

As Reported by the Senate Judiciary Committee

133rd General Assembly

Regular Session

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Sub. H. B. No. 464

Representatives Cupp, Rogers

**Cosponsors: Representatives Lipps, Seitz, Hambley, Grendell, Miranda, Roemer,
Ingram, Miller, J., Carruthers, Galonski, Hicks-Hudson, Miller, A., Patterson,
Reineke, Scherer, Skindell, West**

Senators Manning, Coley, Eklund

A BILL

To amend sections 339.02, 1721.21, 1901.123, 1
1907.143, 2106.13, 2108.05, 2108.06, 2108.07, 2
2108.23, 2108.24, 2108.34, 2111.10, 2111.50, 3
2133.07, 2701.10, 2717.01, 5122.15, 5804.11, 4
5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5
5816.10, and 5816.14; to amend, for the purpose 6
of adopting a new section number as indicated in 7
parentheses, section 2717.01 (2717.02); to enact 8
new section 2717.01 and sections 2717.03, 9
2717.04, 2717.05, 2717.06, 2717.07, 2717.08, 10
2717.09, 2717.10, 2717.11, 2717.13, 2717.14, 11
2717.16, 2717.18, and 2717.19; and to repeal 12
section 2133.16 of the Revised Code to expand a 13
guardian's authority to create estate plans for 14
their wards, to clarify a surviving spouse's 15
allowance for support upon the spouse's 16
selection of an automobile, to make changes in 17
the Ohio Trust Code and the Ohio Legacy Trust 18
Act, to make changes in the law pertaining to 19
the referral of actions to a retired judge, to 20
make changes to the law regarding cemetery 21

endowment care trusts, to permit a nonprofit 22
corporation to serve as guardian of the person 23
of an incompetent, to eliminate a donor's 24
ability to make an anatomical gift through a 25
will or a declaration or living will, to clarify 26
the membership of the appointing authority for 27
boards of county hospital trustees, and to make 28
changes to the laws dealing with reimbursement 29
of municipal and county court judges, procedures 30
in involuntary mental health placements, and 31
change of name procedures. 32

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

Section 1. That sections 339.02, 1721.21, 1901.123, 33
1907.143, 2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 34
2108.34, 2111.10, 2111.50, 2133.07, 2701.10, 2717.01, 5122.15, 35
5804.11, 5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5816.10, 36
and 5816.14 be amended; section 2717.01 (2717.02) be amended for 37
the purpose of adopting a new section number as indicated in 38
parentheses; and new section 2717.01 and sections 2717.03, 39
2717.04, 2717.05, 2717.06, 2717.07, 2717.08, 2717.09, 2717.10, 40
2717.11, 2717.13, 2717.14, 2717.16, 2717.18, and 2717.19 of the 41
Revised Code be enacted to read as follows: 42

Sec. 339.02. (A) As used in this section, ~~"area:~~ 43

(1) "Area served by the hospital" means the geographic 44
area, whether or not included within the county, from which a 45
county hospital regularly draws patients. 46

(2) "Appointing authority" means the board of county 47

commissioners, the probate judge of the county senior in point 48
of service, and the judge, other than the probate judge of the 49
county senior in point of service, of the court of common pleas 50
of the county senior in point of service. 51

(B) Unless a board of county hospital trustees for the 52
county is in existence in accordance with this section, such 53
board shall be created pursuant to this section after the board 54
of county commissioners first determines by resolution to 55
establish a county hospital. Copies of such resolution shall be 56
certified to the probate judge of the county senior in point of 57
service and to the judge, other than a probate judge, of the 58
court of common pleas of the county senior in point of service. 59
~~The board of county commissioners together with the probate~~ 60
~~judge of the county senior in point of service and the judge of~~ 61
~~the court of common pleas of the county senior in point of~~ 62
~~service appointing authority shall, within ten days after such~~ 63
certification, appoint a board of county hospital trustees. 64

(C) In making appointments to a board of county hospital 65
trustees, both of the following apply with respect to the 66
individuals who may be appointed: 67

(1) Members shall be electors and representative of the 68
area served by the hospital, except that not more than two 69
members may be electors of the area served by the hospital that 70
is outside the county in which the hospital is located. 71

(2) A physician may serve as a member, including a 72
physician who is authorized to admit and treat patients at the 73
hospital, except as follows: 74

(a) Not more than two physicians may serve as members at 75
the same time; 76

(b) No physician who is employed by the hospital may serve 77
as a member. 78

(D) A board of county hospital trustees shall be composed 79
of six members, unless the board of county commissioners 80
determines that the board of trustees can more effectively 81
function with eight or ten members in which case there may be 82
eight or ten members, as designated by the board of county 83
commissioners. 84

(E) With respect to the initial appointment of members to 85
a board of county hospital trustees, all of the following apply: 86

(1) When the board is composed of six members, their terms 87
of office shall be one for one year, one for two years, one for 88
three years, one for four years, one for five years, and one for 89
six years from the first Monday of March thereafter. 90

(2) When the board is composed of eight members, their 91
terms of office shall be one for one year, one for two years, 92
two for three years, one for four years, one for five years, and 93
two for six years from the first Monday of March thereafter. 94

(3) When the board is composed of ten members, their terms 95
of office shall be two for one year, one for two years, two for 96
three years, two for four years, one for five years, and two for 97
six years from the first Monday of March thereafter. 98

(F) Except as provided in division (G) (2) of this section, 99
all of the following apply with respect to vacancies on a board 100
of county hospital trustees: 101

(1) Annually, on the first Monday of March, the ~~board of~~ 102
~~county commissioners together with the probate judge of the~~ 103
~~county senior in point of service and the judge of the court of~~ 104
~~common pleas of the county senior in point of service~~ appointing 105

authority shall appoint or reappoint for a term of six years a 106
sufficient number of members to replace those members whose 107
terms have expired. The appointing authority shall be comprised 108
of five votes, with each of the three county commissioners 109
receiving one vote, the probate judge of the county senior in 110
point of service receiving one vote, and the judge, other than 111
the probate judge of the county senior in point of service, of 112
the court of common pleas of the county senior in point of 113
service receiving one vote. 114

(2) The appointing authority shall fill a vacancy not 115
later than six months after the vacancy occurs. If the vacancy 116
remains unfilled on that date, the remaining members of the 117
board, by majority vote, shall appoint an individual to fill the 118
vacancy. 119

(3) The appointing authority may fill a vacancy by seeking 120
nominations from a selection committee consisting of one county 121
commissioner designated by the board of county commissioners, 122
the chair of the board of county hospital trustees, and the 123
county hospital administrator. If nominations for filling a 124
vacancy are sought from a selection committee, the committee 125
shall nominate at least three individuals for the vacancy. The 126
appointing authority may fill the vacancy by appointing one of 127
the nominated individuals or by appointing another individual 128
selected by the appointing authority. 129

(4) Any member appointed to fill a vacancy occurring prior 130
to the expiration date of the term for which the member's 131
predecessor was appointed shall hold office as a member for the 132
remainder of that term. 133

~~(G) (1) The board of county commissioners together with the~~ 134
~~probate judge senior in point of service and the judge of the~~ 135

~~court of common pleas senior in point of service~~ appointing 136
authority in any county in which a board of county hospital 137
trustees has been appointed may expand the number of members to 138
eight or to ten. When the number of members is increased to 139
eight, one shall be appointed for a three-year and one for a 140
six-year term from the first Monday of March thereafter. When 141
the number of members is increased from six to ten, the term for 142
additional members shall be: one for one year, one for three 143
years, one for four years, and one for six years from the first 144
Monday of March thereafter. When the number of members is 145
increased from eight to ten, the term for additional members 146
shall be: one for one year and one for four years from the first 147
Monday of March thereafter. Thereafter, except as provided in 148
division (G) (2) of this section, upon the expiration of the term 149
of office of each member, the vacancy shall be filled in the 150
manner specified in division (F) of this section. 151

(2) ~~The board of county commissioners together with the~~ 152
~~probate judge senior in point of service and the judge of the~~ 153
~~court of common pleas senior in point of service~~ appointing 154
authority may reduce the number of members of a board of county 155
hospital trustees to eight or to six. The reduction shall occur 156
on expiration of a member's term of office, at which time no 157
appointment shall be made. While the ~~board of county~~ 158
~~commissioners and the judges are~~ appointing authority is in the 159
process of reducing the number of members, the board of county 160
hospital trustees may consist of nine or seven members for one 161
year. 162

(H) Any member of a board of county hospital trustees may 163
be removed from office by the appointing authority for neglect 164
of duty, misconduct, or malfeasance in office. The member shall 165
be informed in writing of the charges and afforded an 166

opportunity for a hearing before the appointing authority. The 167
appointing authority shall not remove a member from office for 168
political reasons. 169

(I) The board of county commissioners may provide members 170
of a board of county hospital trustees a stipend for their 171
service or require the members to serve without compensation. 172
The members shall be allowed their necessary and reasonable 173
expenses incurred in the performance of their duties, including 174
the cost of their participation in any continuing education 175
programs or developmental programs that the members consider 176
necessary. Allowable stipends and expenses shall be paid out of 177
the funds provided for the county hospital. 178

(J) The persons selected to be members of a board of 179
county hospital trustees shall forthwith be notified, by mail, 180
of their appointment. When a board is initially appointed, the 181
notice shall state a time, not more than ten days later, when 182
such board shall meet at the county seat of such county to 183
organize. On the date stated, the board shall meet and organize. 184

(K) A board of county hospital trustees shall organize by 185
electing one of its number as chairperson and such other 186
officers as specified in the board's rules. Four members of a 187
six-member board constitute a quorum, five members constitute a 188
quorum of an eight-member board, and six members constitute a 189
quorum of a ten-member board. 190

A board of county hospital trustees shall hold meetings at 191
least quarterly, shall adopt necessary rules of procedure, and 192
shall keep a record of its proceedings and a strict account of 193
all its receipts, disbursements, and expenditures. On completion 194
of the construction and equipping of a county hospital, the 195
board shall file such account with the board of county 196

commissioners and make final settlement with the board of county 197
commissioners for the construction and equipping of the 198
hospital. 199

Members of the board of county hospital trustees may 200
attend board meetings by means of communications equipment 201
authorized under this division by rule of the board, including 202
by video conference or teleconference. Notwithstanding division 203
(C) of section 121.22 of the Revised Code, board members who 204
attend a board meeting by means of authorized communications 205
equipment shall be considered present in person at the meeting, 206
shall be permitted to vote, and shall be counted for purposes of 207
determining whether a quorum is present at the meeting. 208

The board of county hospital trustees shall maintain a 209
record of any vote or other action taken at a board meeting 210
conducted by means of authorized communications equipment. The 211
record also shall identify the members attending the board 212
meeting by means of authorized communications equipment. 213

The board of county hospital trustees shall adopt rules 214
designating the communications equipment that is authorized for 215
use during board meetings. The board also shall adopt rules that 216
establish procedures and guidelines for using authorized 217
communications equipment during board meetings and that ensure 218
verification of the identity of any board members attending 219
board meetings by such means. 220

Sec. 1721.21. (A) As used in this section: 221

(1) "Person" means any corporation, company, partnership, 222
individual, or other entity owning or operating a cemetery for 223
the disposition of human remains. 224

(2) "Cemetery" means any one or a combination of more than 225

one of the following:	226
(a) A burial ground for earth interments;	227
(b) A mausoleum for crypt entombments;	228
(c) A columbarium for the deposit of cremated remains;	229
(d) A scattering ground for the spreading of cremated remains.	230 231
(3) "Interment" means the disposition of human remains by earth burial, entombment, or inurnment.	232 233
(4) "Burial right" means the right of earth interment.	234
(5) "Entombment right" means the right of entombment in a mausoleum.	235 236
(6) "Columbarium right" means the right of inurnment in a columbarium for cremated remains.	237 238
(7) "Human remains" means any part of the body of a deceased human being, in any stage of decomposition or state of preservation, or the remaining bone fragments from the body of a deceased human being that has been reduced by cremation or alternative disposition.	239 240 241 242 243
(B) No person shall operate or continue to operate any cemetery in this state unless an endowment care trust is established and maintained as required by this section.	244 245 246
(C) Any person desiring to operate any cemetery that is organized or developed after July 1, 1970, before offering to sell or selling any burial lot, burial right, entombment right, or columbarium right in that cemetery, shall first establish an endowment care trust, segregated from other assets, and place in that fund a minimum of fifty thousand dollars in cash or in	247 248 249 250 251 252

bonds of the United States, this state, or any county or 253
municipal corporation of this state. 254

Whenever any person described in this division has placed 255
another fifty thousand dollars in the endowment care trust out 256
of gross sales proceeds, in addition to the deposit required by 257
this division, that person, after submitting proof of this fact 258
to the trustees of the endowment care trust, may be paid a 259
distribution in the sum of fifty thousand dollars from the 260
endowment care trust. 261

(D) Any person desiring to operate or to continue to 262
operate any cemetery after July 1, 1970, shall place into the 263
endowment care trust as required by this section not less than 264
ten per cent of the gross sales proceeds received from the sale 265
of any burial lot, burial right, entombment right, or 266
columbarium right. This percentage shall be placed in the 267
endowment care trust no later than thirty days following the 268
month in which the entire gross sales are received. 269

(E) The trustees of the endowment care trust shall consist 270
of at least three individuals who have been residents of the 271
county in which the cemetery is located for at least one year, 272
or a trust company licensed under Chapter 1111. of the Revised 273
Code or a national bank or federal savings association that has 274
securities pledged in accordance with section 1111.04 of the 275
Revised Code. If the trustees are not a financial institution or 276
trust company, the trustees shall be bonded by a fidelity bond, 277
or insured under an insurance policy less any deductible, in an 278
aggregate amount of not less than one hundred per cent of the 279
funds held by the trustees. The trustees or their agent shall, 280
on a continuous basis, keep exact records as to the amount of 281
funds under any joint account or trust instrument being held for 282

the individual beneficiaries showing the amount paid, the amount 283
deposited and invested, and accruals and income. 284

The funds of the endowment care trust shall be held and 285
invested in the manner in which trust funds are permitted to be 286
held and invested pursuant to sections 2109.37 and 2109.371 of 287
the Revised Code or, if provided for in the instrument creating 288
the trust, pursuant to the Ohio Uniform Prudent Investor Act. 289

(F) Any person offering to sell or selling any burial lot, 290
burial right, entombment right, or columbarium right shall give 291
to the purchaser of the lot or right, at the time of sale, a 292
written agreement that identifies and unconditionally guarantees 293
to the purchaser the specific location of the lot or the 294
specific location to which the right applies. 295

(G) No person shall open or close any grave, crypt, or 296
niche for the interment of human remains in a cemetery without 297
the permission of the cemetery association or other entity 298
having control and management of the cemetery. 299

(H) Except as provided in division (G) of this section, 300
this section does not apply to a family cemetery as defined in 301
section 4767.02 of the Revised Code, to any cemetery that is 302
owned and operated entirely and exclusively by churches, 303
religious societies, established fraternal organizations, 304
municipal corporations, or other political subdivisions of the 305
state, or to a national cemetery. 306

(I) The ~~dividend and interest income distribution~~ from the 307
endowment care trust shall be used only to pay for the both of 308
the following: 309

(1) The cost and expenses incurred to establish, manage, 310
invest, and administer the records and the trust and for the; 311

(2) The maintenance, supervision, improvement, and 312
preservation of the grounds, lots, buildings, equipment, 313
statuary, and other real and personal property of the cemetery. 314

(J) (1) Annual reports of all the assets and investments of 315
the endowment care trust shall be prepared and maintained, and 316
shall be available for inspection at reasonable times by any 317
owner of interment rights in the cemetery. 318

(2) Every cemetery required to establish and maintain an 319
endowment care trust shall ensure each of the following: 320

(a) That the cemetery has deposited, at the time specified 321
in division (D) of this section, the amounts required by that 322
division in the cemetery's endowment care trust; 323

(b) ~~That only dividend and interest income have been paid-~~ 324
~~from the endowment care trust, and the cemetery used the amounts~~ 325
withdrawn only for the purposes specified in division (I) of 326
this section; 327

(c) ~~That~~ Subject to division (K) (5) of this section, that 328
all principal and capital gains, less any payment of taxes 329
associated with such gains, have remained in the endowment care 330
trust; 331

(d) That the endowment care trust has not been used to 332
collateralize or guarantee loans and has not otherwise been 333
subjected to any consensual lien; 334

(e) That the endowment care trust is invested in 335
compliance with the investing standards set forth in sections 336
2109.37 and 2109.371 of the Revised Code, or, if provided for in 337
the instrument creating the trust, the Ohio Uniform Prudent 338
Investor Act. 339

(3) Every cemetery required to establish and maintain an endowment care trust shall ~~file~~ do both of the following: 340
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(a) File an affidavit annually with the division of real estate of the department of commerce, in a form prescribed by the division, certifying under oath the cemetery satisfied division (J) (2) of this section; 342
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(b) Notify the division of real estate of the department of commerce, in a form prescribed by the division, of the percentage of the unitrust distribution from the endowment care trust, as described in divisions (K) (2) (a) (ii) and (b) of this section. 346
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(K) (1) Every cemetery shall choose the distribution of either of the following from the endowment care trust: 351
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(a) All net ordinary income, which includes collected dividends, interest, and other income earned by the trust, reduced by any expenses, including, but not limited to, taxes on income, fees, commissions, and costs; 353
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(b) A unitrust disbursement not exceeding five per cent of the fair market value of the endowment care fund. "Fair market value," for the purpose of division (K) (1) (b) of this section, means the average of the net fair market value of the assets of the endowment care trust as of the last trading day for each of the three preceding fiscal year ends. 357
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(2) (a) A cemetery that selects the unitrust disbursement distribution method, as provided in division (K) (1) (b) of this section, shall do both of the following: 363
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(i) Deliver to the trustees of the endowment care trust written instructions, including the disbursement percentage selected, not later than sixty days prior to the beginning of a 366
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calendar year; 369

(ii) Deliver to the division of real estate of the 370
department of commerce notification that the cemetery selected 371
the unitrust disbursement method and the percentage selected, in 372
compliance with division (J) (3) (b) of this section. 373

(b) The distribution method and, if a unitrust 374
disbursement, the disbursement percentage selected shall remain 375
in effect unless the cemetery notifies the trustees and the 376
division of real estate of the department of commerce of its 377
desire to effect a change. The trustees shall ensure that an 378
investment policy is in place whose goals and objectives are 379
supportive of the growth of the endowment care trust. 380

(3) Distributions from the endowment care trust shall be 381
made on a monthly, quarterly, semiannual, or annual basis, as 382
agreed upon by the cemetery and the trustees. If the trustees do 383
not receive written instructions from the cemetery informing the 384
trustees of the method of calculation and distribution chosen, 385
the trustees shall calculate and distribute the net income, as 386
earned, on a monthly basis. 387

(4) In order to withdraw a unitrust disbursement, the fair 388
market value of the endowment care trust after the disbursement 389
shall be greater than eighty per cent of the aggregate fair 390
market value of the endowment care trust as of the end of the 391
immediately preceding calendar year. Should this not be the 392
case, disbursement shall be limited for that year to net 393
ordinary income. 394

(5) The trustees shall pay reasonable operating expenses 395
and taxes of the endowment care trust itself. If the operating 396
expenses and taxes paid are greater than two and one-half per 397

cent of the fair market value for the preceding calendar year 398
end and the cemetery has selected a unitrust disbursement, the 399
trustees shall reduce the unitrust disbursement by the amount 400
exceeding two and one-half per cent. 401

Sec. 1901.123. (A) (1) Subject to reimbursement under 402
division (B) of this section, the treasurer of the county in 403
which a county-operated municipal court or other municipal court 404
is located shall pay the per diem compensation to which an 405
acting judge appointed pursuant to division (A) (2) (a), (B) (1), 406
or (C) (1) of section 1901.121 of the Revised Code is entitled 407
pursuant to division (A) (1) of section 1901.122 of the Revised 408
Code. 409

(2) The treasurer of the county in which a county-operated 410
municipal court or other municipal court is located shall pay 411
the per diem compensation to which an assigned judge assigned 412
pursuant to division (A) (1), (A) (2) (b), (B) (2), (C) (2), or (D) 413
of section 1901.121 of the Revised Code is entitled pursuant to 414
division (B) (1) or (4) of section 1901.122 of the Revised Code. 415

(3) Subject to reimbursement under division (B) of this 416
section, the treasurer of the county in which a county-operated 417
municipal court or other municipal court is located shall pay 418
the per diem compensation to which an assigned judge assigned 419
pursuant to division (A) (1), (A) (2) (b), (B) (2), (C) (2), or (D) 420
of section 1901.121 of the Revised Code is entitled pursuant to 421
division (B) (2) of section 1901.122 of the Revised Code. 422

(4) Subject to reimbursement under division (C) of this 423
section, the supreme court shall pay the per diem compensation 424
to which an assigned judge assigned pursuant to division (A) (1), 425
(A) (2) (b), (B) (2), (C) (2), or (D) of section 1901.121 of the 426
Revised Code is entitled pursuant to division (B) (3) of section 427

1901.122 of the Revised Code. 428

(B) The treasurer of a county that, pursuant to division 429
(A) (1) or (3) of this section, is required to pay ~~any~~ the per 430
diem compensation to which an acting judge or assigned judge is 431
~~entitled under division (A) (5) or (6) of section 141.04 of the~~ 432
~~Revised Code,~~ shall submit to the administrative director of the 433
supreme court quarterly requests for reimbursements of the state 434
portion of the per diem amounts so paid. The requests shall 435
include verifications of the payment of those amounts and an 436
affidavit from the acting judge or assigned judge stating the 437
days and hours worked. The administrative director shall cause 438
reimbursements of ~~those~~ the state portion of the per diem 439
amounts paid to be issued to the county if the administrative 440
director verifies that those amounts were, in fact, so paid. 441

(C) ~~The~~ If the supreme court, pursuant to division (A) ~~(2)~~ 442
(4) of this section, is required to pay ~~any~~ the per diem 443
compensation to which an assigned judge is entitled ~~under~~ 444
~~division (A) (5) or (6) of section 141.04 of the Revised Code.~~ 445
Annually, annually, on the first day of August, the 446
administrative director of the supreme court shall issue a 447
billing to the county treasurer of any county to which such a 448
judge was assigned to a municipal court for reimbursement of the 449
county or local portion of the per diem compensation previously 450
paid by the ~~state~~ supreme court for the twelve-month period 451
preceding the last day of June. The county or local portion of 452
the per diem compensation shall be that part of each per diem 453
paid by the state which is proportional to the county or local 454
shares of the total compensation of a resident judge of such 455
court. The county treasurer shall forward the payment within 456
thirty days. After forwarding the payment, the county treasurer 457
shall seek reimbursement from the applicable local 458

municipalities as appropriate. 459

Sec. 1907.143. (A) (1) Subject to reimbursement under 460
division (B) of this section, the treasurer of the county in 461
which a county court is located shall pay the per diem 462
compensation to which an acting judge appointed pursuant to 463
division (A) (2) ~~(b)~~ (a), (B) (1), or (C) (1) of section 1907.141 of 464
the Revised Code is entitled pursuant to division (A) of section 465
1907.142 of the Revised Code. 466

(2) The treasurer of the county in which a county court is 467
located shall pay the per diem compensation to which an assigned 468
judge assigned pursuant to division (A) (1), (A) (2) (b), (B) (2), 469
or (C) (2) of section 1907.141 of the Revised Code is entitled 470
pursuant to division (B) (1) or (4) of section 1907.142 of the 471
Revised Code. 472

(3) Subject to reimbursement under division (B) of this 473
section, the treasurer of the county in which a county court is 474
located shall pay the per diem compensation to which an assigned 475
judge assigned pursuant to division (A) (1), (A) (2) (b), (B) (2), 476
or (C) (2) of section 1907.141 of the Revised Code is entitled 477
pursuant to division (B) (2) of section 1907.142 of the Revised 478
Code. 479

(4) Subject to reimbursement under division (C) of this 480
section, the supreme court shall pay the per diem compensation 481
to which an assigned judge assigned pursuant to division (A) (1), 482
(A) (2) (b), (B) (2), or (C) (2) of section 1907.141 of the Revised 483
Code is entitled pursuant to division (B) (3) of section 1907.142 484
of the Revised Code. 485

(B) The treasurer of a county that, pursuant to division 486
(A) (1) or (3) of this section, is required to pay ~~any the per~~ 487

diem compensation to which an acting judge or assigned judge is 488
entitled ~~under division (A) (5) or (6) of section 141.04 of the~~ 489
~~Revised Code~~, shall submit to the administrative director of the 490
supreme court quarterly requests for reimbursements of the state 491
portion of the per diem amounts so paid. The requests shall 492
include verifications of the payment of those amounts and an 493
affidavit from the acting judge or assigned judge stating the 494
days and hours worked. The administrative director shall cause 495
reimbursements of ~~those~~ the state portion of the per diem 496
amounts paid to be issued to the county if the administrative 497
director verifies that those amounts were, in fact, so paid. 498

(C) ~~The~~ If the supreme court, pursuant to division (A) ~~(2)~~ 499
(4) of this section, is required to pay ~~any~~ the per diem 500
compensation to which an assigned judge is entitled ~~under~~ 501
~~division (A) (5) or (6) of section 141.04 of the Revised Code.~~ 502
~~Annually,~~ annually, on the first day of August, the 503
administrative director of the supreme court shall issue a 504
billing to the county treasurer of any county to which such a 505
judge was assigned to a county court for reimbursement of the 506
county portion of the per diem compensation previously paid by 507
the ~~state supreme court~~ for the twelve-month period preceding 508
the last day of June. The county portion of the per diem 509
compensation shall be that part of each per diem paid by the 510
state which is proportional to the county shares of the total 511
compensation of a resident judge of such court. The county 512
treasurer shall forward the payment within thirty days. After 513
forwarding the payment, the county treasurer shall seek 514
reimbursement from the applicable local municipalities as 515
appropriate. 516

Sec. 2106.13. (A) If a person dies leaving a surviving 517
spouse and no minor children, leaving a surviving spouse and 518

minor children, or leaving minor children and no surviving 519
spouse, the surviving spouse, minor children, or both shall be 520
entitled to receive, subject to division (B) of this section, in 521
money or property the sum of forty thousand dollars as an 522
allowance for support. If the surviving spouse selected ~~one or~~ 523
~~more automobiles~~ more than one automobile under section 2106.18 524
of the Revised Code, the allowance for support prescribed by 525
this section shall be reduced by the value of the automobile 526
having the lowest value ~~if more than one automobile is of the~~ 527
automobiles so selected. The money or property set off as an 528
allowance for support shall be considered estate assets. 529

(B) The probate court shall order the distribution of the 530
allowance for support described in division (A) of this section 531
as follows: 532

(1) If the person died leaving a surviving spouse and no 533
minor children, one hundred per cent to the surviving spouse; 534

(2) If the person died leaving a surviving spouse and 535
minor children, and if all of the minor children are the 536
children of the surviving spouse, one hundred per cent to the 537
surviving spouse; 538

(3) If the person died leaving a surviving spouse and 539
minor children, and if not all of the minor children are 540
children of the surviving spouse, in equitable shares, as fixed 541
by the probate court in accordance with this division, to the 542
surviving spouse and the minor children who are not the children 543
of the surviving spouse. In determining equitable shares under 544
this division, the probate court shall do all of the following: 545

(a) Consider the respective needs of the surviving spouse, 546
the minor children who are children of the surviving spouse, and 547

the minor children who are not children of the surviving spouse; 548

(b) Allocate to the surviving spouse, the share that is 549
equitable in light of the needs of the surviving spouse and the 550
minor children who are children of the surviving spouse; 551

(c) Allocate to the minor children who are not children of 552
the surviving spouse, the share that is equitable in light of 553
the needs of those minor children. 554

(4) If the person died leaving minor children and no 555
surviving spouse, in equitable shares, as fixed by the probate 556
court in accordance with this division, to the minor children. 557
In determining equitable shares under this division, the probate 558
court shall consider the respective needs of the minor children 559
and allocate to each minor child the share that is equitable in 560
light of the child's needs. 561

(C) If the surviving spouse selected ~~one or more~~ 562
~~automobiles more than one automobile~~ under section 2106.18 of 563
the Revised Code, the probate court, in considering the 564
respective needs of the surviving spouse and the minor children 565
when allocating an allowance for support under division (B) (3) 566
of this section, shall consider the benefit derived by the 567
surviving spouse from the transfer of the automobile having the 568
lowest value ~~if more than one automobile is of the automobiles~~ 569
so selected. 570

(D) If, pursuant to this section, the probate court must 571
allocate the allowance for support, the administrator or 572
executor, within five months of the initial appointment of an 573
administrator or executor, shall file with the probate court an 574
application to allocate the allowance for support. 575

(E) The administrator or executor shall pay the allowance 576

for support unless a competent adult or a guardian with the 577
consent of the court having jurisdiction over the guardianship 578
waives the allowance for support to which the adult or the ward 579
represented by the guardian is entitled. 580

(F) For the purposes of this section, the value of an 581
automobile that a surviving spouse selects pursuant to section 582
2106.18 of the Revised Code is the value that the surviving 583
spouse specifies for the automobile in the affidavit executed 584
pursuant to division (B) of section 4505.10 of the Revised Code. 585

Sec. 2108.05. (A) A donor may make an anatomical gift by 586
doing any of the following: 587

(1) Authorizing a statement or symbol to be imprinted on 588
the donor's driver's license or identification card indicating 589
that the donor has certified a willingness to make an anatomical 590
gift; 591

~~(2) Specifying in the donor's will an intent to make an~~ 592
~~anatomical gift;~~ 593

~~(3) Specifying an intent to make an anatomical gift in the~~ 594
~~donor's declaration as described in section 2133.16 of the~~ 595
~~Revised Code;~~ 596

~~(4) During a terminal illness or injury of the donor,~~ 597
communicating in any manner to a minimum of two adults, at least 598
one of whom is a disinterested witness, that the donor intends 599
to make an anatomical gift; 600

~~(5) (3)~~ Following the procedure in division (B) of this 601
section. 602

(B) A donor or other person authorized to make an 603
anatomical gift under section 2108.04 of the Revised Code may 604

make a gift by a donor card or other record signed by the donor 605
or other person making the gift or by authorizing that a 606
statement or symbol indicating that the donor has certified a 607
willingness to make an anatomical gift be included in a donor 608
registry. If the donor or other person is physically unable to 609
sign a record, the record may be signed by another individual at 610
the direction of the donor or other person and shall do both of 611
the following: 612

(1) Be witnessed by at least two adults, at least one of 613
whom is a disinterested witness, who have signed at the request 614
of the donor or the other person; 615

(2) State that it has been signed and witnessed as 616
provided in division (B)(1) of this section. 617

(C) Once a donor has authorized a statement or symbol to 618
be imprinted on the donor's driver's license or identification 619
card indicating that the donor has certified a willingness to 620
make an anatomical gift, the donor does not need to recertify 621
the donor's willingness to make an anatomical gift upon renewal 622
of the driver's license or identification card. The 623
authorization shall remain in effect until the donor withdraws 624
that authorization. 625

(D) Revocation, suspension, expiration, or cancellation of 626
a driver's license or identification card upon which an 627
anatomical gift is indicated does not invalidate the gift. 628

~~(E) An anatomical gift made by will takes effect on the 629
donor's death whether or not the will is probated. Invalidation 630
of the will after the donor's death does not invalidate the 631
gift. 632~~

Sec. 2108.06. (A) Subject to section 2108.08 of the 633

Revised Code, an anatomical gift made under section 2108.04 of 634
the Revised Code may be amended by any of the following means: 635

(1) By a record signed by the donor or other person 636
authorized to make an anatomical gift under section 2108.04 of 637
the Revised Code; 638

(2) Subject to division (C) of this section, by a record 639
signed by another individual acting at the direction of the 640
donor or other person authorized to make an anatomical gift 641
under section 2108.04 of the Revised Code if the donor or other 642
person is physically unable to sign; 643

(3) By a later-executed document of gift that amends a 644
previous anatomical gift or portion of an anatomical gift, 645
either expressly or by inconsistency; 646

(4) By any form of communication during a terminal illness 647
or injury addressed to at least two adults; 648

(5) By a parent who is reasonably available, if the donor 649
is an unemancipated minor who has died; 650

~~(6) If made in a will, by the manner provided for 651
amendment of wills or by any of the applicable means described 652
in divisions (B) (1) to (5) of this section. 653~~

(B) Subject to section 2108.08 of the Revised Code, an 654
anatomical gift made under section 2108.04 of the Revised Code 655
may be revoked by any of the following means: 656

(1) By a record signed by the donor or other person 657
authorized to make an anatomical gift under section 2108.04 of 658
the Revised Code; 659

(2) Subject to division (C) of this section, by a record 660
signed by another individual acting at the direction of the 661

donor or other person authorized to make an anatomical gift 662
under section 2108.04 of the Revised Code if the donor or other 663
person is physically unable to sign; 664

(3) By a later-executed document of gift that revokes a 665
previous anatomical gift or portion of an anatomical gift, 666
either expressly or by inconsistency; 667

(4) By any form of communication during a terminal illness 668
or injury addressed to at least two adults; 669

(5) By a parent who is reasonably available, if the donor 670
is an unemancipated minor who has died; 671

(6) By the destruction or cancellation of the document of 672
gift, or the portion of the document of gift, used to make the 673
gift, with the intent to revoke the gift; 674

~~(7) If made in a will, by the manner provided for 675
revocation of wills or by any of the applicable means described 676
in divisions (B) (1) to (6) of this section. 677~~

(C) A record signed pursuant to division (A) (2) or (B) (2) 678
of this section shall do both of the following: 679

(1) Be witnessed by a minimum of two adults who have 680
signed at the request of the donor or other person; 681

(2) State that it has been signed and witnessed as 682
provided in division (C) (1) of this section. 683

Sec. 2108.07. (A) An individual may refuse to make an 684
anatomical gift of the individual's body or part by doing any of 685
the following: 686

(1) Indicating a refusal in a record signed by either of 687
the following: 688

(a) The individual;	689
(b) Subject to division (B) of this section, another individual acting at the direction of the individual, if the individual is physically unable to sign.	690 691 692
(2) Indicating a refusal in the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death;	693 694 695
(3) Indicating a refusal by any form of communication made by the individual during the individual's terminal illness or injury addressed to a minimum of two adults.	696 697 698
(B) A record signed pursuant to division (A)(1)(b) of this section shall do both of the following:	699 700
(1) Be witnessed by at least two adults who have signed at the request of the individual;	701 702
(2) State that it has been signed and witnessed as provided in division (B)(1) of this section.	703 704
(C) An individual who has made a refusal may amend or revoke the refusal by doing any of the following:	705 706
(1) Amending or revoking the refusal in the manner provided in division (A) of this section for making a refusal;	707 708
(2) Subsequently making an anatomical gift pursuant to section 2108.05 of the Revised Code that is inconsistent with the refusal;	709 710 711
(3) Destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.	712 713 714
(D) Except as provided in division (E) of this section, in	715

the absence of an express, contrary indication by the individual 716
set forth in the refusal, an individual's unrevoked refusal to 717
make an anatomical gift of the individual's body or part bars 718
all other persons from making an anatomical gift of the 719
individual's body or part. 720

(E) The parent of a deceased unemancipated minor who is 721
reasonably available may revoke a refusal made by the minor. 722

Sec. 2108.23. (A) (1) The bureau of motor vehicles shall 723
develop and maintain a donor registry that identifies each 724
individual who has agreed to make an anatomical gift by a 725
designation on a driver's license or identification card as 726
provided in division (A) (1) of section 2108.05 of the Revised 727
Code. The registry shall be fully operational not later than 728
July 1, 2002. 729

(2) Any person who provides to the bureau the form set 730
forth in division ~~(D) (2)~~ (C) (2) of section 2133.07 of the 731
Revised Code requesting to be included in the donor registry 732
shall be included. 733

(B) The bureau shall maintain the registry in a manner 734
that provides to organ procurement organizations, tissue banks, 735
and eye banks immediate access to the information in the 736
registry twenty-four hours a day and seven days a week. 737

(C) (1) The registrar of motor vehicles, in consultation 738
with the director of health and the second chance trust fund 739
advisory committee created under section 2108.35 of the Revised 740
Code, shall formulate proposed rules that specify all of the 741
following: 742

(a) The information to be included in the registry; 743

(b) A process, in accordance with division (B) of section 744

2108.06 of the Revised Code, for an individual to revoke the 745
individual's intent to make an anatomical gift and for updating 746
information in the registry; 747

(c) How the registry will be made available to organ 748
procurement organizations, tissue banks, and eye banks; 749

(d) Limitations on the use of and access to the registry; 750

(e) How information on organ, tissue, and eye donation 751
will be developed and disseminated to the public by the bureau 752
and the department of health; 753

(f) Anything else the registrar considers appropriate. 754

(2) In adopting the proposed rules under this division, 755
the registrar may consult with any person or entity that 756
expresses an interest in the matters to be dealt with in the 757
rules. 758

(3) Following formulation of the proposed rules, but not 759
later than January 1, 2002, the registrar shall adopt rules in 760
accordance with Chapter 119. of the Revised Code. 761

(D) The costs of developing and initially implementing the 762
registry shall be paid from the second chance trust fund created 763
in section 2108.34 of the Revised Code. 764

Sec. 2108.24. (A) As used in this section: 765

(1) "Advance health-care directive" means a durable power 766
of attorney for health care or a record signed by a prospective 767
donor containing the prospective donor's direction concerning a 768
health-care decision. 769

(2) ~~"Declaration" means a written document executed in~~ 770
~~accordance with section 2133.02 of the Revised Code.~~ 771

~~(3)~~—"Health care decision" means any decision regarding 772
the health care of the prospective donor. 773

(B) If a prospective donor has ~~a declaration or an~~ advance 774
health-care directive the terms of which are in conflict with 775
the express or implied terms of a potential anatomical gift with 776
regard to administration of measures necessary to ensure the 777
medical suitability of a part for transplantation or therapy and 778
the prospective donor is capable of resolving the conflict, 779
subject to division (G) of this section, the prospective donor's 780
attending physician shall confer with the prospective donor to 781
resolve the conflict. 782

(C) If a prospective donor has ~~a declaration or an~~ advance 783
health-care directive the terms of which are in conflict with 784
the express or implied terms of a potential anatomical gift with 785
regard to administration of measures necessary to ensure the 786
medical suitability of a part for transplantation or therapy and 787
the prospective donor is incapable of resolving the conflict, 788
one of the following shall apply depending on the circumstances: 789

(1) If the prospective donor has an agent, the agent 790
shall, subject to division (G) of this section, act for the 791
prospective donor to resolve the conflict. 792

(2) If the prospective donor does not have an agent, the 793
individual or class of individuals determined in the following 794
descending order of priority and subject to divisions (D), (E), 795
(F), and (G) of this section shall act for the prospective donor 796
to resolve the conflict: 797

(a) The prospective donor's surviving spouse; 798

(b) The prospective donor's surviving adult children; 799

(c) The prospective donor's surviving parent or parents; 800

(d) The prospective donor's surviving adult siblings;	801
(e) The prospective donor's surviving adult grandchildren;	802
(f) The prospective donor's surviving grandparent or grandparents;	803 804
(g) A surviving adult who exhibited special care and concern for the prospective donor;	805 806
(h) The prospective donor's guardians of the person;	807
(i) The persons, other than those in divisions (C) (2) (a) to (h) of this section, to whom the prospective donor has assigned the right of disposition for the prospective donor's body pursuant to section 2108.70 of the Revised Code or who have the right of disposition for the prospective donor's body at the time of death as described in section 2108.81 of the Revised Code.	808 809 810 811 812 813 814
(D) If an appropriate individual entitled to resolve a conflict between the terms of a prospective donor's declaration or advance health-care directive and the express or implied terms of a potential anatomical gift as described in division (C) of this section is not reasonably available to resolve the conflict, is incapacitated, or declines to resolve the conflict, the next priority individual or class of individuals specified in that division is authorized to resolve the conflict.	815 816 817 818 819 820 821 822
(E) If at least one individual in a class of individuals entitled to resolve a conflict between the terms of a prospective donor's declaration or advance health-care directive and the express or implied terms of a potential anatomical gift is not reasonably available, is incapacitated, or declines to resolve the conflict, the conflict shall be resolved by the individual or individuals in the class who are reasonably	823 824 825 826 827 828 829

available, not incapacitated, and willing to resolve the 830
conflict. 831

(F) If individuals in a class of individuals determined in 832
accordance with division (C) (2) of this section disagree on how 833
a conflict between the terms of a prospective donor's 834
~~declaration or~~ advance health-care directive and the express or 835
implied terms of a potential anatomical gift should be resolved, 836
the opinion of the majority of the individuals who are 837
reasonably available, not incapacitated, and are willing to 838
resolve the conflict shall prevail. 839

(G) A conflict between the terms of a prospective donor's 840
~~declaration or~~ advance health-care directive and the express or 841
implied terms of a potential anatomical gift with regard to the 842
administration of measures necessary to ensure the medical 843
suitability of a part for transplantation or therapy shall be 844
resolved as expeditiously as possible. Information relevant to 845
the resolution of the conflict may be obtained from the 846
appropriate procurement organization and any other person 847
authorized to make an anatomical gift for the prospective donor 848
under section 2108.09 of the Revised Code. Before resolution of 849
the conflict, measures necessary to ensure the medical 850
suitability of the part shall not be withheld or withdrawn from 851
the prospective donor unless withholding or withdrawing the 852
measures is necessary for appropriate end-of-life care. 853

Sec. 2108.34. (A) There is hereby created in the state 854
treasury the second chance trust fund. The fund shall consist of 855
voluntary contributions deposited as provided in sections 856
4503.721, 4506.081, 4507.231, and 4507.501 of the Revised Code. 857
All investment earnings of the fund shall be credited to the 858
fund. 859

(B) The director of health shall use the money in the fund 860
only for the following purposes: 861

(1) Development and implementation of a campaign that 862
explains and promotes the second chance trust fund; 863

(2) Development and implementation of local and statewide 864
public education programs about organ, tissue, and eye donation, 865
including the informational material required to be provided 866
under sections 4506.081, 4507.231, and 4507.501 of the Revised 867
Code; 868

(3) Development and implementation of local and statewide 869
donor awareness programs in schools; 870

(4) Development and implementation of local and statewide 871
programs to recognize donor families; 872

(5) Development and distribution of materials promoting 873
organ, tissue, and eye donation; 874

(6) Cooperation with the Ohio Supreme Court, Ohio State 875
Bar Association, and law schools of this state to more 876
effectively educate attorneys about the donation of anatomical 877
gifts and to encourage them to assist their clients in donating 878
anatomical gifts through anatomical gift declarations, durable 879
powers of attorney for health care, ~~declarations as defined in~~ 880
~~section 2133.01 of the Revised Code, wills,~~ and any other 881
appropriate means; 882

(7) Cooperation with the state medical board, state 883
medical, osteopathic, and ophthalmological associations, and 884
colleges of medicine and osteopathic medicine in this state to 885
more effectively educate physicians about the donation of 886
anatomical gifts and to encourage them to assist their patients 887
in making declarations of anatomical gifts; 888

(8) Development of statewide hospital training programs to encourage and facilitate compliance with sections 2108.14 and 2108.15 of the Revised Code;	889 890 891
(9) Reimbursement of the bureau of motor vehicles for the administrative costs incurred in the performance of duties under sections 4506.081, 4507.231, and 4507.501 of the Revised Code;	892 893 894
(10) Reimbursement of the department of health for administrative costs incurred in the performance of duties under this section and section 2108.35 of the Revised Code;	895 896 897
(11) Reimbursement of members of the second chance fund advisory committee for actual and necessary expenses incurred in the performance of official duties.	898 899 900
(C) The director shall make the materials developed under division (B) (5) of this section available to other state agencies.	901 902 903
(D) The director shall consider recommendations made by the second chance trust fund advisory committee pursuant to section 2108.35 of the Revised Code. The director shall determine the appropriateness of and approve or disapprove projects recommended by the advisory committee for funding and approve or disapprove the disbursement of money from the second chance trust fund.	904 905 906 907 908 909 910
Sec. 2111.10. <u>(A)</u> As used in this section, "developmental disability" has the same meaning as in section 5123.01 of the Revised Code.	911 912 913
<u>(B)</u> Any appointment of a corporation as guardian shall apply to the estate only and not to the person, except that a <u>when either of the following applies:</u>	914 915 916

(1) A nonprofit corporation organized under the laws of 917
this state and entitled to tax exempt status under section 918
501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 919
26 U.S.C.A. ~~U.S.C. 501, as amended,~~ that has a contract with the 920
department of developmental disabilities to provide protective 921
services may be appointed as a guardian of a person with a 922
developmental disability and may serve as guardian pursuant to 923
sections 5123.55 to 5123.59 of the Revised Code. 924

(2) A nonprofit corporation domiciled in this state and 925
organized under the laws of this state and entitled to tax 926
exempt status under section 501(a) of the "Internal Revenue Code 927
of 1986," 100 Stat. 2085, 26 U.S.C. 501 may be appointed as a 928
guardian of the person of an incompetent when certified by the 929
probate court to receive such an appointment. The probate court 930
shall certify that nonprofit corporation and any individual 931
acting as a guardian on behalf of the nonprofit corporation upon 932
meeting the requirements for serving as a guardian as prescribed 933
by the supreme court in the Rules of Superintendence for the 934
Courts of Ohio and the rules of court adopted by the probate 935
court of the county exercising jurisdiction over the 936
incompetent. A nonprofit corporation appointed as guardian of 937
the person of an incompetent shall not be the residential 938
caregiver, health care provider, or employer of the incompetent. 939

Sec. 2111.50. (A) (1) At all times, the probate court is 940
the superior guardian of wards who are subject to its 941
jurisdiction, and all guardians who are subject to the 942
jurisdiction of the court shall obey all orders of the court 943
that concern their wards or guardianships. 944

(2) (a) Subject to divisions (A) (2) (b) and (c) of this 945
section, the control of a guardian over the person, the estate, 946

or both of the guardian's ward is limited to the authority that 947
is granted to the guardian by the Revised Code, relevant 948
decisions of the courts of this state, and orders or rules of 949
the probate court. 950

(b) Except for the powers specified in division (E) of 951
this section and unless otherwise provided in or inconsistent 952
with another section of the Revised Code, the probate court may 953
confer upon a guardian any power that this section grants to the 954
probate court in connection with wards. Nothing in this section 955
is intended to create or imply a duty upon a guardian to apply 956
for authority to exercise any power authorized in this section. 957
No inference of impropriety or liability of the guardian or 958
others associated with the guardian shall arise as a result of a 959
guardian not applying for authority to exercise a power 960
authorized in this section. 961

(c) For good cause shown, the probate court may limit or 962
deny, by order or rule, any power that is granted to a guardian 963
by a section of the Revised Code or relevant decisions of the 964
courts of this state. 965

(B) In connection with any person whom the probate court 966
has found to be an incompetent or a minor subject to 967
guardianship and for whom the court has appointed a guardian, 968
the court has, subject to divisions (C) to (E) of this section, 969
all the powers that relate to the person and estate of the ward 970
and that the ward could exercise if present and not a minor or 971
under a disability, except the power to make or revoke a will. 972
These powers include, but are not limited to, the power to do 973
any of the following: 974

(1) Convey or, release, or disclaim the present, 975
contingent, or expectant interests in real or personal property 976

of the ward, including, but not limited to, dower and any right	977
of survivorship incident to a <u>transfer on death designation,</u>	978
<u>payable on death designation,</u> survivorship tenancy, joint	979
tenancy, or tenancy by the entireties;	980
(2) Exercise or , <u>release, or disclaim</u> powers as a trustee,	981
personal representative, custodian for a minor, guardian, or	982
donee of a power of appointment;	983
(3) Enter <u>Subject to division (B) (4) of this section,</u>	984
<u>enter into contracts, or create revocable trusts of property of</u>	985
<u>the estate of the ward,</u> that may not extend beyond the minority,	986
disability, or life of the ward;	987
(4) <u>Create, amend, or revoke revocable trusts of property</u>	988
<u>of the estate of the ward that may extend beyond the minority,</u>	989
<u>disability, or life of the ward;</u>	990
<u>(5) Exercise options to purchase securities or other</u>	991
property;	992
(5) <u>(6) Exercise rights to elect options under annuities</u>	993
and insurance policies, <u>including changing beneficiaries of</u>	994
<u>insurance policies, retirement plans, individual retirement</u>	995
<u>accounts, and annuities,</u> and to surrender an annuity or	996
insurance policy for its cash value;	997
(6) <u>(7) Exercise the right to an elective share in the</u>	998
estate of the deceased spouse of the ward pursuant to section	999
2106.08 <u>Chapter 2106.</u> of the Revised Code;	1000
(7) <u>(8) Make gifts, in trust or otherwise, to relatives of</u>	1001
the ward and, consistent with any prior pattern of the ward of	1002
giving to charities or of providing support for friends, to	1003
charities and friends of the ward.	1004

(C) Except for the powers specified in division (D) of 1005
this section, all powers of the probate court that are specified 1006
in this chapter and that relate either to any person whom it has 1007
found to be an incompetent or a minor subject to guardianship 1008
and for whom it has appointed a guardian and all powers of a 1009
guardian that relate to the guardian's ward or guardianship as 1010
described in division (A)(2) of this section, shall be exercised 1011
in the best interest, as determined in the court's or guardian's 1012
judgment, of the following: 1013

(1) The ward whom the probate court has found to be an 1014
incompetent or a minor subject to guardianship; 1015

(2) The dependents of the ward; 1016

(3) The members of the household of the ward. 1017

(D) If the court is to exercise or direct the exercise, 1018
pursuant to division (B) of this section, of the power to make 1019
gifts in trust or otherwise, the following conditions shall 1020
apply: 1021

(1) The exercise of the particular power shall not impair 1022
the financial ability of the estate of the ward whom the probate 1023
court has found to be an incompetent or a minor subject to 1024
guardianship and for whom the court has appointed a guardian, to 1025
provide for the ward's foreseeable needs for maintenance and 1026
care; 1027

(2) If applicable, the court shall consider any of the 1028
following: 1029

(a) The estate, income, and other tax advantages of the 1030
exercise of a particular power to the estate of a ward whom the 1031
probate court has found to be an incompetent or a minor subject 1032
to guardianship and for whom the court has appointed a guardian; 1033

(b) Any pattern of giving of, or any pattern of support	1034
provided by, the ward prior to the ward's incompetence;	1035
(c) The disposition of property made by the ward's will <u>or</u>	1036
<u>revocable trust;</u>	1037
(d) If there is no knowledge of a will <u>or revocable trust</u>	1038
of the ward, the ward's prospective heirs;	1039
(e) Any relevant and trustworthy statements of the ward,	1040
whether established by hearsay or other evidence.	1041
(E) (1) The probate court shall cause notice as described	1042
in division (E) (2) of this section to be given and a hearing to	1043
be conducted prior to its exercise or direction of the exercise	1044
of any of the following powers pursuant to division (B) of this	1045
section:	1046
(a) The exercise or <u>release, or disclaimer</u> of powers as a	1047
donee of a power of appointment;	1048
(b) Unless the amount of the gift is no more than one	1049
thousand dollars, the making of a gift, in trust or otherwise;	1050
<u>(c) The power to create, amend, or revoke a revocable</u>	1051
<u>trust as described in division (B) (4) of this section;</u>	1052
<u>(d) The power to exercise rights to elect options under</u>	1053
<u>annuities and insurance policies, including changing</u>	1054
<u>beneficiaries of insurance policies, retirement plans,</u>	1055
<u>individual retirement accounts, and annuities, and to surrender</u>	1056
<u>an annuity or insurance policy for its cash value, as described</u>	1057
<u>in division (B) (6) of this section.</u>	1058
(2) The notice required by division (E) (1) of this section	1059
shall be given to the following persons:	1060

- (a) Unless a guardian of a ward has applied for the exercise of a power specified in division (E) (1) of this section, to the guardian; 1061
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- (b) To the ward whom the probate court has found to be an incompetent or a minor subject to guardianship; 1064
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- (c) If known, to a guardian who applied for the exercise of a power specified in division (E) (1) of this section, to the prospective heirs of the ward whom the probate court has found to be an incompetent or a minor subject to guardianship under section 2105.06 of the Revised Code, to the beneficiaries under the last known will of the ward or under an existing revocable trust of the ward, and to any person who has a legal interest in property that may be divested or limited as the result of the exercise of a power specified in division (E) (1) of this section; 1066
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- (d) To all of the following as applicable: 1076
- (i) The heirs at law and next of kin of the ward; 1077
- (ii) The beneficiaries under an existing will or revocable trust of the ward; 1078
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- (iii) The beneficiaries of any insurance policies, retirement plans, individual retirement accounts, and annuities owned by the ward; 1080
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- (iv) The beneficiaries under any proposed revocable trust and the proposed beneficiaries under any changes in the designation of beneficiaries of any insurance policies, retirement plans, individual retirement accounts, or annuities as described in division (E) (2) (d) (iii) of this section. 1083
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- (e) To any other persons the court orders. 1088

(F) When considering any question related to, and issuing 1089
orders for, medical or surgical care or treatment of 1090
incompetents or minors subject to guardianship, the probate 1091
court has full parens patriae powers unless otherwise provided 1092
by a section of the Revised Code. 1093

Sec. 2133.07. (A) As used in this section+ 1094

~~(1) "Anatomical gift" has the same meaning as in section 1095
2108.01 of the Revised Code. 1096~~

~~(2), "DNR identification" has the same meaning as in 1097
section 2133.21 of the Revised Code. 1098~~

(B) A printed form of a declaration may be sold or 1099
otherwise distributed in this state for use by adults who are 1100
not advised by an attorney. By use of a printed form of that 1101
nature, a declarant may authorize the use or continuation, or 1102
the withholding or withdrawal, of life-sustaining treatment 1103
should the declarant be in a terminal condition, a permanently 1104
unconscious state, or either a terminal condition or a 1105
permanently unconscious state, may authorize the withholding or 1106
withdrawal of nutrition or hydration should the declarant be in 1107
a permanently unconscious state as described in division (A)(3) 1108
(a) of section 2133.02 of the Revised Code, and may designate 1109
one or more persons who are to be notified by the declarant's 1110
attending physician at any time that life-sustaining treatment 1111
would be withheld or withdrawn pursuant to the declaration. The 1112
printed form shall not be used as an instrument for granting any 1113
other type of authority or for making any other type of 1114
designation, except that the printed form may be used as a DNR 1115
identification if the declarant specifies on the form that the 1116
declarant wishes to use it as a DNR identification ~~and except as 1117
provided in division (C) of this section. 1118~~

~~(C) A printed form of a declaration under division (B) of
this section shall include, before the signature of the
declarant or another individual at the direction of the
declarant, statements that conform substantially to the
following form:~~

~~"ANATOMICAL GIFT (optional)~~

~~Upon my death, the following are my directions regarding
donation of all or part of my body:~~

~~In the hope that I may help others upon my death, I hereby
give the following body parts:~~

~~_____
_____~~

~~for any purpose authorized by law: transplantation, therapy,
research, or education.~~

~~If I do not indicate a desire to donate all or part of my
body by filling in the lines above, no presumption is created
about my desire to make or refuse to make an anatomical gift."~~

~~(D) (1) A printed form of a declaration under division (B)
of this section shall include, as a separate page or as a
portion of a page that can be detached from the declaration, a
donor registry enrollment form that permits the donor to be
included in the donor registry created under section 2108.23 of
the Revised Code.~~

~~(2) The donor registry enrollment form may be in any form
that complies with the requirements of division (B) of section
2108.05 of the Revised Code. On completion, the form shall be
forwarded to the bureau of motor vehicles.~~

Sec. 2701.10. (A) Any voluntarily retired judge, or any 1146
judge who is retired under Section 6 of Article IV, Ohio 1147
Constitution, may register with the clerk of any court of common 1148
pleas, municipal court, or county court for the purpose of 1149
receiving referrals for adjudication of civil actions or 1150
proceedings, and submissions for determination of specific 1151
issues or questions of fact or law in any civil action or 1152
proceeding, pending in the court. There is no limitation upon 1153
the number, type, or location of courts with which a retired 1154
judge may register under this division. Upon registration with 1155
the clerk of any court under this division, the retired judge is 1156
eligible to receive referrals and submissions from that court, 1157
in accordance with this section. Each court of common pleas, 1158
municipal court, and county court shall maintain an index of all 1159
retired judges who have registered with the clerk of that court 1160
pursuant to this division and shall make the index available to 1161
any person, upon request. 1162

(B) (1) The parties to any civil action or proceeding 1163
pending in any court of common pleas, municipal court, or county 1164
court unanimously may choose to have the action or proceeding in 1165
its entirety referred for adjudication, or to have any specific 1166
issue or question of fact or law in the action or proceeding 1167
submitted for determination, to a judge of their choosing who 1168
has registered with the clerk of that court in accordance with 1169
division (A) of this section. 1170

If the parties unanimously do choose to have a referral or 1171
submission made to a retired judge pursuant to this section, all 1172
of the parties to the action or proceeding shall enter into a 1173
written agreement with the retired judge that does all of the 1174
following: 1175

- (a) Designates the retired judge to whom the referral or submission is to be made; 1176
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- (b) If a submission is to be made, describes in detail the specific issue or question to be submitted; 1178
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- (c) Indicates either of the following: 1180
- (i) That the action or proceeding in its entirety is to be referred to, and is to be tried, determined, and adjudicated by that retired judge; 1181
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- (ii) Indicates that the issue or question is to be submitted, and is to be tried and determined by that retired judge. 1184
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- (d) Indicates that the parties will assume the responsibility for providing facilities, equipment, and personnel reasonably needed by the retired judge during ~~his~~ the retired judge's consideration of the action or proceeding and will pay all costs arising out of the provision of the facilities, equipment, and personnel; 1187
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- (e) Identifies an amount of compensation to be paid by the parties to the retired judge for ~~his~~ the retired judge's services and the manner of payment of the compensation; 1193
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- (f) Indicates a procedure for terminating the agreement with the retired judge. 1196
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- (2) In any case described in division (B) (1) of this section, the agreement shall be filed with the clerk of the court or the judge before whom the action or proceeding is pending. ~~Upon the filing of the agreement, the~~ The judge before whom the action or proceeding is pending shall address the agreement within fourteen days after its filing. That judge, by 1198
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journal entry, ~~shall may, at the judge's discretion,~~ order the 1204
referral or submission in accordance with the agreement. No 1205
referral or submission shall be made to a retired judge under 1206
this section, unless the parties to the action or proceeding 1207
unanimously choose to have the referral or submission made, 1208
enter into an agreement of the type described in division (B) (1) 1209
of this section with the retired judge, and file the agreement 1210
in accordance with this division. 1211

(C) Upon the entry of an order of referral or submission 1212
in accordance with division (B) (2) of this section, the retired 1213
judge to whom the referral or submission is made, relative to 1214
the action or proceeding referred or the issue or question 1215
submitted, shall have all of the powers, duties, and authority 1216
of an active judge of the court in which the action or 1217
proceeding is pending. The court in which the action or 1218
proceeding is pending is not required to provide the retired 1219
judge with court or other facilities, equipment, or personnel 1220
during ~~his~~ the retired judge's consideration of the action, 1221
proceeding, issue, or question. The retired judge shall not 1222
receive any compensation, other than that agreed to by the 1223
parties and the retired judge, for ~~his~~ the retired judge's 1224
services during ~~his~~ consideration of the action, proceeding, 1225
issue, or question. 1226

(D) (1) A retired judge to whom a referral is made under 1227
this section shall try all of the issues in the action or 1228
proceeding, shall prepare relevant findings of fact and 1229
conclusions of law, and shall enter a judgment in the action or 1230
proceeding in the same manner as if ~~he~~ the retired judge were an 1231
active judge of the court. A retired judge to whom a submission 1232
is made under this section shall try the specific issue or 1233
question submitted, shall prepare relevant findings of fact or 1234

conclusions of law, shall make a determination on the issue or 1235
question submitted, and shall file the findings, conclusions, 1236
and determination with the clerk of the court in which the 1237
action or proceeding is pending. Any judgment entered, and any 1238
finding of fact, conclusion of law, or determination of an issue 1239
or question made, by a retired judge in accordance with this 1240
section shall have the same force and effect as if it had been 1241
entered or made by an active judge of the court, and any appeal 1242
from the judgment, finding, conclusion, or determination shall 1243
be made as if the judgment had been entered, or the finding, 1244
conclusion, or determination had been made, by an active judge 1245
of the court. 1246

(2) Upon conclusion of the referred action or proceeding 1247
or determination of the submitted issue or question, 1248
jurisdiction is returned to the referring judge. 1249

(E) Any judge who registers with any court in accordance 1250
with division (A) of this section may have ~~his~~ the judge's name 1251
removed from the index of registered retired judges maintained 1252
by that court at any time after the registration. On and after 1253
the date of removal of the name of a retired judge from the 1254
index of a court, the retired judge is not eligible under this 1255
section to receive referrals or submissions from that court. 1256

(F) This section does not affect, and shall not be 1257
construed as affecting, the provisions of section 141.16 of the 1258
Revised Code. This section does not apply to any action or 1259
proceeding pending in a small claims division of a municipal 1260
court or county court. 1261

Sec. 2717.01. As used in this chapter: 1262

(A) "Application" means, as context requires, an 1263

application under section 2717.02, 2717.04, or 2717.13 of the 1264
Revised Code. 1265

(B) "Applicant" means, as context requires, a person who 1266
makes the filing under section 2717.02 or 2717.04 of the Revised 1267
Code, or the minor on whose behalf a filing is made under 1268
section 2717.13 of the Revised Code. 1269

(C) "Conform" means to make a person's legal name 1270
consistent in all official identity documents by correcting a 1271
misspelling, inconsistency, or other error in an official 1272
identity document. 1273

(D) "Official identity document" means a birth record, 1274
marriage record, divorce decree, driver's license, state issued 1275
identification card, social security card with the social 1276
security number redacted, passport, or any other official 1277
government-issued document required or commonly used to verify a 1278
person's identity. 1279

(E) "Sexually oriented offense" and "child-victim oriented 1280
offense" have the same meanings as in section 2950.01 of the 1281
Revised Code. 1282

Sec. ~~2717.01-2717.02~~. ~~(A)(1) A person desiring a to change~~ 1283
~~of the person's name may file an application in the probate~~ 1284
~~court of the county in which the person resides. The application~~ 1285
~~shall set forth that the applicant has been a bona fide resident~~ 1286
~~of that county for at least one year prior to the filing of the~~ 1287
~~application, the cause for which the change of name is sought,~~ 1288
~~and the requested new name. The application shall require the~~ 1289
~~applicant to state whether the applicant has been convicted of,~~ 1290
~~pleaded guilty to, or been adjudicated a delinquent child for~~ 1291
~~identity fraud or has a duty to comply with section 2950.04 or~~ 1292

~~2950.041 of the Revised Code because the applicant was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim-oriented offense.~~ 1293
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~~(2) Except as provided in division (A) (4) of this section, notice of the application shall be given once by publication in a newspaper of general circulation in the county at least thirty days before the hearing on the application. The notice shall set forth the court in which the application was filed, the case number, and the date and time of the hearing.~~ 1297
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~~(3) Except as provided by division (C) of this section, upon proof that proper notice was given or that notice was waived under division (A) (4) of this section and proof that the facts set forth in the application show reasonable and proper cause for changing the name of the applicant, the court may order the change of name.~~ 1303
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~~(4) If an applicant for a change of name submits to the court, along with the application described in division (A) (1) of this section, satisfactory proof that the publication of the notice under division (A) (2) of this section would jeopardize the applicant's personal safety, both of the following apply:~~ 1309
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~~(a) The court shall waive the notice requirement.~~ 1314

~~(b) If the court orders the change of name under division (A) (3) of this section, the court shall order the records of the change of name proceeding to be sealed and to be opened only by order of the court for good cause shown or at the request of the applicant for any reason.~~ 1315
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~~(B) An application for change of name may be made on behalf of a minor by either of the minor's parents, a legal~~ 1320
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~~guardian, or a guardian ad litem. When application is made on~~ 1322
~~behalf of a minor, in addition to the notice and proof required~~ 1323
~~pursuant to division (A) of this section, the consent of both~~ 1324
~~living, legal parents of the minor shall be filed, or notice of~~ 1325
~~the hearing shall be given to the parent or parents not~~ 1326
~~consenting by certified mail, return receipt requested. If there~~ 1327
~~is no known father of the minor, the notice shall be given to~~ 1328
~~the person who the mother of the minor alleges to be the father.~~ 1329
~~If no father is so alleged, or if either parent or the address~~ 1330
~~of either parent is unknown, notice pursuant to division (A) of~~ 1331
~~this section shall be sufficient as to the father or parent.~~ 1332

~~Any additional notice required by this division may be~~ 1333
~~waived in writing by any person entitled to the notice.~~ 1334

~~(C) (1) The court shall not order a change of name under~~ 1335
~~division (A) of this section if the person applying for a change~~ 1336
~~of name or for whom the application for a change of name is made~~ 1337
~~has a duty to comply with section 2950.04 or 2950.041 of the~~ 1338
~~Revised Code because the applicant or the person on whose behalf~~ 1339
~~the application for a change of name is made was convicted of,~~ 1340
~~pleaded guilty to, or was adjudicated a delinquent child for~~ 1341
~~having committed a sexually oriented offense or a child-victim-~~ 1342
~~oriented offense.~~ 1343

~~(2) The court shall not order a change of name under~~ 1344
~~division (A) of this section if the person applying for a change~~ 1345
~~of name or for whom the application for a change of name is made~~ 1346
~~has pleaded guilty to, been convicted of, or been adjudicated a~~ 1347
~~delinquent child for committing a violation of section 2913.49-~~ 1348
~~of the Revised Code unless the guilty plea, conviction, or~~ 1349
~~adjudication has been reversed on appeal.~~ 1350

~~(3) As used in this division, "sexually oriented offense"~~ 1351

~~and "child victim oriented offense" have the same meanings as in~~ 1352
~~section 2950.01 of the Revised Code.~~ 1353

Sec. 2717.03. Subject to sections 2717.07 and 2717.19 of 1354
the Revised Code, an application for a change of name shall set 1355
forth all of the following: 1356

(A) That the applicant has been a bona fide resident of 1357
the county for at least sixty days prior to the filing of the 1358
application. 1359

(B) The reason for which the change of name is sought. 1360

(C) The requested new name. 1361

Sec. 2717.04. A person desiring to conform the person's 1362
legal name on an official identity document may file an 1363
application in the probate court of the county in which the 1364
person resides. 1365

Sec. 2717.05. Subject to sections 2717.07 and 2717.19 of 1366
the Revised Code, an application to conform a legal name shall 1367
set forth all of the following: 1368

(A) That the applicant has been a bona fide resident of 1369
the county where the applicant is filing for at least sixty days 1370
prior to the filing of the application. 1371

(B) An explanation of the misspelling, inconsistency, or 1372
other error in the name. 1373

(C) A description of the correction sought to conform the 1374
name on all official identity documents. 1375

Sec. 2717.06. (A) An application shall be supported by an 1376
affidavit verifying all of the following: 1377

(1) The applicant's residency in the county for a period 1378

of at least sixty days; 1379

(2) That the application is not made for the purpose of 1380
evading any creditors or other obligations; 1381

(3) That the applicant is not a debtor in any currently 1382
pending bankruptcy proceeding; 1383

(4) That all of the documentary evidence submitted under 1384
section 2717.07 of the Revised Code with the application is 1385
true, accurate, and complete; 1386

(5) Any other information the court may require. 1387

(B) The affidavit supporting a legal name change 1388
application shall also verify that the applicant has not been 1389
convicted of, pleaded guilty to, or been adjudicated a 1390
delinquent child for identity fraud or does not have a duty to 1391
comply with section 2950.04 or 2950.041 of the Revised Code 1392
because the applicant was convicted of, pleaded guilty to, or 1393
was adjudicated a delinquent child for having committed a 1394
sexually oriented offense or a child-victim oriented offense. 1395

Sec. 2717.07. A probate court by local rule or order may 1396
require an applicant to submit a copy of any or all of the 1397
applicant's official identity documents or other documentary 1398
evidence relating to the applicant's identity that the court 1399
deems relevant to the application. 1400

Sec. 2717.08. The probate court may hold a hearing on an 1401
application. Except as provided in sections 2717.11 and 2717.14 1402
of the Revised Code, if the court requires a hearing, it shall 1403
set the manner, scope, and content of the hearing notice the 1404
applicant must serve. 1405

Sec. 2717.09. Except as provided under section 2717.16 of 1406

the Revised Code, upon proof that the facts set forth in the 1407
application show reasonable and proper cause for changing the 1408
name of the applicant and, if applicable, upon proof that proper 1409
notice was served, the court may order the change of name. 1410

Sec. 2717.10. Upon proof that the facts set forth in the 1411
application show that a misspelling, inconsistency, or other 1412
error of the applicant's legal name on an official identity 1413
document exists, and that reasonable and proper cause exists for 1414
issuing an order that resolves the discrepancy and conforms the 1415
applicant's legal name, the court may issue an order to conform 1416
the name of the person. 1417

Sec. 2717.11. If an applicant submits to the court, along 1418
with the application, satisfactory proof that open records of 1419
the name change or conformity, or publication of the hearing 1420
notice under section 2717.08 of the Revised Code, would 1421
jeopardize the applicant's personal safety, both of the 1422
following apply: 1423

(A) The court shall waive the hearing notice requirement. 1424

(B) If the court orders the change of name under section 1425
2717.09 of the Revised Code or the name conformity under section 1426
2717.10 of the Revised Code, the court shall order the records 1427
of the proceeding to be sealed and to be opened only by order of 1428
the court for good cause shown or at the request of the 1429
applicant for any reason. 1430

Sec. 2717.13. An application for change of name under 1431
section 2717.02 of the Revised Code or to conform a name under 1432
section 2717.04 of the Revised Code may be made on behalf of a 1433
minor by either of the minor's parents, a legal guardian, a 1434
legal custodian, or a guardian ad litem. 1435

Sec. 2717.14. (A) When an application is made on behalf of 1436
a minor, in addition to the proof required under sections 1437
2717.03 or 2717.05 of the Revised Code and, if applicable, proof 1438
of the notice given under section 2717.08 of the Revised Code, 1439
the consent of both living, legal parents of the minor shall be 1440
filed, or notice of the hearing shall be given to the parent or 1441
parents not consenting by certified mail, return receipt 1442
requested. 1443

(B) If there is no known father of the minor, the notice 1444
shall be given to the person who the mother of the minor alleges 1445
to be the father. 1446

(C) If no father is so alleged, or if either parent or the 1447
address of either parent is unknown, notice by publication in a 1448
newspaper of general circulation in the county at least thirty 1449
days before the hearing shall be sufficient as to the father or 1450
parent. 1451

(D) Any additional notice required by this section may be 1452
waived in writing by any person entitled to the notice. 1453

Sec. 2717.16. (A) The court shall not order a change of 1454
name under section 2717.09 of the Revised Code if the person 1455
applying for a change of name has a duty to comply with section 1456
2950.04 or 2950.041 of the Revised Code because the applicant 1457
was convicted of, pleaded guilty to, or was adjudicated a 1458
delinquent child for having committed a sexually oriented 1459
offense or a child-victim oriented offense. 1460

(B) The court shall not order a change of name under 1461
section 2717.09 of the Revised Code if the person applying for a 1462
change of name has pleaded guilty to, been convicted of, or been 1463
adjudicated a delinquent child for committing a violation of 1464

section 2913.49 of the Revised Code unless the guilty plea, 1465
conviction, or adjudication has been reversed on appeal. 1466

Sec. 2717.18. An action to conform the legal name of a 1467
person under section 2717.04 of the Revised Code shall not be 1468
permitted in lieu of either of the following: 1469

(A) Correction of a birth record under section 3705.15 of 1470
the Revised Code; 1471

(B) Changing a legal name to a name that is not used in 1472
any existing official identity documents. 1473

Sec. 2717.19. (A) On receipt of an application, the 1474
probate court may order a criminal records check. 1475

(B) Any fee required for the criminal records check shall 1476
be paid by the applicant. 1477

Sec. 5122.15. (A) Full hearings shall be conducted in a 1478
manner consistent with this chapter and with due process of law. 1479
The hearings shall be conducted by a judge of the probate court 1480
or a referee designated by a judge of the probate court and may 1481
be conducted in or out of the county in which the respondent is 1482
held. Any referee designated under this division shall be an 1483
attorney. 1484

(1) With the consent of the respondent, the following 1485
shall be made available to counsel for the respondent: 1486

(a) All relevant documents, information, and evidence in 1487
the custody or control of the state or prosecutor; 1488

(b) All relevant documents, information, and evidence in 1489
the custody or control of the hospital in which the respondent 1490
currently is held, or in which the respondent has been held 1491
pursuant to this chapter; 1492

(c) All relevant documents, information, and evidence in 1493
the custody or control of any hospital, facility, or person not 1494
included in division (A) (1) (a) or (b) of this section. 1495

(2) The respondent has the right to attend the hearing and 1496
to be represented by counsel of the respondent's choice. The 1497
right to attend the hearing may be waived only by the respondent 1498
or counsel for the respondent after consultation with the 1499
respondent. 1500

(3) If the respondent is not represented by counsel, is 1501
absent from the hearing, and has not validly waived the right to 1502
counsel, the court shall appoint counsel immediately to 1503
represent the respondent at the hearing, reserving the right to 1504
tax costs of appointed counsel to the respondent, unless it is 1505
shown that the respondent is indigent. If the court appoints 1506
counsel, or if the court determines that the evidence relevant 1507
to the respondent's absence does not justify the absence, the 1508
court shall continue the case. 1509

(4) The respondent shall be informed that the respondent 1510
may retain counsel and have independent expert evaluation. If 1511
the respondent is unable to obtain an attorney, the respondent 1512
shall be represented by court-appointed counsel. If the 1513
respondent is indigent, court-appointed counsel and independent 1514
expert evaluation shall be provided as an expense under section 1515
5122.43 of the Revised Code. 1516

(5) The hearing shall be closed to the public, unless 1517
counsel for the respondent, with the permission of the 1518
respondent, requests that the hearing be open to the public. 1519

(6) If the hearing is closed to the public, the court, for 1520
good cause shown, may admit persons who have a legitimate 1521

interest in the proceedings. If the respondent, the respondent's 1522
counsel, or the designee of the director or of the chief 1523
clinical officer objects to the admission of any person, the 1524
court shall hear the objection and any opposing argument and 1525
shall rule upon the admission of the person to the hearing. 1526

(7) The affiant under section 5122.11 of the Revised Code 1527
shall be subject to subpoena by either party. 1528

(8) The court shall examine the sufficiency of all 1529
documents filed and shall inform the respondent, if present, and 1530
the respondent's counsel of the nature and content of the 1531
documents and the reason for which the respondent is being 1532
detained, or for which the respondent's placement is being 1533
sought. 1534

(9) The court shall receive only reliable, competent, and 1535
material evidence. 1536

(10) Unless proceedings are initiated pursuant to section 1537
5120.17 or 5139.08 of the Revised Code, an attorney that the 1538
board designates shall present the case demonstrating that the 1539
respondent is a mentally ill person subject to court order. The 1540
attorney shall offer evidence of the diagnosis, prognosis, 1541
record of treatment, if any, and less restrictive treatment 1542
plans, if any. In proceedings pursuant to section 5120.17 or 1543
5139.08 of the Revised Code, the attorney general shall 1544
designate an attorney who shall present the case demonstrating 1545
that the respondent is a mentally ill person subject to court 1546
order. The attorney shall offer evidence of the diagnosis, 1547
prognosis, record of treatment, if any, and less restrictive 1548
treatment plans, if any. 1549

(11) The respondent or the respondent's counsel has the 1550

right to subpoena witnesses and documents and to examine and 1551
cross-examine witnesses. 1552

(12) The respondent has the right, but shall not be 1553
compelled, to testify, and shall be so advised by the court. 1554

(13) On motion of the respondent or the respondent's 1555
counsel for good cause shown, or on the court's own motion, the 1556
court may order a continuance of the hearing. 1557

(14) If the respondent is represented by counsel and the 1558
respondent's counsel requests a transcript and record, or if the 1559
respondent is not represented by counsel, the court shall make 1560
and maintain a full transcript and record of the proceeding. If 1561
the respondent is indigent and the transcript and record is 1562
made, a copy shall be provided to the respondent upon request 1563
and be treated as an expense under section 5122.43 of the 1564
Revised Code. 1565

(15) To the extent not inconsistent with this chapter, the 1566
Rules of Civil Procedure are applicable. 1567

(B) Unless, upon completion of the hearing the court finds 1568
by clear and convincing evidence that the respondent is a 1569
mentally ill person subject to court order, it shall order the 1570
respondent's discharge immediately. 1571

(C) If, upon completion of the hearing, the court finds by 1572
clear and convincing evidence that the respondent is a mentally 1573
ill person subject to court order, the court shall order the 1574
respondent for a period not to exceed ninety days to any of the 1575
following: 1576

(1) A hospital operated by the department of mental health 1577
and addiction services if the respondent is committed pursuant 1578
to section 5139.08 of the Revised Code; 1579

(2) A nonpublic hospital;	1580
(3) The veterans' administration or other agency of the United States government;	1581 1582
(4) A board of alcohol, drug addiction, and mental health services or services provider the board designates;	1583 1584
(5) Receive private psychiatric or psychological care and treatment;	1585 1586
(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent. A jail or other local correctional facility is not a suitable facility.	1587 1588 1589 1590
(D) Any order made pursuant to division (C) (2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent and may include a requirement that a person or entity described in division (C) (2), (3), (5), or (6) of this section inform the board of alcohol, drug addiction, and mental health services or community mental health services provider the board designates about the progress of the respondent with the treatment plan.	1591 1592 1593 1594 1595 1596 1597 1598 1599
(E) In determining the entity or person to which the respondent is to be committed under division (C) of this section, the court shall consider the <u>all of the following:</u>	1600 1601 1602
<u>(1) The respondent's diagnosis, and prognosis, made by a psychiatrist, licensed clinical psychologist, clinical nurse specialist who is certified as a psychiatric-mental health clinical nurse specialist by the American nurses credentialing center, or certified nurse practitioner who is certified as a psychiatric-mental health nurse practitioner by the American</u>	1603 1604 1605 1606 1607 1608

nurses credentialing center; 1609

(2) The respondent's preferences of the respondent and 1610
the; 1611

(3) The respondent's projected treatment plan for the 1612
respondent and. 1613

The court shall order the implementation of the least 1614
restrictive alternative available and consistent with treatment 1615
goals. If the court determines that the least restrictive 1616
alternative available that is consistent with treatment goals is 1617
inpatient hospitalization, the court's order shall so state. 1618

(F) During the ninety-day period the entity or person 1619
shall examine and treat the respondent. If the respondent is 1620
receiving treatment in an outpatient setting, or receives 1621
treatment in an outpatient setting during a subsequent period of 1622
continued commitment under division (H) of this section, the 1623
entity or person to whom the respondent is committed shall 1624
determine the appropriate outpatient treatment for the 1625
respondent. If, at any time prior to the expiration of the 1626
ninety-day period, it is determined by the entity or person that 1627
the respondent's treatment needs could be equally well met in an 1628
available and appropriate less restrictive setting, both of the 1629
following apply: 1630

(1) The respondent shall be released from the care of the 1631
entity or person immediately and shall be referred to the court 1632
together with a report of the findings and recommendations of 1633
the entity or person; 1634

(2) The entity or person shall notify the respondent's 1635
counsel or the attorney designated by a board of alcohol, drug 1636
addiction, and mental health services or, if the respondent was 1637

committed to a board or a services provider designated by the 1638
board, it shall place the respondent in the least restrictive 1639
setting available consistent with treatment goals and notify the 1640
court and the respondent's counsel of the placement. 1641

The court shall dismiss the case or order placement in the 1642
least restrictive setting. 1643

(G) (1) Except as provided in division (G) (2) of this 1644
section, any person for whom proceedings for treatment have been 1645
commenced pursuant to section 5122.11 of the Revised Code, may 1646
apply at any time for voluntary admission or treatment to the 1647
entity or person to which the person was committed. Upon 1648
admission as a voluntary patient the chief clinical officer of 1649
the entity or the person immediately shall notify the court, the 1650
patient's counsel, and the attorney designated by the board, if 1651
the attorney has entered the proceedings, in writing of that 1652
fact, and, upon receipt of the notice, the court shall dismiss 1653
the case. 1654

(2) A person who is found incompetent to stand trial or 1655
not guilty by reason of insanity and who is committed pursuant 1656
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 1657
Revised Code shall not voluntarily commit the person pursuant to 1658
this section until after the final termination of the 1659
commitment, as described in division (J) of section 2945.401 of 1660
the Revised Code. 1661

(H) If, at the end of the first ninety-day period or any 1662
subsequent period of continued commitment, there has been no 1663
disposition of the case, either by discharge or voluntary 1664
admission or treatment, the entity or person shall discharge the 1665
patient immediately, unless at least ten days before the 1666
expiration of the period the attorney the board designates or 1667

the prosecutor files with the court an application for continued 1668
commitment. The application of the attorney or the prosecutor 1669
shall include a written report containing the diagnosis, 1670
prognosis, past treatment, a list of alternative treatment 1671
settings and plans, and identification of the treatment setting 1672
that is the least restrictive consistent with treatment needs. 1673
The attorney the board designates or the prosecutor shall file 1674
the written report at least three days prior to the full 1675
hearing. A copy of the application and written report shall be 1676
provided to the respondent's counsel immediately. 1677

The court shall hold a full hearing on applications for 1678
continued commitment at the expiration of the first ninety-day 1679
period and at least every two years after the expiration of the 1680
first ninety-day period. 1681

Hearings following any application for continued 1682
commitment are mandatory and may not be waived. 1683

For a respondent who is ordered to receive treatment in an 1684
outpatient setting, if at any time after the first ninety-day 1685
period the entity or person to whom the respondent was ordered 1686
determines that the respondent has demonstrated voluntary 1687
consent for treatment, that entity or person shall immediately 1688
notify the respondent, the respondent's counsel, the attorney 1689
designated by the board, and the court. The entity or person 1690
shall submit to the court a report of the findings and 1691
recommendations. The court may dismiss the case upon review of 1692
the facts. 1693

Upon request of a person who is involuntarily committed 1694
under this section, or the person's counsel, that is made more 1695
than one hundred eighty days after the person's last full 1696
hearing, mandatory or requested, the court shall hold a full 1697

hearing on the person's continued commitment. Upon the 1698
application of a person involuntarily committed under this 1699
section, supported by an affidavit of a psychiatrist or licensed 1700
clinical psychologist, alleging that the person no longer is a 1701
mentally ill person subject to court order, the court for good 1702
cause shown may hold a full hearing on the person's continued 1703
commitment prior to the expiration of one hundred eighty days 1704
after the person's last full hearing. Section 5122.12 of the 1705
Revised Code applies to all hearings on continued commitment. 1706

If the court, after a hearing for continued commitment 1707
finds by clear and convincing evidence that the respondent is a 1708
mentally ill person subject to court order, the court may order 1709
continued commitment at places or to persons specified in 1710
division (C) of this section. 1711

(I) Unless the admission is pursuant to section 5120.17 or 1712
5139.08 of the Revised Code, the chief clinical officer of the 1713
entity admitting a respondent pursuant to a judicial proceeding, 1714
within ten working days of the admission, shall make a report of 1715
the admission to the board of alcohol, drug addiction, and 1716
mental health services serving the respondent's county of 1717
residence. 1718

(J) A referee appointed by the court may make all orders 1719
that a judge may make under this section and sections 5122.11 1720
and 5122.141 of the Revised Code, except an order of contempt of 1721
court. The orders of a referee take effect immediately. Within 1722
fourteen days of the making of an order by a referee, a party 1723
may file written objections to the order with the court. The 1724
filed objections shall be considered a motion, shall be 1725
specific, and shall state their grounds with particularity. 1726
Within ten days of the filing of the objections, a judge of the 1727

court shall hold a hearing on the objections and may hear and 1728
consider any testimony or other evidence relating to the 1729
respondent's mental condition. At the conclusion of the hearing, 1730
the judge may ratify, rescind, or modify the referee's order. 1731

(K) An order of the court under division (C), (H), or (J) 1732
of this section is a final order. 1733

(L) Before a board, or a services provider the board 1734
designates, may place an unconsenting respondent in an inpatient 1735
setting from a less restrictive placement, the board or services 1736
provider shall do all of the following: 1737

(1) Determine that the respondent is in immediate need of 1738
treatment in an inpatient setting because the respondent 1739
represents a substantial risk of physical harm to the respondent 1740
or others if allowed to remain in a less restrictive setting; 1741

(2) On the day of placement in the inpatient setting or on 1742
the next court day, file with the court a motion for transfer to 1743
an inpatient setting or communicate to the court by telephone 1744
that the required motion has been mailed; 1745

(3) Ensure that every reasonable and appropriate effort is 1746
made to take the respondent to the inpatient setting in the 1747
least conspicuous manner possible; 1748

(4) Immediately notify the board's designated attorney and 1749
the respondent's attorney. 1750

At the respondent's request, the court shall hold a 1751
hearing on the motion and make a determination pursuant to 1752
division (E) of this section within five days of the placement. 1753

(M) Before a board, or a services provider the board 1754
designates, may move a respondent from one residential placement 1755

to another, the board or services provider shall consult with 1756
the respondent about the placement. If the respondent objects to 1757
the placement, the proposed placement and the need for it shall 1758
be reviewed by a qualified mental health professional who 1759
otherwise is not involved in the treatment of the respondent. 1760

(N) The entity or person to whom the respondent was 1761
ordered for treatment in an outpatient setting may submit a 1762
report to the court indicating that the respondent has either 1763
failed to comply with the treatment plan or begun to demonstrate 1764
signs of decompensation that may be grounds for hospitalization. 1765
On receipt of the report, the court shall promptly schedule a 1766
hearing to review the case. The court shall conduct the hearing 1767
in a manner consistent with this chapter and due process of law. 1768
The board shall receive notice of the hearing and the board and 1769
entity or person treating the respondent shall submit a report 1770
to the court with a plan for appropriate alternative treatment, 1771
if any, or recommend that the court discontinue the court- 1772
ordered treatment. The court shall consider available and 1773
appropriate alternative placements but shall not impose criminal 1774
sanctions that result in confinement in a jail or other local 1775
correctional facility based on the respondent's failure to 1776
comply with the treatment plan. The court may not order the 1777
respondent to a more restrictive placement unless the criteria 1778
specified in division (L) of this section are met and may not 1779
order the respondent to an inpatient setting unless the court 1780
determines by clear and convincing evidence presented by the 1781
board that the respondent meets the criteria specified in 1782
divisions (A) and (B) (1), (2), (3), or (4) of section 5122.01 of 1783
the Revised Code. 1784

Sec. 5804.11. (A) If upon petition the court finds that 1785
the settlor and all beneficiaries consent to the modification or 1786

termination of a noncharitable irrevocable trust, that all 1787
consents, including any given by representatives under Chapter 1788
5803. of the Revised Code, are valid, and that all parties 1789
giving consent are competent to do so, the court shall enter an 1790
order approving the modification or termination even if the 1791
modification or termination is inconsistent with a material 1792
purpose of the trust. An agent under a power of attorney may 1793
exercise a settlor's power to consent to a trust's modification 1794
or termination only to the extent expressly authorized by both 1795
the power of attorney and the terms of the trust. The settlor's 1796
guardian of the estate may exercise a settlor's power to consent 1797
to a trust's modification or termination with the approval of 1798
the court supervising the guardianship if an agent is not so 1799
authorized. The guardian of the settlor's person may exercise a 1800
settlor's power to consent to a trust's modification or 1801
termination with the approval of the court supervising the 1802
guardianship if an agent is not so authorized and a guardian of 1803
the estate has not been appointed. This division does not apply 1804
to a noncharitable irrevocable trust described in 42 U.S.C. 1805
1396p(d) (4) . 1806

(B) A noncharitable irrevocable trust may be terminated 1807
upon consent of all of the beneficiaries if the court concludes 1808
that continuance of the trust is not necessary to achieve any 1809
material purpose of the trust. A noncharitable irrevocable trust 1810
may be modified, but not to remove or replace the currently 1811
serving trustee, upon consent of all of the beneficiaries if the 1812
court concludes that modification is not inconsistent with a 1813
material purpose of the trust. A spendthrift provision in the 1814
terms of the trust may, but is not presumed to, constitute a 1815
material purpose of the trust. In determining what constitutes a 1816
material purpose of a trust, a court may but is not required to 1817

consider extrinsic evidence indicating a settlor's intent at the 1818
time the instrument was executed. 1819

(C) Upon termination of a trust under division (A) or (B) 1820
of this section, the trustee shall distribute the trust property 1821
as agreed by the beneficiaries. 1822

(D) If not all of the beneficiaries consent to a proposed 1823
modification or termination of the trust under division (A) or 1824
(B) of this section, the court may approve the modification or 1825
termination if the court is satisfied of both of the following: 1826

(1) That if all of the beneficiaries had consented, the 1827
trust could have been modified or terminated under this section; 1828

(2) That the interests of a beneficiary who does not 1829
consent will be adequately protected. 1830

Sec. 5805.06. (A) Whether or not the terms of a trust 1831
contain a spendthrift provision, all of the following apply: 1832

(1) During the lifetime of the settlor, the property of a 1833
revocable trust is subject to claims of the settlor's creditors. 1834

(2) Except to the extent that a trust is established 1835
pursuant to, or otherwise is wholly or partially governed by or 1836
subject to Chapter 5816. of the Revised Code, with respect to an 1837
irrevocable trust, a creditor or assignee of the settlor may 1838
reach the maximum amount that can be distributed to or for the 1839
settlor's benefit. If an irrevocable trust has more than one 1840
settlor, the amount distributable to or for a settlor's benefit 1841
that the creditor or assignee of a particular settlor may reach 1842
may not exceed that settlor's interest in the portion of the 1843
trust attributable to that settlor's contribution. The right of 1844
a creditor or assignee to reach a settlor's interest in an 1845
irrevocable trust shall be subject to Chapter 5816. of the 1846

Revised Code to the extent that that chapter applies to that trust. 1847
1848

(3) With respect to a trust described in 42 U.S.C. section 1849
1396p(d)(4)(A) or (C), the court may limit the award of a 1850
settlor's creditor under division (A)(1) or (2) of this section 1851
to the relief that is appropriate under the circumstances, 1852
considering among any other factors determined appropriate by 1853
the court, the supplemental needs of the beneficiary. 1854

(B) For purposes of this section, all of the following 1855
apply: 1856

(1) The holder of a power of withdrawal is treated in the 1857
same manner as the settlor of a revocable trust to the extent of 1858
the property subject to the power during the period the power 1859
may be exercised. 1860

~~(2) Upon the lapse, release, or waiver of the power of 1861
withdrawal, the holder is treated as the settlor of the trust 1862
only to the extent the value of the property affected by the 1863
lapse, release, or waiver exceeds the greatest of the following 1864
amounts: 1865~~

~~(a) The amount specified in section 2041(b)(2) or 2514(e) 1866
of the Internal Revenue Code; 1867~~

~~(b) If the donor of the property subject to the holder's 1868
power of withdrawal is not married at the time of the transfer 1869
of the property to the trust, the amount specified in section 1870
2503(b) of the Internal Revenue Code; 1871~~

~~(c) If the donor of the property subject to the holder's 1872
power of withdrawal is married at the time of the transfer of 1873
the property to the trust, twice the amount specified in section 1874
2503(b) of the Internal Revenue Code. 1875~~

~~(3)~~—None of the following shall be considered an amount 1876
that can be distributed to or for the benefit of the settlor: 1877

(a) Trust property that could be, but has not yet been, 1878
distributed to or for the benefit of the settlor only as a 1879
result of the exercise of a power of appointment held in a 1880
nonfiduciary capacity by any person other than the settlor; 1881

(b) Trust property that could be, but has not yet been, 1882
distributed to or for the benefit of the settlor of a trust 1883
pursuant to the power of the trustee to make distributions or 1884
pursuant to the power of another in a fiduciary capacity to 1885
direct distributions, if and to the extent that the 1886
distributions could be made from trust property the value of 1887
which was included in the gross estate of the settlor's spouse 1888
for federal estate tax purposes under section 2041 or 2044 of 1889
the Internal Revenue Code or that was treated as a transfer by 1890
the settlor's spouse under section 2514 or 2519 of the Internal 1891
Revenue Code; 1892

(c) Trust property that, pursuant to the exercise of a 1893
discretionary power by a person other than the settlor, could be 1894
paid to a taxing authority or to reimburse the settlor for any 1895
income tax on trust income or principal that is payable by the 1896
settlor under the law imposing the tax. 1897

Sec. 5816.02. As used in this chapter, unless the context 1898
otherwise requires: 1899

(A) (1) "Advisor" means a person to whom both of the 1900
following apply: 1901

(a) The person satisfies the eligibility criteria 1902
specified in division (A) of section 5816.11 of the Revised 1903
Code. 1904

(b) The person is given the authority by the terms of a legacy trust to remove or appoint one or more trustees of the trust or to direct, consent to, or disapprove a trustee's actual or proposed investment, distribution, or other decisions.

(2) Any person to whom division (A)(1) of this section applies is considered an advisor even if that person is denominated by another title, such as protector.

(B) "Asset" means property of a transferor but does not include any of the following:

(1) Property to the extent it is encumbered by a valid lien;

(2) Property to the extent it is exempt at the time of a qualified disposition under any applicable nonbankruptcy law, including, but not limited to, section 2329.66 of the Revised Code;

(3) Property held in the form of a tenancy by the entireties to the extent that, under the law governing the entireties estate at the time of a qualified disposition, it is not subject to process by a creditor holding a claim against only one tenant;

(4) Any property transferred from a nonlegacy trust to a legacy trust to the extent that the property would not be subject to attachment under the applicable nonbankruptcy law governing that nonlegacy trust.

(C) "Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. Chapter 11, as amended.

(D) "Beneficiary" has the same meaning as in section 5801.01 of the Revised Code.

(E) "Claim" means a right to payment, whether or not the right is reduced to judgment or is liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured. 1933
1934
1935
1936

(F) "Creditor" means a person who has a claim against a transferor and any transferee or assignee of, or successor to, that claim. 1937
1938
1939

(G) "Debt" means a liability on a claim. 1940

(H) "Disposition" means a direct or indirect transfer, conveyance, or assignment of property, including, but not limited to, a partial, contingent, undivided, or co-ownership interest in property. "Disposition" includes the exercise of a general power so as to cause a transfer of property to a trustee or trustees but does not include any of the following: 1941
1942
1943
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(1) The release or relinquishment of an interest in property that, until the release or relinquishment, was the subject of a qualified disposition; 1947
1948
1949

(2) The exercise of a limited power so as to cause a transfer of property to a trustee or trustees; 1950
1951

(3) A disclaimer of an interest in a trust, bequest, devise, or inheritance. 1952
1953

(I) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended. 1954
1955

(J) "Investment decision" means any participation in any decision regarding the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership of or rights in investments. 1956
1957
1958
1959

(K) (1) "Legacy trust" means a trust evidenced by a written 1960

trust instrument to which all of the following apply:	1961
(a) The trust has, names, or appoints at least one	1962
qualified trustee for or in connection with the property that is	1963
the subject of a qualified disposition.	1964
(b) The trust expressly incorporates the laws of this	1965
state to wholly or partially govern its validity, construction,	1966
and administration.	1967
(c) The trust expressly states that it is irrevocable.	1968
(d) The trust has a spendthrift provision applicable to	1969
the interests of any beneficiary in the trust property,	1970
including any interests of a transferor in the trust property.	1971
(2) A trust that satisfies the criteria specified in	1972
division (K) (1) of this section is considered a legacy trust	1973
even if the trust instrument also allows for one or more	1974
nonqualified trustees and regardless of the language used to	1975
satisfy those criteria.	1976
(L) "Lien" has the same meaning as in section 1336.01 of	1977
the Revised Code.	1978
(M) "Nonlegacy trust" means any trust other than a legacy	1979
trust.	1980
(N) "Nonqualified trustee" means any trustee other than a	1981
qualified trustee.	1982
(O) "Person" has the same meaning as in section 5801.01 of	1983
the Revised Code.	1984
(P) "Property" has the same meaning as in section 5801.01	1985
of the Revised Code.	1986
(Q) "Qualified affidavit" means an affidavit that meets	1987

the requirements of section 5816.06 of the Revised Code. 1988

(R) "Qualified disposition" means a disposition by or from 1989
a transferor to any trustee of a trust that is, was, or becomes 1990
a legacy trust. 1991

(S) "Qualified trustee" means a person who is not a 1992
transferor and to whom both of the following apply: 1993

(1) (a) The person, if a natural person, is a resident of 1994
this state. 1995

(b) The person, if not a natural person, is authorized by 1996
the law of this state or by a court of competent jurisdiction of 1997
this state to act as a trustee and ~~whose~~ either of the following 1998
applies: 1999

(i) The activities of that person are subject to 2000
supervision by the Ohio superintendent of ~~banks~~ financial 2001
institutions, the federal deposit insurance corporation, the 2002
comptroller of the currency, or the office of thrift supervision 2003
or a successor of any of them. 2004

(ii) That person is a "family trust company," as defined 2005
in section 1112.01 of the Revised Code, and that family trust 2006
company may be licensed or unlicensed for purposes of Chapter 2007
1112. of the Revised Code, provided that all of the following 2008
also apply regardless of the family trust company's licensing 2009
status: 2010

(I) The family trust company shall maintain an office in 2011
this state, on either an exclusive basis or on a shared basis 2012
with one or more other persons. 2013

(II) The family trust company shall open and maintain at 2014
least one bank or brokerage account in this state. 2015

(III) The family trust company shall maintain in this state, on an exclusive or nonexclusive basis, electronic or physical records for the legacy trust. 2016
2017
2018

(IV) The family trust company shall satisfy all of the requirements imposed by divisions (B), (C), (D), and (E) (1) of section 1112.14 of the Revised Code. 2019
2020
2021

(V) No beneficiary of a legacy trust, when acting for or on behalf of a family trust company, or when acting as an officer, manager, director, employee, or other agent or representative of a family trust company, may have any vote or authority regarding any decision to make or withhold any distribution from such legacy trust to or for the benefit of that beneficiary. 2022
2023
2024
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Nothing in division (S) (1) (b) (ii) of this section shall prohibit a beneficiary from exercising any rights, powers, privileges, or authority granted to that beneficiary by or in any trust instrument governing a legacy trust. 2029
2030
2031
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(2) The person maintains or arranges for custody in this state of some or all of the property that is the subject of the qualified disposition, maintains electronic or physical records for the legacy trust on an exclusive or nonexclusive basis, prepares or arranges for the preparation of required income tax returns for the legacy trust, or otherwise materially participates in the administration of the legacy trust. 2033
2034
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(T) "Spendthrift provision" has the same meaning as in section 5801.01 of the Revised Code. 2040
2041

(U) "Spouse" and "former spouse" means only the person to whom a transferor was married on or before a qualified disposition is made. 2042
2043
2044

(V) "Transferor" means a person who directly or indirectly
makes a disposition. 2045
2046

(W) "Valid lien" has the same meaning as in section 2047
1336.01 of the Revised Code. 2048

Sec. 5816.05. A legacy trust may allow or provide for any 2049
or all of the following rights, powers, interests, or 2050
provisions, none of which grants, or is considered to be, either 2051
alone or in any combination, a right or power to revoke a trust 2052
or to voluntarily or involuntarily transfer an interest in that 2053
trust: 2054

(A) A provision that, upon the happening of a defined 2055
event or a stated contingency, results in the termination of a 2056
transferor's right to mandatory income or principal; 2057

(B) The power of a transferor to veto a distribution from 2058
the trust; 2059

(C) A power of appointment, other than a power to appoint 2060
to a transferor, a creditor of the transferor, the estate of the 2061
transferor, or a creditor of the transferor's estate, that is 2062
exercisable by will or by other written instrument of a 2063
transferor effective upon the death of the transferor or during 2064
the lifetime of the transferor; 2065

(D) The right of a transferor to receive trust income as 2066
set forth in the trust instrument. 2067

(E) Both of the following: 2068

(1) A transferor's potential or actual receipt of income 2069
or principal from a charitable remainder unitrust or charitable 2070
remainder annuity trust as those terms are defined in section 2071
664 of the Internal Revenue Code; 2072

(2) The transferor's right, at any time and from time to time by written instrument delivered to the trustee, to release the transferor's retained interest in that unitrust or annuity trust, in whole or in part, in favor of one or more charitable organizations that have a succeeding beneficial interest in that unitrust or annuity trust;

(F) The power of a transferor to consume, invade, or appropriate property of the trust, but only if limited in each calendar year to five per cent of the value of the trust principal at the time of the exercise of the power;

(G) A transferor's potential or actual receipt or use of principal or income of the trust if the potential or actual receipt or use is or would be the result of any of the following that applies with respect to one or more of the qualified trustees:

(1) A qualified trustee's acting in the trustee's discretion. For purposes of division (G)(1) of this section, a qualified trustee shall have discretion with respect to the distribution or use of principal or income unless the discretion is expressly denied to the trustee by the terms of the trust instrument.

(2) A qualified trustee's acting pursuant to a standard in the trust instrument that governs the distribution or use of principal or income;

(3) A qualified trustee's acting at the direction of an advisor who is acting in the advisor's discretion or pursuant to a standard in the trust instrument that governs the distribution or use of principal or income. If an advisor is authorized to direct that distribution or use, the advisor's authority shall

be discretionary unless otherwise expressly stated in the trust instrument. 2102
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(H) The right of a transferor to remove any advisor and appoint a new advisor who satisfies the eligibility criteria set forth in division (A) of section 5816.11 of the Revised Code; 2104
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(I) The right of a transferor to remove any trustee and appoint a new trustee; 2107
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(J) A transferor's potential or actual use of real property or tangible personal property, including, but not limited to, property held under a qualified personal residence trust as described in section 2702(c) of the Internal Revenue Code and regulations promulgated under that section, or a transferor's possession and enjoyment of a qualified interest as defined in section 2702(b) of the Internal Revenue Code; 2109
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(K) Any provision requiring or permitting the potential or actual use of trust income or principal to pay, in whole or in part, income taxes due on the income of the trust, including, but not limited to, any provision permitting that use in the discretion of any one or more of the qualified trustees acting in the qualified trustee's discretion or at the direction of an advisor who is acting in the advisor's discretion; 2116
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(L) The ability of a qualified trustee, whether pursuant to the qualified trustee's discretion or the terms of the legacy trust instrument or at the direction of an advisor, to pay after the death of a transferor all or any part of the debts of the transferor outstanding on or before the transferor's death, the expenses of administering the transferor's estate, or any estate, gift, generation skipping transfer, or inheritance tax; 2123
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(M) Any provision that pours back after the death of a 2130

transferor all or part of the trust property to the transferor's estate or any trust; 2131
2132

(N) A power held by a transferor allowing the transferor, while acting in a nonfiduciary capacity, to substitute property of equivalent value for any property that is part of the principal of the legacy trust; 2133
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(O) Any other rights, powers, interests, or provisions permitted or allowed by any other section of this chapter. 2137
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Sec. 5816.06. (A) Except as otherwise provided in this section, a transferor shall sign a qualified affidavit before or substantially contemporaneously with making a qualified disposition. 2139
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(B) A qualified affidavit shall be notarized and shall contain all of the following statements under oath: 2143
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(1) The property being transferred to the trust was not derived from unlawful activities. 2145
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(2) The transferor has full right, title, and authority to transfer the property to the legacy trust. 2147
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(3) The transferor will not be rendered insolvent immediately after the transfer of the property to the legacy trust. 2149
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(4) The transferor does not intend to defraud any creditor by transferring the property to the legacy trust. 2152
2153

(5) There are no pending or threatened court actions against the transferor, except for any court action identified by the affidavit or an attachment to the affidavit. 2154
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(6) The transferor is not involved in any administrative 2157

proceeding, except for any proceeding identified by the 2158
affidavit or an attachment to the affidavit. 2159

(7) The transferor does not contemplate at the time of the 2160
transfer the filing for relief under the Bankruptcy Code. 2161

(C) A qualified affidavit is considered defective if it 2162
materially fails to meet the requirements set forth in division 2163
(B) of this section, but a qualified affidavit is not considered 2164
defective due to any one or more of the following: 2165

(1) Any nonsubstantive variances from the language set 2166
forth in division (B) of this section; 2167

(2) Any statements or representations in addition to those 2168
set forth in division (B) of this section if the statements or 2169
representations do not materially contradict the statements or 2170
representations required by that division; 2171

(3) Any technical errors in the form, substance, or method 2172
of administering an oath if those errors were not the fault of 2173
the affiant, and the affiant reasonably relied upon another 2174
person to prepare or administer the oath. 2175

(D) (1) A qualified affidavit is not required from a 2176
transferor who is not a beneficiary of the legacy trust that 2177
receives the disposition. 2178

(2) A subsequent qualified affidavit is not required in 2179
connection with any qualified disposition made after the 2180
execution of an earlier qualified affidavit if that disposition 2181
is a part of, is required by, or is the direct result of, a 2182
prior qualified disposition that was made in connection with 2183
that earlier qualified affidavit. 2184

(E) If a qualified affidavit is required by this section 2185

and a transferor fails to timely sign a qualified affidavit or 2186
signs a defective qualified affidavit, then, subject to the 2187
normal rules of evidence, that failure or defect may be 2188
considered as evidence in any proceeding commenced pursuant to 2189
section 5816.07 of the Revised Code, but the legacy trust or the 2190
validity of any attempted qualified disposition shall not be 2191
affected in any other way due to that failure or defect. 2192

Sec. 5816.09. Any successor or replacement trustees of a 2193
legacy trust shall be determined or selected in the following 2194
manners: 2195

(A) (1) Division (A) (2) of this section applies if in any 2196
action involving a legacy trust or any trustee of the legacy 2197
trust a court ~~takes an action~~ enters or issues any order in 2198
which or by which the court declines to apply the law of this 2199
state in determining any of the following matters: 2200

(a) The validity, construction, or administration of the 2201
trust; 2202

(b) The effect of any term or condition of the trust, 2203
including, but not limited to, a spendthrift provision; 2204

(c) The rights and remedies of any creditor or other 2205
suitor in connection with a qualified disposition. 2206

(2) Immediately upon the court's ~~action under entry or~~ 2207
issuance of an order referred to in division (A) (1) of this 2208
section, and without the need for any other order of any court, 2209
any qualified trustee who is a party to that action shall cease 2210
in all respects to be a trustee of the legacy trust, and the 2211
position of trustee shall be occupied in accordance with the 2212
terms of the trust instrument that governed the legacy trust 2213
immediately before that cessation, or, if the terms of the trust 2214

instrument do not provide for another trustee and the trust 2215
would otherwise be without a trustee, any court of this state, 2216
upon the application of any beneficiary of the legacy trust, 2217
shall appoint a successor qualified trustee upon the terms and 2218
conditions that it determines to be consistent with the purposes 2219
of the trust and this chapter. Upon a qualified trustee ceasing 2220
to be a trustee pursuant to division (A) (2) of this section, 2221
that qualified trustee shall have no power or authority other 2222
than to convey trust property to any other trustee that is 2223
appointed, installed, or serving in accordance with that 2224
division. 2225

(3) For purposes of division (A) of this section, ~~"court":~~ 2226

(a) "Court" includes a judicial tribunal, an 2227
administrative tribunal, or other adjudicative body or panel. 2228

(b) "Order" includes any order, writ, judgment, entry, 2229
edict, mandate, directive, instruction, or decree issued or 2230
entered by any court. 2231

(B) In all cases other than the situation described in 2232
division (A) of this section, both of the following apply: 2233

(1) If a legacy trust ceases to have at least one 2234
qualified trustee, the vacancy in the qualified trusteeship 2235
shall be filled pursuant to section 5807.04 of the Revised Code 2236
except to the extent that the legacy trust expressly provides 2237
otherwise. 2238

(2) If a legacy trust ceases to have at least one trustee, 2239
the vacancy in the trusteeship shall be filled pursuant to 2240
section 5807.04 of the Revised Code, and the successor trustee 2241
shall be a qualified trustee unless the legacy trust instrument 2242
expressly provides otherwise. 2243

Sec. 5816.10. (A) In the event of any conflict between any 2244
provision of this chapter and any provision of Chapter 1336. of 2245
the Revised Code, including, but not limited to, any similar 2246
provision of law adopted, promulgated, or enacted by a 2247
jurisdiction other than this state, or any other provision of 2248
law similar to any provision of Chapter 1336. of the Revised 2249
Code, the provision of this chapter shall control and prevail to 2250
the maximum extent permitted by the Ohio Constitution and the 2251
United States Constitution. When determining whether a provision 2252
of law is similar to any provision of Chapter 1336. of the 2253
Revised Code, a court shall be liberal in finding that such 2254
similarity exists. 2255

(B) A statement in a trust instrument stating that it 2256
"shall be governed by the laws of Ohio" or other statement to 2257
similar effect or of similar import is considered to expressly 2258
incorporate the laws of this state to govern the validity, 2259
construction, and administration of that trust instrument and to 2260
satisfy division (K) (1) (b) of section 5816.02 of the Revised 2261
Code. 2262

(C) A disposition by a nonqualified trustee to a qualified 2263
trustee shall not be treated as other than a qualified 2264
disposition solely because the nonqualified trustee is a trustee 2265
of a nonlegacy trust. 2266

(D) A disposition to any nonqualified trustee of a legacy 2267
trust shall be treated as a qualified disposition if at the time 2268
of the disposition any of the following applies: 2269

(1) There is at least one qualified trustee serving 2270
pursuant to the terms of that legacy trust. 2271

(2) There is no qualified trustee serving but the 2272

circumstances require the appointment or installation of a 2273
qualified trustee pursuant to division (A) (2) of section 5816.09 2274
of the Revised Code. 2275

(3) There is no qualified trustee serving but within one 2276
hundred eighty days after the date of disposition a qualified 2277
trustee fills the vacancy in the qualified trusteeship or an 2278
application to appoint a qualified trustee is filed pursuant to 2279
division (B) of section 5816.09 of the Revised Code. 2280

(E) If a disposition is made by a trustee of a nonlegacy 2281
trust to a trustee of a legacy trust, both of the following 2282
apply: 2283

(1) Except to the extent expressly stated otherwise by the 2284
terms of that disposition, the disposition shall be considered a 2285
qualified disposition for the benefit of all of the persons who 2286
are the beneficiaries of both the nonlegacy trust and the legacy 2287
trust. 2288

(2) The date of the disposition to the legacy trust shall 2289
be considered to be the date on which the property that was part 2290
of the nonlegacy trust was first continuously subject to any law 2291
of a jurisdiction other than this state that is similar to this 2292
chapter. ~~A court shall liberally construe and apply division (E)~~ 2293
~~(2) of this section~~ When applying division (E) (2) of this 2294
section, a court shall be liberal in finding that such 2295
continuity and similarity exist. 2296

(F) A legacy trust may contain any terms or conditions 2297
that provide for changes in or to the place of administration, 2298
situs, governing law, trustees or advisors, or the terms or 2299
conditions of the legacy trust or for other changes permitted by 2300
law. 2301

(G) Any valid lien attaching to property before a 2302
disposition of that property to a trustee of a legacy trust 2303
shall survive the disposition, and the trustee shall take title 2304
to the property subject to the valid lien and subject to any 2305
agreements that created or perfected the valid lien. Nothing in 2306
this chapter shall be construed to authorize any disposition 2307
that is prohibited by the terms of any agreements, notes, 2308
guaranties, mortgages, indentures, instruments, undertakings, or 2309
other documents. In the event of any conflict between this 2310
division and any other provision of this chapter, this division 2311
shall control. 2312

(H) To the maximum extent permitted by the Ohio 2313
Constitution and the United States Constitution, the courts of 2314
this state shall exercise jurisdiction over any legacy trust, any 2315
legacy trust matter, or any qualified disposition and shall 2316
adjudicate any case or controversy brought before them 2317
regarding, arising out of, or related to, any legacy trust, any 2318
legacy trust matter, or any qualified disposition if that case 2319
or controversy is otherwise within the subject matter 2320
jurisdiction of the court. Subject to the Ohio Constitution and 2321
the United States Constitution, no court of this state shall 2322
dismiss or otherwise decline to adjudicate any case or 2323
controversy described in this division on the ground that a 2324
court of another jurisdiction has acquired or may acquire proper 2325
jurisdiction over, or may provide proper venue for, that case or 2326
controversy or the parties to the case or controversy. Nothing 2327
in this division shall be construed to do either of the 2328
following: 2329

(1) Prohibit a transfer or other reassignment of any case 2330
or controversy from one court of this state to another court of 2331
this state; 2332

(2) Expand or limit the subject matter jurisdiction of any court of this state. 2333
2334

(I)(1) If any disposition is made by a trustee of a legacy trust, referred to in division (I) of this section as the "first legacy trust," to a trustee of a second legacy trust, referred to in division (I) of this section as the "second legacy trust," whether pursuant to section 5808.18 of the Revised Code or any other applicable law, then all of the following apply to any property involved in such disposition: 2335
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(a) Except to the extent expressly stated otherwise by the terms of that disposition, the disposition shall be considered a qualified disposition for the benefit of all persons who are the beneficiaries of both the first legacy trust and the second legacy trust. 2342
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(b) An item of property shall be treated as having been transferred to a trustee of the second legacy trust on the earlier of any of the following: 2347
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(i) The date of the original qualified disposition of the item to a trustee of the first legacy trust; 2350
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(ii) If, before being held by the trustee of the first legacy trust, the item previously was held by a trustee of a predecessor legacy trust, or by one or more trustees of a consecutive and uninterrupted series of predecessor legacy trusts, then the date of the original qualified disposition to the first trustee to hold that item as part of any such predecessor legacy trust; 2352
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(iii) If, before being held by the trustee of the first legacy trust, that item was held by a trustee of a nonlegacy trust referred to in division (E)(2) of this section, then the 2359
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date determined pursuant to that division; 2362

(iv) The earliest date determined by any combination of 2363
divisions (I) (1) (b) (i) to (iii) of this section. 2364

(2) For purposes of division (I) (1) (b) of this section, 2365
any reference to an item of property shall include any proceeds 2366
of or substitutes for that item. 2367

(3) Notwithstanding division (S) of section 5816.02 of the 2368
Revised Code, a qualified trustee of the first legacy trust may 2369
serve as a qualified trustee of the second legacy trust. 2370

(4) The dispositions covered by division (I) of this 2371
section include, but are not limited to, any disposition that is 2372
made by a trustee of the first legacy trust acting pursuant to a 2373
direction issued by a person having the power to direct a 2374
distribution of trust property pursuant to the trust instrument 2375
governing the first legacy trust, including, but not limited to, 2376
a power to direct as provided in division (G) of section 5808.18 2377
of the Revised Code. 2378

(J) Any reference in this chapter to an "action" or a 2379
"proceeding" shall be broadly construed to encompass any suit or 2380
proceeding in any jurisdiction or before any judicial tribunal, 2381
administrative tribunal, or other adjudicative body or panel. 2382

(K) This chapter and its provisions reflect and embody the 2383
strong public policy of this state. 2384

Sec. 5816.14. This chapter applies to qualified 2385
dispositions made on or after ~~the effective date of this section~~ 2386
March 27, 2013, except that division (S) (1) (b) (ii) of section 2387
5816.02 of the Revised Code applies to any legacy trust settled 2388
or administered on or after the effective date of this 2389
amendment. 2390

Section 2. That existing sections 339.02, 1721.21,	2391
1901.123, 1907.143, 2106.13, 2108.05, 2108.06, 2108.07, 2108.23,	2392
2108.24, 2108.34, 2111.10, 2111.50, 2133.07, 2701.10, 2717.01,	2393
5122.15, 5804.11, 5805.06, 5816.02, 5816.05, 5816.06, 5816.09,	2394
5816.10, and 5816.14 of the Revised Code are hereby repealed.	2395
Section 3. That section 2133.16 of the Revised Code is	2396
hereby repealed.	2397