

**As Reported by the Senate State and Local Government Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. H. B. No. 56**

**Representatives Schuring, Slesnick**

**Cosponsors: Representatives Antonio, Becker, Bishoff, Brenner, Boyd, Dever, Driehaus, Fedor, Hood, Leland, Lepore-Hagan, Maag, Reece, Retherford, Ruhl, Thompson, Sheehy, Amstutz, Ashford, Blessing, Boyce, Buchy, Craig, Derickson, DeVitis, Ginter, Green, Grossman, Hackett, Howse, Johnson, T., Kuhns, McClain, O'Brien, S., Patmon, Patterson, Pelanda, Perales, Ramos, Rogers, Ryan, Sears, Smith, R., Stinziano, Sweeney, Sykes, Young, Speaker Rosenberger**

**Senators Brown, Hottinger, Yuko**

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**A BILL**

To amend sections 124.11, 124.34, 329.021, 2953.36, 1  
4121.121, 5120.38, 5120.381, 5120.382, 5123.08, 2  
and 5139.02 and to enact sections 9.73 and 3  
5164.44 of the Revised Code to prohibit public 4  
employers from including on an employment 5  
application any question concerning the criminal 6  
background of the applicant, to prohibit a 7  
felony conviction from being used against an 8  
officer or employee when a public employer is 9  
undertaking certain employment practices, unless 10  
the conviction occurs while the officer or 11  
employee is employed in the civil service, to 12  
remove the bar against sealing a conviction 13  
record when the victim is 16 or 17 years old, 14  
and to provide that certain independent 15  
providers are not employees of the state or a 16  
political subdivision. 17

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

**Section 1.** That sections 124.11, 124.34, 329.021, 2953.36, 4121.121, 5120.38, 5120.381, 5120.382, 5123.08, and 5139.02 be amended and sections 9.73 and 5164.44 of the Revised Code be enacted to read as follows:

**Sec. 9.73.** (A) As used in this section:

(1) "Public employer" means a state agency or a political subdivision of the state.

(2) "State agency" means any organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of government.

(3) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(B) No public employer shall include on any form for application for employment with the public employer any question concerning the criminal background of the applicant.

(C) Nothing in this section prohibits a public employer from including on any form for application for employment with the public employer a statement notifying an applicant of any provision of the Revised Code or federal law that disqualifies an individual with a particular criminal history from employment in a particular position.

**Sec. 124.11.** The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts

of the state shall be divided into the unclassified service and 44  
the classified service. 45

(A) The unclassified service shall comprise the following 46  
positions, which shall not be included in the classified 47  
service, and which shall be exempt from all examinations 48  
required by this chapter: 49

(1) All officers elected by popular vote or persons 50  
appointed to fill vacancies in those offices; 51

(2) All election officers as defined in section 3501.01 of 52  
the Revised Code; 53

(3) (a) The members of all boards and commissions, and 54  
heads of principal departments, boards, and commissions 55  
appointed by the governor or by and with the governor's consent; 56

(b) The heads of all departments appointed by a board of 57  
county commissioners; 58

(c) The members of all boards and commissions and all 59  
heads of departments appointed by the mayor, or, if there is no 60  
mayor, such other similar chief appointing authority of any city 61  
or city school district; 62

Except as otherwise provided in division (A) (17) or (C) of 63  
this section, this chapter does not exempt the chiefs of police 64  
departments and chiefs of fire departments of cities or civil 65  
service townships from the competitive classified service. 66

(4) The members of county or district licensing boards or 67  
commissions and boards of revision, and not more than five 68  
deputy county auditors; 69

(5) All officers and employees elected or appointed by 70  
either or both branches of the general assembly, and employees 71

of the city legislative authority engaged in legislative duties;	72
(6) All commissioned, warrant, and noncommissioned	73
officers and enlisted persons in the Ohio organized militia,	74
including military appointees in the adjutant general's	75
department;	76
(7) (a) All presidents, business managers, administrative	77
officers, superintendents, assistant superintendents,	78
principals, deans, assistant deans, instructors, teachers, and	79
such employees as are engaged in educational or research duties	80
connected with the public school system, colleges, and	81
universities, as determined by the governing body of the public	82
school system, colleges, and universities;	83
(b) The library staff of any library in the state	84
supported wholly or in part at public expense.	85
(8) Four clerical and administrative support employees for	86
each of the elective state officers, four clerical and	87
administrative support employees for each board of county	88
commissioners and one such employee for each county	89
commissioner, and four clerical and administrative support	90
employees for other elective officers and each of the principal	91
appointive executive officers, boards, or commissions, except	92
for civil service commissions, that are authorized to appoint	93
such clerical and administrative support employees;	94
(9) The deputies and assistants of state agencies	95
authorized to act for and on behalf of the agency, or holding a	96
fiduciary or administrative relation to that agency and those	97
persons employed by and directly responsible to elected county	98
officials or a county administrator and holding a fiduciary or	99
administrative relationship to such elected county officials or	100

county administrator, and the employees of such county officials 101  
whose fitness would be impracticable to determine by competitive 102  
examination, provided that division (A) (9) of this section shall 103  
not affect those persons in county employment in the classified 104  
service as of September 19, 1961. Nothing in division (A) (9) of 105  
this section applies to any position in a county department of 106  
job and family services created pursuant to Chapter 329. of the 107  
Revised Code. 108

(10) Bailiffs, constables, official stenographers, and 109  
commissioners of courts of record, deputies of clerks of the 110  
courts of common pleas who supervise or who handle public moneys 111  
or secured documents, and such officers and employees of courts 112  
of record and such deputies of clerks of the courts of common 113  
pleas as the appointing authority finds it impracticable to 114  
determine their fitness by competitive examination; 115

(11) Assistants to the attorney general, special counsel 116  
appointed or employed by the attorney general, assistants to 117  
county prosecuting attorneys, and assistants to city directors 118  
of law; 119

(12) Such teachers and employees in the agricultural 120  
experiment stations; such students in normal schools, colleges, 121  
and universities of the state who are employed by the state or a 122  
political subdivision of the state in student or intern 123  
classifications; and such unskilled labor positions as the 124  
director of administrative services, with respect to positions 125  
in the service of the state, or any municipal civil service 126  
commission may find it impracticable to include in the 127  
competitive classified service; provided such exemptions shall 128  
be by order of the commission or the director, duly entered on 129  
the record of the commission or the director with the reasons 130

for each such exemption;	131
(13) Any physician or dentist who is a full-time employee	132
of the department of mental health and addiction services, the	133
department of developmental disabilities, or an institution	134
under the jurisdiction of either department; and physicians who	135
are in residency programs at the institutions;	136
(14) Up to twenty positions at each institution under the	137
jurisdiction of the department of mental health and addiction	138
services or the department of developmental disabilities that	139
the department director determines to be primarily	140
administrative or managerial; and up to fifteen positions in any	141
division of either department, excluding administrative	142
assistants to the director and division chiefs, which are within	143
the immediate staff of a division chief and which the director	144
determines to be primarily and distinctively administrative and	145
managerial;	146
(15) Noncitizens of the United States employed by the	147
state, or its counties or cities, as physicians or nurses who	148
are duly licensed to practice their respective professions under	149
the laws of this state, or medical assistants, in mental or	150
chronic disease hospitals, or institutions;	151
(16) Employees of the governor's office;	152
(17) Fire chiefs and chiefs of police in civil service	153
townships appointed by boards of township trustees under section	154
505.38 or 505.49 of the Revised Code;	155
(18) Executive directors, deputy directors, and program	156
directors employed by boards of alcohol, drug addiction, and	157
mental health services under Chapter 340. of the Revised Code,	158
and secretaries of the executive directors, deputy directors,	159

and program directors;	160
(19) Superintendents, and management employees as defined	161
in section 5126.20 of the Revised Code, of county boards of	162
developmental disabilities;	163
(20) Physicians, nurses, and other employees of a county	164
hospital who are appointed pursuant to sections 339.03 and	165
339.06 of the Revised Code;	166
(21) The executive director of the state medical board,	167
who is appointed pursuant to division (B) of section 4731.05 of	168
the Revised Code;	169
(22) County directors of job and family services as	170
provided in section 329.02 of the Revised Code and	171
administrators appointed under section 329.021 of the Revised	172
Code;	173
(23) A director of economic development who is hired	174
pursuant to division (A) of section 307.07 of the Revised Code;	175
(24) Chiefs of construction and compliance, of operations	176
and maintenance, of worker protection, and of licensing and	177
certification in the division of industrial compliance in the	178
department of commerce;	179
(25) The executive director of a county transit system	180
appointed under division (A) of section 306.04 of the Revised	181
Code;	182
(26) Up to five positions at each of the administrative	183
departments listed in section 121.02 of the Revised Code and at	184
the department of taxation, department of the adjutant general,	185
department of education, Ohio board of regents, bureau of	186
workers' compensation, industrial commission, state lottery	187

commission, opportunities for Ohioans with disabilities agency, 188  
and public utilities commission of Ohio that the head of that 189  
administrative department or of that other state agency 190  
determines to be involved in policy development and 191  
implementation. The head of the administrative department or 192  
other state agency shall set the compensation for employees in 193  
these positions at a rate that is not less than the minimum 194  
compensation specified in pay range 41 but not more than the 195  
maximum compensation specified in pay range 47 of salary 196  
schedule E-2 in section 124.152 of the Revised Code. The 197  
authority to establish positions in the unclassified service 198  
under division (A) (26) of this section is in addition to and 199  
does not limit any other authority that an administrative 200  
department or state agency has under the Revised Code to 201  
establish positions, appoint employees, or set compensation. 202

(27) Employees of the department of agriculture employed 203  
under section 901.09 of the Revised Code; 204

(28) For cities, counties, civil service townships, city 205  
health districts, general health districts, and city school 206  
districts, the deputies and assistants of elective or principal 207  
executive officers authorized to act for and in the place of 208  
their principals or holding a fiduciary relation to their 209  
principals; 210

(29) Employees who receive intermittent or temporary 211  
appointments under division (B) of section 124.30 of the Revised 212  
Code; 213

(30) Employees appointed to administrative staff positions 214  
for which an appointing authority is given specific statutory 215  
authority to set compensation; 216



(31) Employees appointed to highway patrol cadet or	217
highway patrol cadet candidate classifications;	218
(32) Employees placed in the unclassified service by	219
another section of the Revised Code.	220
(B) The classified service shall comprise all persons in	221
the employ of the state and the several counties, cities, city	222
health districts, general health districts, and city school	223
districts of the state, not specifically included in the	224
unclassified service. Upon the creation by the board of trustees	225
of a civil service township civil service commission, the	226
classified service shall also comprise, except as otherwise	227
provided in division (A) (17) or (C) of this section, all persons	228
in the employ of a civil service township police or fire	229
department having ten or more full-time paid employees. The	230
classified service consists of two classes, which shall be	231
designated as the competitive class and the unskilled labor	232
class.	233
(1) The competitive class shall include all positions and	234
employments in the state and the counties, cities, city health	235
districts, general health districts, and city school districts	236
of the state, and, upon the creation by the board of trustees of	237
a civil service township of a township civil service commission,	238
all positions in a civil service township police or fire	239
department having ten or more full-time paid employees, for	240
which it is practicable to determine the merit and fitness of	241
applicants by competitive examinations. Appointments shall be	242
made to, or employment shall be given in, all positions in the	243
competitive class that are not filled by promotion,	244
reinstatement, transfer, or reduction, as provided in this	245
chapter, and the rules of the director of administrative	246

services, by appointment from those certified to the appointing officer in accordance with this chapter. 247  
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(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director or the director's designee. Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by a commission. The director or the commission, as applicable, by rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from that evidence or in those tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director or commission, as applicable, shall certify from the highest on the list double the number to be employed; from this number, the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment. 249  
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(C) A municipal or civil service township civil service commission may place volunteer firefighters who are paid on a fee-for-service basis in either the classified or the 275  
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unclassified civil service. 278

(D) (1) This division does not apply to persons in the 279  
unclassified service who have the right to resume positions in 280  
the classified service under sections 4121.121, 5119.18, 281  
5120.38, 5120.381, 5120.382, 5123.08, and 5139.02 of the Revised 282  
Code or to cities, counties, or political subdivisions of the 283  
state. 284

(2) A person who holds a position in the classified 285  
service of the state and who is appointed to a position in the 286  
unclassified service shall retain the right to resume the 287  
position and status held by the person in the classified service 288  
immediately prior to the person's appointment to the position in 289  
the unclassified service, regardless of the number of positions 290  
the person held in the unclassified service. An employee's right 291  
to resume a position in the classified service may only be 292  
exercised when an appointing authority demotes the employee to a 293  
pay range lower than the employee's current pay range or revokes 294  
the employee's appointment to the unclassified service and any 295  
of the following apply: 296

(a) That person held a certified position prior to July 1, 297  
2007, in the classified service within the appointing 298  
authority's agency; 299

(b) That person held a permanent position on or after July 300  
1, 2007, in the classified service within the appointing 301  
authority's agency, and was appointed to the position in the 302  
unclassified service prior to January 1, 2016; 303

(c) That person held a permanent position on or after 304  
January 1, 2016, in the classified service within the appointing 305  
authority's agency, and is within five years from the effective 306

date of the person's appointment in the unclassified service.	307
(3) An employee forfeits the right to resume a position in the classified service when:	308
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(a) The employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or the rules of the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony <u>while employed in the civil service</u> ; or	310
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(b) Upon transfer to a different agency.	318
(4) Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in	319
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the unclassified service. 337

**Sec. 124.34.** (A) The tenure of every officer or employee 338  
in the classified service of the state and the counties, civil 339  
service townships, cities, city health districts, general health 340  
districts, and city school districts of the state, holding a 341  
position under this chapter, shall be during good behavior and 342  
efficient service. No officer or employee shall be reduced in 343  
pay or position, fined, suspended, or removed, or have the 344  
officer's or employee's longevity reduced or eliminated, except 345  
as provided in section 124.32 of the Revised Code, and for 346  
incompetency, inefficiency, unsatisfactory performance, 347  
dishonesty, drunkenness, immoral conduct, insubordination, 348  
discourteous treatment of the public, neglect of duty, violation 349  
of any policy or work rule of the officer's or employee's 350  
appointing authority, violation of this chapter or the rules of 351  
the director of administrative services or the commission, any 352  
other failure of good behavior, any other acts of misfeasance, 353  
malfeasance, or nonfeasance in office, or conviction of a felony 354  
while employed in the civil service. The denial of a one-time 355  
pay supplement or a bonus to an officer or employee is not a 356  
reduction in pay for purposes of this section. 357

This section does not apply to any modifications or 358  
reductions in pay or work week authorized by section 124.392, 359  
124.393, or 124.394 of the Revised Code. 360

An appointing authority may require an employee who is 361  
suspended to report to work to serve the suspension. An employee 362  
serving a suspension in this manner shall continue to be 363  
compensated at the employee's regular rate of pay for hours 364  
worked. The disciplinary action shall be recorded in the 365  
employee's personnel file in the same manner as other 366

disciplinary actions and has the same effect as a suspension 367  
without pay for the purpose of recording disciplinary actions. 368

A finding by the appropriate ethics commission, based upon 369  
a preponderance of the evidence, that the facts alleged in a 370  
complaint under section 102.06 of the Revised Code constitute a 371  
violation of Chapter 102., section 2921.42, or section 2921.43 372  
of the Revised Code may constitute grounds for dismissal. 373  
Failure to file a statement or falsely filing a statement 374  
required by section 102.02 of the Revised Code may also 375  
constitute grounds for dismissal. The tenure of an employee in 376  
the career professional service of the department of 377  
transportation is subject to section 5501.20 of the Revised 378  
Code. 379

Conviction of a felony while employed in the civil service 380  
is a separate basis for reducing in pay or position, suspending, 381  
or removing an officer or employee, even if the officer or 382  
employee has already been reduced in pay or position, suspended, 383  
or removed for the same conduct that is the basis of the felony. 384  
An officer or employee may not appeal to the state personnel 385  
board of review or the commission any disciplinary action taken 386  
by an appointing authority as a result of the officer's or 387  
employee's conviction of a felony. If an officer or employee 388  
removed under this section is reinstated as a result of an 389  
appeal of the removal, any conviction of a felony that occurs 390  
during the pendency of the appeal is a basis for further 391  
disciplinary action under this section upon the officer's or 392  
employee's reinstatement. 393

A person convicted of a felony while employed in the civil 394  
service immediately forfeits the person's status as a classified 395  
employee in any public employment on and after the date of the 396

conviction for the felony. If an officer or employee is removed 397  
under this section as a result of being convicted of a felony or 398  
is subsequently convicted of a felony that involves the same 399  
conduct that was the basis for the removal, the officer or 400  
employee is barred from receiving any compensation after the 401  
removal notwithstanding any modification or disaffirmance of the 402  
removal, unless the conviction for the felony is subsequently 403  
reversed or annulled. 404

Any person removed for conviction of a felony is entitled 405  
to a cash payment for any accrued but unused sick, personal, and 406  
vacation leave as authorized by law. If subsequently reemployed 407  
in the public sector, the person shall qualify for and accrue 408  
these forms of leave in the manner specified by law for a newly 409  
appointed employee and shall not be credited with prior public 410  
service for the purpose of receiving these forms of leave. 411

As used in this division, "felony" means any of the 412  
following: 413

(1) A felony that is an offense of violence as defined in 414  
section 2901.01 of the Revised Code; 415

(2) A felony that is a felony drug abuse offense as 416  
defined in section 2925.01 of the Revised Code; 417

(3) A felony under the laws of this or any other state or 418  
the United States that is a crime of moral turpitude; 419

(4) A felony involving dishonesty, fraud, or theft; 420

(5) A felony that is a violation of section 2921.05, 421  
2921.32, or 2921.42 of the Revised Code. 422

(B) In case of a reduction, a suspension of more than 423  
forty work hours in the case of an employee exempt from the 424

payment of overtime compensation, a suspension of more than 425  
twenty-four work hours in the case of an employee required to be 426  
paid overtime compensation, a fine of more than forty hours' pay 427  
in the case of an employee exempt from the payment of overtime 428  
compensation, a fine of more than twenty-four hours' pay in the 429  
case of an employee required to be paid overtime compensation, 430  
or removal, except for the reduction or removal of a 431  
probationary employee, the appointing authority shall serve the 432  
employee with a copy of the order of reduction, fine, 433  
suspension, or removal, which order shall state the reasons for 434  
the action. 435

Within ten days following the date on which the order is 436  
served or, in the case of an employee in the career professional 437  
service of the department of transportation, within ten days 438  
following the filing of a removal order, the employee, except as 439  
otherwise provided in this section, may file an appeal of the 440  
order in writing with the state personnel board of review or the 441  
commission. For purposes of this section, the date on which an 442  
order is served is the date of hand delivery of the order or the 443  
date of delivery of the order by certified United States mail, 444  
whichever occurs first. If an appeal is filed, the board or 445  
commission shall forthwith notify the appointing authority and 446  
shall hear, or appoint a trial board to hear, the appeal within 447  
thirty days from and after its filing with the board or 448  
commission. The board, commission, or trial board may affirm, 449  
disaffirm, or modify the judgment of the appointing authority. 450  
However, in an appeal of a removal order based upon a violation 451  
of a last chance agreement, the board, commission, or trial 452  
board may only determine if the employee violated the agreement 453  
and thus affirm or disaffirm the judgment of the appointing 454  
authority. 455



In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the state personnel board of review or the commission, and any such appeal shall be to the court of common pleas of the county in which the appointing authority is located, or to the court of common pleas of Franklin county, as provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or a fine, demotion, or removal, of a chief of police, a chief of a fire department, or any member of the police or fire department of a city or civil service township, who is in the classified civil service, the appointing authority shall furnish the chief or member with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of the order, the chief or member may file an appeal, in writing, with the commission. If an appeal is filed, the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the commission to the court of common pleas in the county in which the city or civil service township is situated. The appeal shall be taken within thirty days from the finding of the commission.

(D) A violation of division (A) (7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) The director shall adopt a rule in accordance with 487  
Chapter 119. of the Revised Code to define the term 488  
"unsatisfactory performance" as it is used in this section with 489  
regard to employees in the service of the state. 490

(F) As used in this section, "last chance agreement" means 491  
an agreement signed by both an appointing authority and an 492  
officer or employee of the appointing authority that describes 493  
the type of behavior or circumstances that, if it occurs, will 494  
automatically lead to removal of the officer or employee without 495  
the right of appeal to the state personnel board of review or 496  
the appropriate commission. 497

**Sec. 329.021.** (A) The board of county commissioners may, 498  
in addition to the county director of job and family services, 499  
appoint administrators to oversee services provided by the 500  
county department of job and family services, subject to the 501  
following limitations: 502

(1) If the county has a population of five hundred 503  
thousand or more, the board may appoint up to five 504  
administrators. 505

(2) If the county has a population of two hundred and 506  
fifty thousand or more, but less than five hundred thousand, the 507  
board may appoint up to four administrators. 508

(3) If the county has a population of one hundred thousand 509  
or more, but less than two hundred and fifty thousand, the board 510  
may appoint up to three administrators. 511

(4) If the county has a population of forty thousand or 512  
more, but less than one hundred thousand, the board may appoint 513  
up to two administrators. 514

(5) If the county has a population of less than forty 515

thousand, the board may appoint one administrator. 516

(B) The administrators appointed by the board of county 517  
commissioners under this section shall be in the unclassified 518  
civil service and serve at the pleasure of the board. However, 519  
no administrator position that is filled by a person serving in 520  
the classified service on ~~the effective date of this amendment~~ 521  
July 1, 2007, shall be placed in the unclassified civil service 522  
until that person vacates the position. 523

(C) The board of county commissioners may appoint a person 524  
who holds a certified position in the classified service within 525  
the county department of job and family services to the position 526  
of administrator. A person appointed to the position of 527  
administrator pursuant to this division and later removed by the 528  
board retains the right to resume the position in the classified 529  
service held by that person immediately prior to being appointed 530  
to the position of administrator, except that a person first 531  
appointed to a classified position in the department on or after 532  
~~the effective date of this amendment~~ July 1, 2007, shall retain 533  
the right to resume the position in the classified service for 534  
only six months after being appointed to the position of 535  
administrator. An employee forfeits the right to resume a 536  
position in the classified service when the employee is removed 537  
from the position of administrator due to incompetence, 538  
inefficiency, dishonesty, drunkenness, immoral conduct, 539  
insubordination, discourteous treatment of the public, neglect 540  
of duty, violation of any policy or work rule of the board or 541  
department, violation of Chapter 124. of the Revised Code or the 542  
rules of the director of administrative services, any other 543  
failure of good behavior, any other acts of misfeasance, 544  
malfeasance, or nonfeasance in office, or conviction of a felony 545  
while employed in the civil service. If the position the person 546

previously held in the classified service no longer exists or 547  
has been placed in the unclassified service, the person shall be 548  
appointed to a position in the classified service of the 549  
department that is equivalent to the classified position the 550  
person previously held, as determined by the board with the 551  
approval of the director of administrative services. 552

(D) As used in this section, "administrator" means 553  
assistant director, fiscal officer or director, personnel 554  
officer or director, social services administrator, income 555  
maintenance administrator, child support administrator in a 556  
combined agency, children services administrator in a combined 557  
agency, and workforce development administrator in a combined 558  
agency. 559

**Sec. 2953.36.** Sections 2953.31 to 2953.35 of the Revised 560  
Code do not apply to any of the following: 561

(A) Convictions when the offender is subject to a 562  
mandatory prison term; 563

(B) Convictions under section 2907.02, 2907.03, 2907.04, 564  
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 565  
section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. 566  
of the Revised Code, or a conviction for a violation of a 567  
municipal ordinance that is substantially similar to any section 568  
contained in any of those chapters, except as otherwise provided 569  
in section 2953.61 of the Revised Code; 570

(C) Convictions of an offense of violence when the offense 571  
is a misdemeanor of the first degree or a felony and when the 572  
offense is not a violation of section 2917.03 of the Revised 573  
Code and is not a violation of section 2903.13, 2917.01, or 574  
2917.31 of the Revised Code that is a misdemeanor of the first 575

degree;	576
(D) Convictions on or after October 10, 2007, under	577
section 2907.07 of the Revised Code or a conviction on or after	578
October 10, 2007, for a violation of a municipal ordinance that	579
is substantially similar to that section;	580
(E) Convictions on or after October 10, 2007, under	581
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31,	582
2907.311, 2907.32, or 2907.33 of the Revised Code when the	583
victim of the offense was under eighteen years of age;	584
(F) Convictions of an offense in circumstances in which	585
the victim of the offense was <del>under eighteen</del> <u>less than sixteen</u>	586
years of age when the offense is a misdemeanor of the first	587
degree or a felony, except for convictions under section 2919.21	588
of the Revised Code;	589
(G) Convictions of a felony of the first or second degree;	590
(H) Bail forfeitures in a traffic case as defined in	591
Traffic Rule 2.	592
<b>Sec. 4121.121.</b> (A) There is hereby created the bureau of	593
workers' compensation, which shall be administered by the	594
administrator of workers' compensation. A person appointed to	595
the position of administrator shall possess significant	596
management experience in effectively managing an organization or	597
organizations of substantial size and complexity. A person	598
appointed to the position of administrator also shall possess a	599
minimum of five years of experience in the field of workers'	600
compensation insurance or in another insurance industry, except	601
as otherwise provided when the conditions specified in division	602
(C) of this section are satisfied. The governor shall appoint	603
the administrator as provided in section 121.03 of the Revised	604

Code, and the administrator shall serve at the pleasure of the 605  
governor. The governor shall fix the administrator's salary on 606  
the basis of the administrator's experience and the 607  
administrator's responsibilities and duties under this chapter 608  
and Chapters 4123., 4125., 4127., 4131., and 4167. of the 609  
Revised Code. The governor shall not appoint to the position of 610  
administrator any person who has, or whose spouse has, given a 611  
contribution to the campaign committee of the governor in an 612  
amount greater than one thousand dollars during the two-year 613  
period immediately preceding the date of the appointment of the 614  
administrator. 615

The administrator shall hold no other public office and 616  
shall devote full time to the duties of administrator. Before 617  
entering upon the duties of the office, the administrator shall 618  
take an oath of office as required by sections 3.22 and 3.23 of 619  
the Revised Code, and shall file in the office of the secretary 620  
of state, a bond signed by the administrator and by surety 621  
approved by the governor, for the sum of fifty thousand dollars 622  
payable to the state, conditioned upon the faithful performance 623  
of the administrator's duties. 624

(B) The administrator is responsible for the management of 625  
the bureau and for the discharge of all administrative duties 626  
imposed upon the administrator in this chapter and Chapters 627  
4123., 4125., 4127., 4131., and 4167. of the Revised Code, and 628  
in the discharge thereof shall do all of the following: 629

(1) Perform all acts and exercise all authorities and 630  
powers, discretionary and otherwise that are required of or 631  
vested in the bureau or any of its employees in this chapter and 632  
Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised 633  
Code, except the acts and the exercise of authority and power 634

that is required of and vested in the bureau of workers' 635  
compensation board of directors or the industrial commission 636  
pursuant to those chapters. The treasurer of state shall honor 637  
all warrants signed by the administrator, or by one or more of 638  
the administrator's employees, authorized by the administrator 639  
in writing, or bearing the facsimile signature of the 640  
administrator or such employee under sections 4123.42 and 641  
4123.44 of the Revised Code. 642

(2) Employ, direct, and supervise all employees required 643  
in connection with the performance of the duties assigned to the 644  
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 645  
and 4167. of the Revised Code, including an actuary, and may 646  
establish job classification plans and compensation for all 647  
employees of the bureau provided that this grant of authority 648  
shall not be construed as affecting any employee for whom the 649  
state employment relations board has established an appropriate 650  
bargaining unit under section 4117.06 of the Revised Code. All 651  
positions of employment in the bureau are in the classified 652  
civil service except those employees the administrator may 653  
appoint to serve at the administrator's pleasure in the 654  
unclassified civil service pursuant to section 124.11 of the 655  
Revised Code. The administrator shall fix the salaries of 656  
employees the administrator appoints to serve at the 657  
administrator's pleasure, including the chief operating officer, 658  
staff physicians, and other senior management personnel of the 659  
bureau and shall establish the compensation of staff attorneys 660  
of the bureau's legal section and their immediate supervisors, 661  
and take whatever steps are necessary to provide adequate 662  
compensation for other staff attorneys. 663

The administrator may appoint a person who holds a 664  
certified position in the classified service within the bureau 665

to a position in the unclassified service within the bureau. A 666  
person appointed pursuant to this division to a position in the 667  
unclassified service shall retain the right to resume the 668  
position and status held by the person in the classified service 669  
immediately prior to the person's appointment in the 670  
unclassified service, regardless of the number of positions the 671  
person held in the unclassified service. An employee's right to 672  
resume a position in the classified service may only be 673  
exercised when the administrator demotes the employee to a pay 674  
range lower than the employee's current pay range or revokes the 675  
employee's appointment to the unclassified service. An employee 676  
who holds a position in the classified service and who is 677  
appointed to a position in the unclassified service on or after 678  
January 1, 2016, shall have the right to resume a position in 679  
the classified service under this division only within five 680  
years after the effective date of the employee's appointment in 681  
the unclassified service. An employee forfeits the right to 682  
resume a position in the classified service when the employee is 683  
removed from the position in the unclassified service due to 684  
incompetence, inefficiency, dishonesty, drunkenness, immoral 685  
conduct, insubordination, discourteous treatment of the public, 686  
neglect of duty, violation of this chapter or Chapter 124., 687  
4123., 4125., 4127., 4131., or 4167. of the Revised Code, 688  
violation of the rules of the director of administrative 689  
services or the administrator, any other failure of good 690  
behavior, any other acts of misfeasance, malfeasance, or 691  
nonfeasance in office, or conviction of a felony while employed 692  
in the civil service. An employee also forfeits the right to 693  
resume a position in the classified service upon transfer to a 694  
different agency. 695

Reinstatement to a position in the classified service 696



shall be to a position substantially equal to that position in 697  
the classified service held previously, as certified by the 698  
department of administrative services. If the position the 699  
person previously held in the classified service has been placed 700  
in the unclassified service or is otherwise unavailable, the 701  
person shall be appointed to a position in the classified 702  
service within the bureau that the director of administrative 703  
services certifies is comparable in compensation to the position 704  
the person previously held in the classified service. Service in 705  
the position in the unclassified service shall be counted as 706  
service in the position in the classified service held by the 707  
person immediately prior to the person's appointment in the 708  
unclassified service. When a person is reinstated to a position 709  
in the classified service as provided in this division, the 710  
person is entitled to all rights, status, and benefits accruing 711  
to the position during the person's time of service in the 712  
position in the unclassified service. 713

(3) Reorganize the work of the bureau, its sections, 714  
departments, and offices to the extent necessary to achieve the 715  
most efficient performance of its functions and to that end may 716  
establish, change, or abolish positions and assign and reassign 717  
duties and responsibilities of every employee of the bureau. All 718  
persons employed by the commission in positions that, after 719  
November 3, 1989, are supervised and directed by the 720  
administrator under this section are transferred to the bureau 721  
in their respective classifications but subject to reassignment 722  
and reclassification of position and compensation as the 723  
administrator determines to be in the interest of efficient 724  
administration. The civil service status of any person employed 725  
by the commission is not affected by this section. Personnel 726  
employed by the bureau or the commission who are subject to 727

Chapter 4117. of the Revised Code shall retain all of their 728  
rights and benefits conferred pursuant to that chapter as it 729  
presently exists or is hereafter amended and nothing in this 730  
chapter or Chapter 4123. of the Revised Code shall be construed 731  
as eliminating or interfering with Chapter 4117. of the Revised 732  
Code or the rights and benefits conferred under that chapter to 733  
public employees or to any bargaining unit. 734

(4) Provide offices, equipment, supplies, and other 735  
facilities for the bureau. 736

(5) Prepare and submit to the board information the 737  
administrator considers pertinent or the board requires, 738  
together with the administrator's recommendations, in the form 739  
of administrative rules, for the advice and consent of the 740  
board, for classifications of occupations or industries, for 741  
premium rates and contributions, for the amount to be credited 742  
to the surplus fund, for rules and systems of rating, rate 743  
revisions, and merit rating. The administrator shall obtain, 744  
prepare, and submit any other information the board requires for 745  
the prompt and efficient discharge of its duties. 746

(6) Keep the accounts required by division (A) of section 747  
4123.34 of the Revised Code and all other accounts and records 748  
necessary to the collection, administration, and distribution of 749  
the workers' compensation funds and shall obtain the statistical 750  
and other information required by section 4123.19 of the Revised 751  
Code. 752

(7) Exercise the investment powers vested in the 753  
administrator by section 4123.44 of the Revised Code in 754  
accordance with the investment policy approved by the board 755  
pursuant to section 4121.12 of the Revised Code and in 756  
consultation with the chief investment officer of the bureau of 757

workers' compensation. The administrator shall not engage in any 758  
prohibited investment activity specified by the board pursuant 759  
to division (F) (9) of section 4121.12 of the Revised Code and 760  
shall not invest in any type of investment specified in 761  
divisions (B) (1) to (10) of section 4123.442 of the Revised 762  
Code. All business shall be transacted, all funds invested, all 763  
warrants for money drawn and payments made, and all cash and 764  
securities and other property held, in the name of the bureau, 765  
or in the name of its nominee, provided that nominees are 766  
authorized by the administrator solely for the purpose of 767  
facilitating the transfer of securities, and restricted to the 768  
administrator and designated employees. 769

(8) In accordance with Chapter 125. of the Revised Code, 770  
purchase supplies, materials, equipment, and services. 771

(9) Prepare and submit to the board an annual budget for 772  
internal operating purposes for the board's approval. The 773  
administrator also shall, separately from the budget the 774  
industrial commission submits, prepare and submit to the 775  
director of budget and management a budget for each biennium. 776  
The budgets submitted to the board and the director shall 777  
include estimates of the costs and necessary expenditures of the 778  
bureau in the discharge of any duty imposed by law. 779

(10) As promptly as possible in the course of efficient 780  
administration, decentralize and relocate such of the personnel 781  
and activities of the bureau as is appropriate to the end that 782  
the receipt, investigation, determination, and payment of claims 783  
may be undertaken at or near the place of injury or the 784  
residence of the claimant and for that purpose establish 785  
regional offices, in such places as the administrator considers 786  
proper, capable of discharging as many of the functions of the 787

bureau as is practicable so as to promote prompt and efficient 788  
administration in the processing of claims. All active and 789  
inactive lost-time claims files shall be held at the service 790  
office responsible for the claim. A claimant, at the claimant's 791  
request, shall be provided with information by telephone as to 792  
the location of the file pertaining to the claimant's claim. The 793  
administrator shall ensure that all service office employees 794  
report directly to the director for their service office. 795

(11) Provide a written binder on new coverage where the 796  
administrator considers it to be in the best interest of the 797  
risk. The administrator, or any other person authorized by the 798  
administrator, shall grant the binder upon submission of a 799  
request for coverage by the employer. A binder is effective for 800  
a period of thirty days from date of issuance and is 801  
nonrenewable. Payroll reports and premium charges shall coincide 802  
with the effective date of the binder. 803

(12) Set standards for the reasonable and maximum handling 804  
time of claims payment functions, ensure, by rules, the 805  
impartial and prompt treatment of all claims and employer risk 806  
accounts, and establish a secure, accurate method of time 807  
stamping all incoming mail and documents hand delivered to 808  
bureau employees. 809

(13) Ensure that all employees of the bureau follow the 810  
orders and rules of the commission as such orders and rules 811  
relate to the commission's overall adjudicatory policy-making 812  
and management duties under this chapter and Chapters 4123., 813  
4127., and 4131. of the Revised Code. 814

(14) Manage and operate a data processing system with a 815  
common data base for the use of both the bureau and the 816  
commission and, in consultation with the commission, using 817

electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

(15) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(16) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code or is

medically unnecessary. If an individual health care provider is 847  
involved in the dispute, the panel shall consist of individuals 848  
licensed pursuant to the same section of the Revised Code as 849  
such health care provider. 850

(17) Pursuant to section 4123.65 of the Revised Code, 851  
approve applications for the final settlement of claims for 852  
compensation or benefits under this chapter and Chapters 4123., 853  
4127., and 4131. of the Revised Code as the administrator 854  
determines appropriate, except in regard to the applications of 855  
self-insuring employers and their employees. 856

(18) Comply with section 3517.13 of the Revised Code, and 857  
except in regard to contracts entered into pursuant to the 858  
authority contained in section 4121.44 of the Revised Code, 859  
comply with the competitive bidding procedures set forth in the 860  
Revised Code for all contracts into which the administrator 861  
enters provided that those contracts fall within the type of 862  
contracts and dollar amounts specified in the Revised Code for 863  
competitive bidding and further provided that those contracts 864  
are not otherwise specifically exempt from the competitive 865  
bidding procedures contained in the Revised Code. 866

(19) Adopt, with the advice and consent of the board, 867  
rules for the operation of the bureau. 868

(20) Prepare and submit to the board information the 869  
administrator considers pertinent or the board requires, 870  
together with the administrator's recommendations, in the form 871  
of administrative rules, for the advice and consent of the 872  
board, for the health partnership program and the qualified 873  
health plan system, as provided in sections 4121.44, 4121.441, 874  
and 4121.442 of the Revised Code. 875

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has a minimum of five years of experience in the field of workers' compensation insurance or in another similar insurance industry if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

**Sec. 5120.38.** Subject to the rules of the department of rehabilitation and correction, each institution under the department's jurisdiction other than an institution operated pursuant to a contract entered into under section 9.06 of the Revised Code shall be under the control of a managing officer known as a warden or other appropriate title. The managing officer shall be appointed by the director of rehabilitation and correction and shall be in the unclassified service and serve at the pleasure of the director. Appointment to the position of managing officer shall be made from persons who have criminal justice experience.

A person who is appointed to the position of managing officer from a permanent, classified position within the department shall retain the right to resume the position and status that the person held in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may be exercised only when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the position in the unclassified

service. An employee who holds a position in the classified 907  
service and who is appointed to a position in the unclassified 908  
service on or after January 1, 2016, shall have the right to 909  
resume a position in the classified service under this section 910  
only within five years after the effective date of the 911  
employee's appointment in the unclassified service. An employee 912  
forfeits the right to resume a position in the classified 913  
service if the employee is removed from a position in the 914  
unclassified service due to incompetence, inefficiency, 915  
dishonesty, drunkenness, immoral conduct, insubordination, 916  
discourteous treatment of the public, neglect of duty, a 917  
violation of this chapter or the rules of the department or the 918  
director of administrative services, any other failure of good 919  
behavior, any other acts of misfeasance, malfeasance, or 920  
nonfeasance in office, or conviction of or plea of guilty to a 921  
felony while employed in the civil service. An employee also 922  
forfeits the right to resume the prior position in the 923  
classified service upon transfer to a different agency. 924  
Reinstatement to a position in the classified service shall be 925  
to a position substantially equal to the position in the 926  
classified service that the person previously held, as certified 927  
by the director of rehabilitation and correction and approved by 928  
the director of administrative services. If the position the 929  
person previously held in the classified service has been placed 930  
in the unclassified service or is otherwise unavailable, the 931  
person shall be appointed to a position in the classified 932  
service within the department that the director of 933  
administrative services certifies is comparable in compensation 934  
to the position the person previously held in the classified 935  
service. Service in a position in the unclassified service shall 936  
be counted as service in the position in the classified service 937  
held by the person immediately preceding the person's 938



appointment to the position in the unclassified service. When a 939  
person is reinstated to a position in the classified service, as 940  
provided in this section, the person is entitled to all rights 941  
and benefits and any status accruing to the position in the 942  
classified service during the time of the person's service in 943  
the position in the unclassified service. 944

The managing officer, under the director of rehabilitation 945  
and correction, shall have entire executive charge of the 946  
institution for which the managing officer is appointed. Subject 947  
to civil service rules and regulations, the managing officer 948  
shall appoint the necessary employees and the managing officer 949  
or the director may remove such employees for cause. 950

**Sec. 5120.381.** Subject to the rules of the department of 951  
rehabilitation and correction, the director of rehabilitation 952  
and correction may appoint a deputy warden for each institution 953  
under the jurisdiction of the department. A deputy warden shall 954  
be in the unclassified service and serve at the pleasure of the 955  
director of rehabilitation and correction. The director of 956  
rehabilitation and correction shall make an appointment to the 957  
position of deputy warden from persons having criminal justice 958  
experience. A person who is appointed to a position as deputy 959  
warden from a permanent, classified position within the 960  
department shall retain the right to resume the position and 961  
status that the person held in the classified service 962  
immediately prior to the person's appointment to the position in 963  
the unclassified service, regardless of the number of positions 964  
the person held in the unclassified service. An employee's right 965  
to resume a position in the classified service may be exercised 966  
only when an appointing authority demotes the employee to a pay 967  
range lower than the employee's current pay range or revokes the 968  
employee's appointment to the unclassified service. An employee 969

who holds a position in the classified service and who is 970  
appointed to a position in the unclassified service on or after 971  
January 1, 2016, shall have the right to resume a position in 972  
the classified service under this section only within five years 973  
after the effective date of the employee's appointment in the 974  
unclassified service. An employee forfeits the right to resume a 975  
position in the classified service when the employee is removed 976  
from the position in the unclassified service due to 977  
incompetence, inefficiency, dishonesty, drunkenness, immoral 978  
conduct, insubordination, discourteous treatment of the public, 979  
neglect of duty, a violation of this chapter or the rules of the 980  
department or the director of administrative services, any other 981  
failure of good behavior, any other acts of misfeasance, 982  
malfeasance, or nonfeasance in office, or conviction of or plea 983  
of guilty to a felony while employed in the civil service. An 984  
employee also forfeits the right to resume the prior position in 985  
the classified service upon transfer to a different agency. 986  
Reinstatement to a position in the classified service shall be 987  
to a position substantially equal to the position in the 988  
classified service that the person previously held, as certified 989  
by the director of rehabilitation and correction and approved by 990  
the director of administrative services. If the position the 991  
person previously held in the classified service has been placed 992  
in the unclassified service or is otherwise unavailable, the 993  
person shall be appointed to a position in the classified 994  
service within the department that the director of 995  
administrative services certifies is comparable in compensation 996  
to the position the person previously held in the classified 997  
service. Service in the position in the unclassified service 998  
shall be counted as service in the position in the classified 999  
service that the person held immediately preceding the person's 1000  
appointment to the position in the unclassified service. When a 1001

person who is reinstated to a position in the classified service 1002  
as provided in this section, the person is entitled to all 1003  
rights and benefits and any status accruing to the position 1004  
during the time of the person's service in the unclassified 1005  
service. 1006

**Sec. 5120.382.** Except as otherwise provided in this 1007  
chapter for appointments by division chiefs and managing 1008  
officers, the director of rehabilitation and correction shall 1009  
appoint employees who are necessary for the efficient conduct of 1010  
the department of rehabilitation and correction and prescribe 1011  
their titles and duties. A person who is appointed to an 1012  
unclassified position from a permanent, classified position 1013  
within the department shall retain the right to resume the 1014  
position and status that the person held in the classified 1015  
service immediately prior to the person's appointment to the 1016  
position in the unclassified service, regardless of the number 1017  
of positions the person held in the unclassified service. An 1018  
employee's right to resume a position in the classified service 1019  
may be exercised only when an appointing authority demotes the 1020  
employee to a pay range lower than the employee's current pay 1021  
range or revokes the employee's appointment to the unclassified 1022  
service. An employee who holds a position in the classified 1023  
service and who is appointed to a position in the unclassified 1024  
service on or after January 1, 2016, shall have the right to 1025  
resume a position in the classified service under this section 1026  
only within five years after the effective date of the person's 1027  
appointment in the unclassified service. An employee forfeits 1028  
the right to resume a position in the classified service when 1029  
the employee is removed from the position in the unclassified 1030  
service due to incompetence, inefficiency, dishonesty, 1031  
drunkenness, immoral conduct, insubordination, discourteous 1032

treatment of the public, neglect of duty, a violation of this 1033  
chapter or the rules of the department or the director of 1034  
administrative services, any other failure of good behavior, any 1035  
other acts of misfeasance, malfeasance, or nonfeasance in 1036  
office, or conviction of or plea of guilty to a felony while 1037  
employed in the civil service. An employee also forfeits the 1038  
right to resume the prior position in the classified service 1039  
upon transfer to a different agency. Reinstatement to a position 1040  
in the classified service shall be to a position substantially 1041  
equal to the position in the classified service that the person 1042  
previously held, as certified by the director of rehabilitation 1043  
and correction and approved by the director of administrative 1044  
services. If the position the person previously held in the 1045  
classified service has been placed in the unclassified service 1046  
or is otherwise unavailable, the person shall be appointed to a 1047  
position in the classified service within the department that 1048  
the director of administrative services certifies is comparable 1049  
in compensation to the position the person previously held in 1050  
the classified service. Service in the position in the 1051  
unclassified service shall be counted as service in the position 1052  
in the classified service that the person held immediately 1053  
preceding the person's appointment to the position in the 1054  
unclassified service. When a person is reinstated to a position 1055  
in the classified service as provided in this section, the 1056  
person is entitled to all rights and benefits and any status 1057  
accruing to the position in the classified service during the 1058  
time of the person's service in the position in the unclassified 1059  
service. 1060

**Sec. 5123.08.** An appointing officer may appoint a person 1061  
who holds a certified position in the classified service within 1062  
the department of developmental disabilities to a position in 1063

the unclassified service within the department. A person 1064  
appointed pursuant to this section to a position in the 1065  
unclassified service shall retain the right to resume the 1066  
position and status held by the person in the classified service 1067  
immediately prior to the person's appointment to the position in 1068  
the unclassified service, regardless of the number of positions 1069  
the person held in the unclassified service. An employee's right 1070  
to resume a position in the classified service may only be 1071  
exercised when an appointing authority demotes the employee to a 1072  
pay range lower than the employee's current pay range or revokes 1073  
the employee's appointment to the unclassified service. An 1074  
employee who holds a position in the classified service and who 1075  
is appointed to a position in the unclassified service on or 1076  
after January 1, 2016, shall have the right to resume a position 1077  
in the classified service under this section only within five 1078  
years after the effective date of the employee's appointment in 1079  
the unclassified service. An employee forfeits the right to 1080  
resume a position in the classified service when the employee is 1081  
removed from the position in the unclassified service due to 1082  
incompetence, inefficiency, dishonesty, drunkenness, immoral 1083  
conduct, insubordination, discourteous treatment of the public, 1084  
neglect of duty, violation of this chapter or Chapter 124. of 1085  
the Revised Code, the rules of the director of developmental 1086  
disabilities or the director of administrative services, any 1087  
other failure of good behavior, any other acts of misfeasance, 1088  
malfeasance, or nonfeasance in office, or conviction of a felony 1089  
while employed in the civil service. An employee also forfeits 1090  
the right to resume a position in the classified service upon 1091  
transfer to a different agency. 1092

Reinstatement to a position in the classified service 1093  
shall be to a position substantially equal to that position in 1094

the classified service held previously, as certified by the 1095  
director of administrative services. If the position the person 1096  
previously held in the classified service has been placed in the 1097  
unclassified service or is otherwise unavailable, the person 1098  
shall be appointed to a position in the classified service 1099  
within the department that the director of administrative 1100  
services certifies is comparable in compensation to the position 1101  
the person previously held in the classified service. Service in 1102  
the position in the unclassified service shall be counted as 1103  
service in the position in the classified service held by the 1104  
person immediately prior to the person's appointment to the 1105  
position in the unclassified service. When a person is 1106  
reinstated to a position in the classified service as provided 1107  
in this section, the person is entitled to all rights, status, 1108  
and benefits accruing to the position in the classified service 1109  
during the time of the person's service in the position in the 1110  
unclassified service. 1111

**Sec. 5139.02.** (A) (1) As used in this section, "managing 1112  
officer" means a deputy director, an assistant deputy director, 1113  
a superintendent, a regional administrator, a deputy 1114  
superintendent, or the superintendent of schools of the 1115  
department of youth services, a member of the release authority, 1116  
the chief of staff to the release authority, and the victims 1117  
administrator of the office of victim services. 1118

(2) Each division established by the director of youth 1119  
services shall consist of managing officers and other employees, 1120  
including those employed in institutions and regions as 1121  
necessary to perform the functions assigned to them. The 1122  
director or appropriate deputy director or managing officer of 1123  
the department shall supervise the work of each division and 1124  
determine general policies governing the exercise of powers 1125

vested in the department and assigned to each division. The 1126  
appropriate managing officer or deputy director is responsible 1127  
to the director for the organization, direction, and supervision 1128  
of the work of the division or unit and for the exercise of the 1129  
powers and the performance of the duties of the department 1130  
assigned to it and, with the director's approval, may establish 1131  
bureaus or other administrative units within the department. 1132

(B) The director shall appoint all managing officers, who 1133  
shall be in the unclassified civil service. The director may 1134  
appoint a person who holds a certified position in the 1135  
classified service within the department to a position as a 1136  
managing officer within the department. A person appointed 1137  
pursuant to this division to a position as a managing officer 1138  
shall retain the right to resume the position and status held by 1139  
the person in the classified service immediately prior to the 1140  
person's appointment as managing officer, regardless of the 1141  
number of positions the person held in the unclassified service. 1142  
A managing officer's right to resume a position in the 1143  
classified service may only be exercised when the director 1144  
demotes the managing officer to a pay range lower than the 1145  
managing officer's current pay range or revokes the managing 1146  
officer's appointment to the position of managing officer. A 1147  
person who holds a position in the classified service and who is 1148  
appointed to the position of managing officer on or after 1149  
January 1, 2016, shall have the right to resume a position in 1150  
the classified service under this division only within five 1151  
years after the effective date of the person's appointment as 1152  
managing officer. A managing officer forfeits the right to 1153  
resume a position in the classified service when the managing 1154  
officer is removed from the position of managing officer due to 1155  
incompetence, inefficiency, dishonesty, drunkenness, immoral 1156

conduct, insubordination, discourteous treatment of the public, 1157  
neglect of duty, violation of this chapter or Chapter 124. of 1158  
the Revised Code, the rules of the director of youth services or 1159  
the director of administrative services, any other failure of 1160  
good behavior, any other acts of misfeasance, malfeasance, or 1161  
nonfeasance in office, or conviction of a felony while employed 1162  
in the civil service. A managing officer also forfeits the right 1163  
to resume a position in the classified service upon transfer to 1164  
a different agency. 1165

Reinstatement to a position in the classified service 1166  
shall be to the position held in the classified service 1167  
immediately prior to appointment as managing officer, or to 1168  
another position certified by the director of administrative 1169  
services as being substantially equal to that position. If the 1170  
position the person previously held in the classified service 1171  
immediately prior to appointment as a managing officer has been 1172  
placed in the unclassified service or is otherwise unavailable, 1173  
the person shall be appointed to a position in the classified 1174  
service within the department that the director of 1175  
administrative services certifies is comparable in compensation 1176  
to the position the person previously held in the classified 1177  
service. Service as a managing officer shall be counted as 1178  
service in the position in the classified service held by the 1179  
person immediately prior to the person's appointment as a 1180  
managing officer. If a person is reinstated to a position in the 1181  
classified service under this division, the person shall be 1182  
returned to the pay range and step to which the person had been 1183  
assigned at the time of the appointment as managing officer. 1184  
Longevity, where applicable, shall be calculated pursuant to the 1185  
provisions of section 124.181 of the Revised Code. 1186

(C) Each person appointed as a managing officer shall have 1187



received special training and shall have experience in the type 1188  
of work that the person's division is required to perform. Each 1189  
managing officer, under the supervision of the director, has 1190  
entire charge of the division, institution, unit, or region for 1191  
which the managing officer is appointed and, with the director's 1192  
approval, shall appoint necessary employees and may remove them 1193  
for cause. 1194

(D) The director may designate one or more deputy 1195  
directors to sign any personnel actions on the director's 1196  
behalf. The director shall make a designation in a writing 1197  
signed by the director, and the designation shall remain in 1198  
effect until the director revokes or supersedes it with a new 1199  
designation. 1200

Sec. 5164.44. (A) As used in this section: 1201

(1) "Aide services" means all of the following: 1202

(a) Home health aide services covered by the medicaid 1203  
program as part of the home health services benefit pursuant to 1204  
42 C.F.R. 440.70(b)(2); 1205

(b) Home care attendant services covered by a 1206  
participating medicaid waiver component, as defined in section 1207  
5166.30 of the Revised Code; 1208

(c) Any of the following covered by a home and community- 1209  
based services medicaid waiver component: 1210

(i) Personal care aide services; 1211

(ii) Homemaker/personal care services; 1212

(iii) Community inclusion services. 1213

(2) "Independent provider" means an individual who 1214

personally provides aide services or nursing services under the 1215  
medicaid program and is not employed by, under contract with, or 1216  
affiliated with another entity that provides the services. 1217

(3) "Nursing services" means all of the following: 1218

(a) Nursing services covered by the medicaid program as 1219  
part of the home health services benefit pursuant to 42 C.F.R. 1220  
440.70(b)(1); 1221

(b) Private duty nursing services, as defined in 42 C.F.R. 1222  
440.80, covered by the medicaid program; 1223

(c) Nursing services covered by a home and community-based 1224  
services medicaid waiver component. 1225

(B) Notwithstanding any provision of the Revised Code to 1226  
the contrary, an independent provider is not an employee of the 1227  
state, or any political subdivision of the state, for any 1228  
purpose under state law due to being an independent provider or 1229  
any actions taken to become or remain an independent provider. 1230

**Section 2.** That existing sections 124.11, 124.34, 329.021, 1231  
2953.36, 4121.121, 5120.38, 5120.381, 5120.382, 5123.08, and 1232  
5139.02 of the Revised Code are hereby repealed. 1233