under section 5123.04 of the Revised 25899
Code that are provided to an individual with a disability in 25900
addition to services the individual is eligible to receive under 25901
programs authorized by federal or state law. 25902

(B) Any person may create a trust under this section to 25903
provide funding for supplemental services for the benefit of 25904
another individual who meets either of the following conditions: 25905

(1) The individual has a physical or mental disability and 25906
is eligible to receive services through the department of 25907
developmental disabilities or a county board of developmental 25908
disabilities; 25909

(2) The individual has a mental disability and is eligible 25910
to receive services through the department of mental health and 25911
addiction services or a board of alcohol, drug addiction, and 25912
mental health services. 25913

The trust may confer discretion upon the trustee and may 25914
contain specific instructions or conditions governing the 25915

exercise of the discretion. 25916

(C) The general division of the court of common pleas and 25917
the probate court of the county in which the beneficiary of a 25918
trust authorized by division (B) of this section resides or is 25919
confined have concurrent original jurisdiction to hear and 25920
determine actions pertaining to the trust. In any action 25921
pertaining to the trust in a court of common pleas or probate 25922
court and in any appeal of the action, all of the following 25923
apply to the trial or appellate court: 25924

(1) The court shall render determinations consistent with 25925
the testator's or other settlor's intent in creating the trust, 25926
as evidenced by the terms of the trust instrument. 25927

(2) The court may order the trustee to exercise discretion 25928
that the trust instrument confers upon the trustee only if the 25929
instrument contains specific instructions or conditions 25930
governing the exercise of that discretion and the trustee has 25931
failed to comply with the instructions or conditions. In issuing 25932
an order pursuant to this division, the court shall require the 25933
trustee to exercise the trustee's discretion only in accordance 25934
with the instructions or conditions. 25935

(3) The court may order the trustee to maintain the trust 25936
and distribute assets in accordance with rules adopted by the 25937
director of mental health and addiction services under section 25938
5119.10 of the Revised Code or the director of developmental 25939
disabilities under section 5123.04 of the Revised Code if the 25940
trustee has failed to comply with such rules. 25941

(D) To the extent permitted by federal law and subject to 25942
the provisions of division (C) (2) of this section pertaining to 25943
the enforcement of specific instructions or conditions governing 25944

a trustee's discretion, a trust authorized by division (B) of 25945
this section that confers discretion upon the trustee shall not 25946
be considered an asset or resource of the beneficiary, the 25947
beneficiary's estate, the settlor, or the settlor's estate and 25948
shall be exempt from the claims of creditors, political 25949
subdivisions, the state, other governmental entities, and other 25950
claimants against the beneficiary, the beneficiary's estate, the 25951
settlor, or the settlor's estate, including claims regarding the 25952
medicaid program or based on provisions of Chapters 5121. or 25953
5123. of the Revised Code and claims sought to be satisfied by 25954
way of a civil action, subrogation, execution, garnishment, 25955
attachment, judicial sale, or other legal process, if all of the 25956
following apply: 25957

(1) At the time the trust is created, the trust principal 25958
does not exceed the maximum amount determined under division (E) 25959
of this section; 25960

(2) The trust instrument contains a statement of the 25961
settlor's intent, or otherwise clearly evidences the settlor's 25962
intent, that the beneficiary does not have authority to compel 25963
the trustee under any circumstances to furnish the beneficiary 25964
with minimal or other maintenance or support, to make payments 25965
from the principal of the trust or from the income derived from 25966
the principal, or to convert any portion of the principal into 25967
cash, whether pursuant to an ascertainable standard specified in 25968
the instrument or otherwise; 25969

(3) The trust instrument provides that trust assets can be 25970
used only to provide supplemental services, as defined by rule 25971
of the director of mental health and addiction services under 25972
section 5119.10 of the Revised Code or the director of 25973
developmental disabilities under section 5123.04 of the Revised 25974

Code, to the beneficiary; 25975

(4) The trust is maintained and assets are distributed in 25976
accordance with rules adopted by the director of mental health 25977
and addiction services under section 5119.10 of the Revised Code 25978
or the director of developmental disabilities under section 25979
5123.04 of the Revised Code; 25980

(5) The trust instrument provides that on the death of the 25981
beneficiary, a portion of the remaining assets of the trust, 25982
which shall be not less than fifty per cent of such assets, will 25983
be deposited to the credit of the services fund for individuals 25984
with mental illness created by section 5119.51 of the Revised 25985
Code or the services fund for individuals with ~~mental-~~ 25986
~~retardation and~~ developmental disabilities created by section 25987
5123.40 of the Revised Code. 25988

(E) In 1994, the trust principal maximum amount for a 25989
trust created under this section shall be two hundred thousand 25990
dollars. The maximum amount for a trust created under this 25991
section prior to November 11, 1994, may be increased to two 25992
hundred thousand dollars. 25993

In 1995, the maximum amount for a trust created under this 25994
section shall be two hundred two thousand dollars. Each year 25995
thereafter, the maximum amount shall be the prior year's amount 25996
plus two thousand dollars. 25997

(F) This section does not limit or otherwise affect the 25998
creation, validity, interpretation, or effect of any trust that 25999
is not created under this section. 26000

(G) Once a trustee takes action on a trust created by a 26001
settlor under this section and disburses trust funds on behalf 26002
of the beneficiary of the trust, then the trust may not be 26003

terminated or otherwise revoked by a particular event or 26004
otherwise without payment into the services fund created 26005
pursuant to section 5119.51 or 5123.40 of the Revised Code of an 26006
amount that is equal to the disbursements made on behalf of the 26007
beneficiary for medical care by the state from the date the 26008
trust vests but that is not more than fifty per cent of the 26009
trust corpus. 26010

Sec. 5815.35. (A) (1) As used in this division, "fiduciary" 26011
means any person, association, or corporation, other than a 26012
trustee of a testamentary trust, an assignee or trustee for an 26013
insolvent debtor, or a guardian under Chapter 5905. of the 26014
Revised Code, that is appointed by and accountable to the 26015
probate court, and that is acting in a fiduciary capacity for 26016
another or charged with duties in relation to any property, 26017
interest, or estate for another's benefit. A fiduciary also 26018
includes an agency under contract with the department of 26019
developmental disabilities for the provision of protective 26020
service under sections 5123.55 to 5123.59 of the Revised Code, 26021
when appointed by and accountable to the probate court as a 26022
guardian or trustee for a ~~mentally retarded or developmentally~~ 26023
~~disabled person~~ with a developmental disability. 26024

(2) A fiduciary who enters a contract as fiduciary on or 26025
after March 22, 1984, is not personally liable on that contract, 26026
unless the contract otherwise specifies, if the contract is 26027
within the fiduciary's authority and the fiduciary discloses 26028
that the contract is being entered into in a fiduciary capacity. 26029
In a contract, the words "fiduciary" or "as fiduciary" or other 26030
words that indicate one's fiduciary capacity following the name 26031
or signature of a fiduciary are sufficient disclosure for 26032
purposes of this division. 26033

(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 partnership interest in a fiduciary capacity by the use following the name or signature of the executor or administrator of the words "executor under the will of (name of decedent)" or "administrator of the estate of (name of decedent)" or other

words that indicate the executor's or administrator's fiduciary capacity constitutes a sufficient disclosure for purposes of this division.

If a partnership certificate is not required to be filed pursuant to Chapter 1776. or 1777. or another chapter of the Revised Code, a sufficient disclosure for purposes of this division can be made by an executor or administrator if a certificate that satisfies the following requirements is filed with the recorder of the county in which the partnership's principal office or place of business is situated and with the recorder of each county in which the partnership owns real estate:

(a) The certificate shall state in full the names of all persons holding interests in the partnership and their places of residence;

(b) The certificate shall be signed by all persons who are general partners in the partnership, and shall be acknowledged by a person authorized to take acknowledgements of deeds;

(c) The certificate shall use the words "executor under the will of (name of decedent)" or "administrator of the estate of (name of decedent)" or other words that indicate the executor's or administrator's fiduciary capacity, following the name or signature of the executor or administrator.

A contract or other written instrument delivered to a party that contracts with the partnership in which an executor or administrator holds a general partnership interest in a fiduciary capacity, that indicates that the executor or administrator so holds the interest, constitutes a disclosure for purposes of this division with respect to transactions

between the party and the partnership. If a disclosure has been 26094
made by a certificate in accordance with this division, a 26095
disclosure for purposes of this division with respect to such 26096
transactions exists regardless of whether a contract or other 26097
instrument indicates the executor or administrator holds the 26098
general partnership interest in a fiduciary capacity. 26099

If an executor or administrator acquires, in a fiduciary 26100
capacity, a general partnership interest, the decedent's estate 26101
is liable for debts, obligations, or liabilities of the 26102
partnership. 26103

(C) An estate that includes a general partnership interest 26104
is not liable for the debts, obligations, or liabilities of a 26105
partnership in which another estate has a general partnership 26106
interest, merely because the executor or administrator of the 26107
estates holds a general partnership interest in both of the 26108
partnerships in the executor's or administrator's fiduciary 26109
capacities. 26110

(D) Divisions (B) and (C) of this section apply to general 26111
partnership interests held by executors or administrators in 26112
their fiduciary capacities prior to and on or after March 22, 26113
1984. If an appropriate disclosure is made pursuant to division 26114
(B) of this section, the immunity acquired under that division 26115
extends only to debts, obligations, and liabilities of the 26116
partnership arising on and after the date of the disclosure and 26117
to debts, obligations, and liabilities of the partnership that 26118
arose prior to the acquisition of the general partnership 26119
interest by the executor or administrator becoming a general 26120
partner. 26121

(E) The liability limitations in this section apply to 26122
fiduciaries as partners notwithstanding the broader personal 26123

liabilities otherwise imposed by any partnership law. 26124

(F) If an estate or other fund held by a fiduciary is 26125
identified as a partner, the reference is deemed to be to, and 26126
the partner is, the current executor, administrator, or other 26127
fiduciary of the estate or other fund and their successors as 26128
executors, administrators, or other fiduciaries. 26129

Section 2. That existing sections 1.02, 121.22, 121.37, 26130
135.801, 145.01, 145.012, 145.298, 145.332, 149.431, 152.04, 26131
173.25, 173.27, 173.38, 173.381, 305.07, 307.02, 313.12, 325.07, 26132
711.23, 1751.01, 1751.14, 2101.17, 2101.24, 2108.521, 2109.01, 26133
2111.01, 2111.10, 2111.49, 2151.011, 2151.281, 2151.353, 26134
2151.414, 2151.415, 2151.421, 2151.425, 2151.651, 2152.02, 26135
2152.12, 2152.14, 2152.51, 2152.52, 2152.54, 2152.56, 2152.811, 26136
2305.111, 2311.14, 2317.021, 2503.37, 2721.05, 2744.01, 2901.13, 26137
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5123.0412, 5123.0413, 5123.0417, 5123.0418, 5123.081, 5123.092, 26150
5123.093, 5123.122, 5123.165, 5123.169, 5123.17, 5123.171, 26151
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5123.351, 5123.36, 5123.37, 5123.374, 5123.375, 5123.40, 26153
5123.41, 5123.42, 5123.421, 5123.422, 5123.43, 5123.44, 26154

5123.441, 5123.45, 5123.451, 5123.47, 5123.50, 5123.51, 5123.52, 26155
5123.541, 5123.542, 5123.55, 5123.57, 5123.58, 5123.601, 26156
5123.61, 5123.611, 5123.612, 5123.614, 5123.62, 5123.63, 26157
5123.64, 5123.65, 5123.651, 5123.67, 5123.69, 5123.701, 5123.71, 26158
5123.74, 5123.75, 5123.76, 5123.79, 5123.80, 5123.81, 5123.82, 26159
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5126.059, 5126.0510, 5126.08, 5126.082, 5126.11, 5126.15, 26164
5126.22, 5126.25, 5126.30, 5126.31, 5126.33, 5126.333, 5126.40, 26165
5126.46, 5126.49, 5126.52, 5126.55, 5126.58, 5139.06, 5139.08, 26166
5139.12, 5139.27, 5139.39, 5139.54, 5164.25, 5164.342, 5164.881, 26167
5165.01, 5166.20, 5166.21, 5166.22, 5168.68, 5301.22, 5305.17, 26168
5307.19, 5310.12, 5321.01, 5705.05, 5705.091, 5705.19, 5705.222, 26169
5709.40, 5709.73, 5709.78, 5711.07, 5747.03, 5815.28, and 26170
5815.35 of the Revised Code are hereby repealed. 26171

Section 3. The General Assembly, applying the principle 26172
stated in division (B) of section 1.52 of the Revised Code that 26173
amendments are to be harmonized if reasonably capable of 26174
simultaneous operation, finds that the following sections, 26175
presented in this act as composites of the sections as amended 26176
by the acts indicated, are the resulting versions of the 26177
sections in effect prior to the effective date of the sections 26178
as presented in this act: 26179

Section 2151.414 of the Revised Code as amended by both 26180
Am. Sub. H.B. 130 and Am. Sub. H.B. 213 of the 130th General 26181
Assembly. 26182

Section 3323.05 of the Revised Code as amended by both Am. 26183
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 26184

Section 3791.031 of the Revised Code as amended by both 26185
Am. Sub. H.B. 117 and Am. Sub. S.B. 162 of the 121st General 26186
Assembly. 26187

Section 5123.61 of the Revised Code as amended by both 26188
Sub. H.B. 232 and Am. Sub. H.B. 483 of the 130th General 26189
Assembly. 26190

Section 5705.05 of the Revised Code as amended by both 26191
Sub. H.B. 458 and Sub. S.B. 353 of the 127th General Assembly. 26192

Section 4. Under this act, it is the intent of the General 26193
Assembly to remove references in the Revised Code to the term 26194
"mental retardation" and derivations of that term, to replace 26195
those references with the term "intellectual disability" and 26196
corresponding derivations of that term, and to do so without a 26197
resulting change in meaning. 26198