

As Reported by the House Civil Justice Committee

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 488

Representatives Grendell, Galonski

Cosponsors: Representatives Seitz, Weinstein, Gross

A BILL

To amend sections 305.14, 309.09, 309.10, 1545.07, 1
2101.19, 2109.21, 2111.01, 2111.011, 2111.02, 2
2111.021, 2111.022, 2111.03, 2111.031, 2111.04, 3
2111.041, 2111.05, 2111.06, 2111.08, 2111.091, 4
2111.12, 2111.13, 2111.131, 2111.18, 2111.181, 5
2111.19, 2111.20, 2111.23, 2111.26, 2111.33, 6
2111.37, 2111.38, 2111.39, 2111.44, 2111.46, 7
2111.47, 2111.49, 2111.50, 2112.01, and 2303.201 8
and to repeal sections 2111.07, 2111.15, 9
2111.34, 2111.35, 2111.36, and 2111.45 of the 10
Revised Code to make changes to the Guardianship 11
Law and to authorize a court of common pleas or 12
county court to employ an attorney under certain 13
circumstances to provide legal services to the 14
court. 15

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

Section 1. That sections 305.14, 309.09, 309.10, 1545.07, 16
2101.19, 2109.21, 2111.01, 2111.011, 2111.02, 2111.021, 17
2111.022, 2111.03, 2111.031, 2111.04, 2111.041, 2111.05, 18
2111.06, 2111.08, 2111.091, 2111.12, 2111.13, 2111.131, 2111.18, 19

2111.181, 2111.19, 2111.20, 2111.23, 2111.26, 2111.33, 2111.37, 20
2111.38, 2111.39, 2111.44, 2111.46, 2111.47, 2111.49, 2111.50, 21
2112.01, and 2303.201 of the Revised Code be amended to read as 22
follows: 23

Sec. 305.14. (A) The court of common pleas, a division of 24
the court, or the county court may employ legal counsel at its 25
choosing and without competitive bidding as excepted in section 26
307.86 of the Revised Code, and authorized as for other public 27
officials as provided by law, to do any of the following: 28

(1) Represent the court or division in any matter in which 29
both of the following apply: 30

(a) The prosecuting attorney, the board of county 31
commissioners, or both, have a conflict of interest because the 32
matter involves either a county officer or board or tax- 33
supported public library included in division (A) of section 34
309.09 of the Revised Code, or the prosecuting attorney; 35

(b) The prosecuting attorney, the board of county 36
commissioners, or both, fail within a reasonable time, or 37
refuse, to make an application to the court of common pleas or 38
county court for the employment of legal counsel despite having 39
been requested to do so. 40

(2) Represent the court or division in the prosecution of 41
any action or proceeding against any county public officer or 42
board or tax-supported public library included in division (A) 43
of section 309.09 of the Revised Code as being statutorily 44
represented by the county prosecuting attorney; 45

(3) Seek legal advice or legal representation concerning 46
writ of mandamus or writ of prohibition actions. 47

(B) The court of common pleas, upon the application of 48

the prosecuting attorney and the board of county commissioners, 49
may authorize the board to employ legal counsel to assist the 50
prosecuting attorney, the board, or any other county officer in 51
any matter of public business coming before such board or 52
officer, and in the prosecution or defense of any action or 53
proceeding in which such board or officer is a party or has an 54
interest, in its official capacity. 55

~~(B)~~(C) The board of county commissioners may also employ 56
legal counsel, as provided in section 309.09 of the Revised 57
Code, to represent it in any matter of public business coming 58
before such board, and in the prosecution or defense of any 59
action or proceeding in which such board is a party or has an 60
interest, in its official capacity. 61

~~(C)~~(D) Notwithstanding division ~~(A)~~(B) of this section 62
and except as provided in division ~~(D)~~(E) of this section, a 63
county board of developmental disabilities or a public children 64
services agency may, without the authorization of the court of 65
common pleas, employ legal counsel to advise it or to represent 66
it or any of its members or employees in any matter of public 67
business coming before the board or agency or in the prosecution 68
or defense of any action or proceeding in which the board or 69
agency in its official capacity, or a board or agency member or 70
employee in the member's or employee's official capacity, is a 71
party or has an interest. 72

~~(D)(1)~~(E)(1) In any legal proceeding in which the 73
prosecuting attorney is fully able to perform the prosecuting 74
attorney's statutory duty to represent the county board of 75
developmental disabilities or public children services agency 76
without conflict of interest, the board or agency shall employ 77
other counsel only with the written consent of the prosecuting 78

attorney. In any legal proceeding in which the prosecuting attorney is unable, for any reason, to represent the board or agency, the prosecuting attorney shall so notify the board or agency, and, except as provided in division ~~(D)(2)~~ (E)(2) of this section, the board or agency may then employ counsel for the proceeding without further permission from any authority.

(2) A public children services agency that receives money from the county general revenue fund must obtain the permission of the board of county commissioners of the county served by the agency before employing counsel under division ~~(C)~~ (D) of this section.

Sec. 309.09. (A) The prosecuting attorney shall be the legal adviser of the board of county commissioners, board of elections, all other county officers and boards, and all tax-supported public libraries, and any of them may require written opinions or instructions from the prosecuting attorney in matters connected with their official duties. The prosecuting attorney shall prosecute and defend all suits and actions that any such officer, board, or tax-supported public library directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

(B)(1) The prosecuting attorney shall be the legal adviser for all township officers, boards, and commissions, unless, subject to division (B)(2) of this section, the township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and has not entered into a contract to have the prosecuting attorney serve as the township law director, in which case, subject to division (B)(2) of this section, the township law director, whether serving full-time or part-time,

shall be the legal adviser for all township officers, boards, 109
and commissions. When the board of township trustees finds it 110
advisable or necessary to have additional legal counsel, it may 111
employ an attorney other than the township law director or the 112
prosecuting attorney of the county, either for a particular 113
matter or on an annual basis, to represent the township and its 114
officers, boards, and commissions in their official capacities 115
and to advise them on legal matters. No such legal counsel may 116
be employed, except on the order of the board of township 117
trustees, duly entered upon its journal, in which the 118
compensation to be paid for the legal services shall be fixed. 119
The compensation shall be paid from the township fund. 120

Nothing in this division confers any of the powers or 121
duties of a prosecuting attorney under section 309.08 of the 122
Revised Code upon a township law director. 123

(2) (a) If any township in the county served by the 124
prosecuting attorney has adopted any resolution regarding the 125
operation of adult entertainment establishments pursuant to the 126
authority that is granted under section 503.52 of the Revised 127
Code, or if a resolution of that nature has been adopted under 128
section 503.53 of the Revised Code in a township in the county 129
served by the prosecuting attorney, all of the following apply: 130

(i) Upon the request of a township in the county that has 131
adopted, or in which has been adopted, a resolution of that 132
nature that is made pursuant to division (E) (1) (c) of section 133
503.52 of the Revised Code, the prosecuting attorney shall 134
prosecute and defend on behalf of the township in the trial and 135
argument in any court or tribunal of any challenge to the 136
validity of the resolution. If the challenge to the validity of 137
the resolution is before a federal court, the prosecuting 138

attorney may request the attorney general to assist the 139
prosecuting attorney in prosecuting and defending the challenge 140
and, upon the prosecuting attorney's making of such a request, 141
the attorney general shall assist the prosecuting attorney in 142
performing that service if the resolution was drafted in 143
accordance with legal guidance provided by the attorney general 144
as described in division (B) (2) of section 503.52 of the Revised 145
Code. The attorney general shall provide this assistance without 146
charge to the township for which the service is performed. If a 147
township adopts a resolution without the legal guidance of the 148
attorney general, the attorney general is not required to 149
provide assistance as described in this division to a 150
prosecuting attorney. 151

(ii) Upon the request of a township in the county that has 152
adopted, or in which has been adopted, a resolution of that 153
nature that is made pursuant to division (E) (1) (a) of section 154
503.52 of the Revised Code, the prosecuting attorney shall 155
prosecute and defend on behalf of the township a civil action to 156
enjoin the violation of the resolution in question. 157

(iii) Upon the request of a township in the county that 158
has adopted, or in which has been adopted, a resolution of that 159
nature that is made pursuant to division (E) (1) (b) of section 160
503.52 of the Revised Code, the prosecuting attorney shall 161
prosecute and defend on behalf of the township a civil action 162
under Chapter 3767. of the Revised Code to abate as a nuisance 163
the place in the unincorporated area of the township at which 164
the resolution is being or has been violated. Proceeds from the 165
sale of personal property or contents seized pursuant to the 166
action shall be applied and deposited in accordance with 167
division (E) (1) (b) of section 503.52 of the Revised Code. 168

(b) Division (B) (2) (a) of this section applies regarding 169
all townships, including townships that have adopted a limited 170
home rule government pursuant to Chapter 504. of the Revised 171
Code, and regardless of whether a township that has so adopted a 172
limited home rule government has entered into a contract with 173
the prosecuting attorney as described in division (B) of section 174
504.15 of the Revised Code or has appointed a law director as 175
described in division (A) of that section. 176

The prosecuting attorney shall prosecute and defend in the 177
actions and proceedings described in division (B) (2) (a) of this 178
section without charge to the township for which the services 179
are performed. 180

(C) (1) Whenever the court of common pleas, a division of 181
the court, or the county court employs legal counsel, as 182
provided in division (A) of section 305.14 of the Revised Code, 183
to represent it in any matter to which both divisions (A) (1) (a) 184
and (b) of that section apply or in the prosecution of any 185
action or proceeding to which division (A) (2) of that section 186
applies, or to provide the legal advice or legal representation 187
sought by the court or division under division (A) (3) of that 188
section, the judge of the court or its division shall enter upon 189
the court's journal an order in which the compensation to be 190
paid for the legal services shall be fixed. 191

(2) The compensation shall be paid from the county general 192
fund or another lawful court fund at the discretion of the 193
judge. When paid from the county general fund, attorney fee 194
invoices shall be submitted to the board of county commissioners 195
for review. The hourly compensation paid for legal services 196
under division (C) (1) of this section shall not exceed the 197
highest hourly compensation paid by the board of county 198

commissioners for an attorney other than the prosecuting 199
attorney of the county to represent the board or other county 200
officials. 201

The total compensation paid, in any calendar year, by the 202
court of common pleas, including all of its divisions, and by 203
the county court for legal services under division (C)(1) of 204
this section shall not exceed the total annual compensation of 205
the prosecuting attorney for that county. 206

(D) Whenever the board of county commissioners employs an 207
attorney other than the prosecuting attorney of the county, 208
without the authorization of the court of common pleas as 209
provided in section 305.14 of the Revised Code, either for a 210
particular matter or on an annual basis, to represent the board 211
in its official capacity and to advise it on legal matters, the 212
board shall enter upon its journal an order of the board in 213
which the compensation to be paid for the legal services shall 214
be fixed. The compensation shall be paid from the county general 215
fund. The total compensation paid, in any year, by the board for 216
legal services under this division shall not exceed the total 217
annual compensation of the prosecuting attorney for that county. 218

~~(D)~~ (E) The prosecuting attorney and the board of county 219
commissioners jointly may contract with a board of park 220
commissioners under section 1545.07 of the Revised Code for the 221
prosecuting attorney to provide legal services to the park 222
district the board of park commissioners operates. 223

~~(E)~~ (F) The prosecuting attorney may be, in the 224
prosecuting attorney's discretion and with the approval of the 225
board of county commissioners, the legal adviser of a joint fire 226
district created under section 505.371 of the Revised Code at no 227
cost to the district, or may be the legal adviser to the 228

district under a contract that the prosecuting attorney and the 229
district enter into, and that the board of county commissioners 230
approves, to authorize the prosecuting attorney to provide legal 231
services to the district. 232

~~(F)~~ (G) The prosecuting attorney may be, in the 233
prosecuting attorney's discretion and with the approval of the 234
board of county commissioners, the legal adviser of a joint 235
ambulance district created under section 505.71 of the Revised 236
Code at no cost to the district, or may be the legal adviser to 237
the district under a contract that the prosecuting attorney and 238
the district enter into, and that the board of county 239
commissioners approves, to authorize the prosecuting attorney to 240
provide legal services to the district. 241

~~(G)~~ (H) The prosecuting attorney may be, in the 242
prosecuting attorney's discretion and with the approval of the 243
board of county commissioners, the legal adviser of a joint 244
emergency medical services district created under section 245
307.052 of the Revised Code at no cost to the district, or may 246
be the legal adviser to the district under a contract that the 247
prosecuting attorney and the district enter into, and that the 248
board of county commissioners approves, to authorize the 249
prosecuting attorney to provide legal services to the district. 250

~~(H)~~ (I) The prosecuting attorney may be, in the 251
prosecuting attorney's discretion and with the approval of the 252
board of county commissioners, the legal adviser of a fire and 253
ambulance district created under section 505.375 of the Revised 254
Code at no cost to the district, or may be the legal adviser to 255
the district under a contract that the prosecuting attorney and 256
the district enter into, and that the board of county 257
commissioners approves, to authorize the prosecuting attorney to 258

provide legal services to the district. 259

~~(I)~~ (J) The prosecuting attorney may be, in the 260
prosecuting attorney's discretion and with the approval of the 261
board of county commissioners, the legal adviser to the board of 262
trustees of a regional airport authority created under Chapter 263
308. of the Revised Code or the board of directors of a port 264
authority created under Chapter 4582. of the Revised Code under 265
a contract that the prosecuting attorney and the board of 266
trustees or board of directors enter into. If the regional 267
airport authority or port authority covers territory in more 268
than one county, the board of trustees or board of directors may 269
choose the prosecuting attorney with whom it enters into such 270
contract, with the approval of the board of county commissioners 271
of that county. The contract may provide for the payment of a 272
fee to the prosecuting attorney for legal services agreed to 273
under the contract. 274

~~(J)~~ (K) The prosecuting attorney may be, in the 275
prosecuting attorney's discretion and with the approval of the 276
board of county commissioners, the legal adviser to a regional 277
planning commission created under section 713.21 of the Revised 278
Code under a contract that the prosecuting attorney and 279
commission enter into. If the regional planning commission 280
covers a region in more than one county, the commission may 281
choose the prosecuting attorney with whom it enters into such 282
contract, with the approval of the board of county commissioners 283
of that county. The contract may provide for the payment of a 284
fee to the prosecuting attorney for legal services agreed to 285
under the contract. 286

~~(K)~~ (L) All money received pursuant to a contract entered 287
into under division ~~(D)~~, (E), (F), (G), (H), (I), or (K) 288

of this section shall be deposited into the prosecuting 289
attorney's legal services fund, which shall be established in 290
the county treasury of each county in which such a contract 291
exists. Moneys in that fund may be appropriated only to the 292
prosecuting attorney for the purpose of providing legal services 293
to a park district, joint fire district, joint ambulance 294
district, joint emergency medical services district, fire and 295
ambulance district, regional airport authority, port authority, 296
or regional planning commission, as applicable, under a contract 297
entered into under the applicable division. 298

~~(L)~~ (M) The prosecuting attorney shall be the legal 299
adviser of a lake facilities authority as provided in section 300
353.02 of the Revised Code. 301

Sec. 309.10. Sections 309.08 and 309.09 of the Revised 302
Code do not prevent a school board from employing counsel to 303
represent it, but when counsel is employed, the counsel shall be 304
paid by the school board from the school fund. Sections 309.08 305
and 309.09 of the Revised Code do not prevent a county board of 306
developmental disabilities from employing counsel to represent 307
it, but that counsel shall be employed in accordance with 308
division ~~(C)~~ (D) of section 305.14 and paid in accordance with 309
division (A) (7) of section 5126.05 of the Revised Code. 310

Sections 309.08 and 309.09 of the Revised Code do not 311
prevent a board of county hospital trustees from employing 312
counsel with the approval of the county commissioners to bring 313
legal action for the collection of delinquent accounts of the 314
hospital, but when counsel is employed, the counsel shall be 315
paid from the hospital's funds. Sections 309.08 and 309.09 of 316
the Revised Code do not prevent a board of library trustees from 317
employing counsel to represent it, but when counsel is employed, 318

the counsel shall be paid from the library's funds. Sections 319
309.08 and 309.09 of the Revised Code do not prevent the 320
appointment and employment of assistants, clerks, and 321
stenographers to assist the prosecuting attorney as provided in 322
sections 309.01 to 309.16 of the Revised Code, or the 323
appointment by the court of common pleas or the court of appeals 324
of an attorney to assist the prosecuting attorney in the trial 325
of a criminal cause pending in that court, or the board of 326
county commissioners from paying for those services. 327

Sec. 1545.07. The commissioners appointed in accordance 328
with section 1545.05 or pursuant to section 1545.041 of the 329
Revised Code shall constitute the board of park commissioners of 330
the park district. Such board shall be a body politic and 331
corporate, and may sue and be sued as provided in sections 332
1545.01 to 1545.28 of the Revised Code. Such board may employ a 333
secretary and such other employees as are necessary in the 334
performance of the powers conferred in such sections. The board 335
may appoint a treasurer to act as custodian of the board's funds 336
and as fiscal officer for the park district. For the purposes of 337
acquiring, planning, developing, protecting, maintaining, or 338
improving lands and facilities thereon under section 1545.11 of 339
the Revised Code, and for other types of assistance which it 340
finds necessary in carrying out its duties under Chapter 1545. 341
of the Revised Code, the board may hire and contract for 342
professional, technical, consulting, and other special services, 343
including, in accordance with division ~~(D)~~ (E) of section 309.09 344
of the Revised Code, the legal services of the prosecuting 345
attorney of the county in which the park district is located, 346
and may purchase goods. In procuring any goods with a cost in 347
excess of fifty thousand dollars, the board shall contract as a 348
contracting authority under sections 307.86 to 307.91 of the 349

Revised Code, to the same extent and with the same limitations 350
as a board of county commissioners. In procuring services, the 351
board shall contract in the manner and under procedures 352
established by the bylaws of the board as required in section 353
1545.09 of the Revised Code. 354

Sec. 2101.19. (A) No probate judge or probate judge's 355
deputy clerk shall sell or offer for sale for more than one 356
dollar any merchandise to be used in connection with any 357
license, order, or document issued by the probate court, or make 358
any charge in connection with the issuance of any license, 359
order, or document except that specifically provided by law. 360

(B) All moneys obtained from the sale of merchandise to be 361
used in connection with any license, order, or document issued 362
by a probate court shall be paid by the probate judge or the 363
deputy clerk of the court into the county treasury. The moneys 364
shall be credited to a fund to be known as the probate court 365
conduct of business fund. The moneys so credited shall be used 366
solely for the conduct of the business of the probate court, 367
including the employment of legal counsel. Moneys used to employ 368
legal counsel pursuant to section 309.09 of the Revised Code 369
shall be reimbursed by the county general fund. 370

(C) Upon receipt of an order of the probate judge for the 371
payment of moneys from the fund for the conduct of the business 372
of the court, the county auditor shall draw a warrant on the 373
county treasurer for the amount of money specified in the order, 374
but not exceeding the balance of the moneys in the fund, which 375
warrant shall be made payable to the probate judge or another 376
person designated in the order. 377

Sec. 2109.21. (A) An administrator, special administrator, 378
administrator de bonis non, or administrator with the will 379

annexed shall be a resident of this state and shall be removed 380
on proof that the administrator is no longer a resident of this 381
state. 382

(B) (1) To qualify for appointment as executor or trustee, 383
an executor or a trustee named in a will or nominated in 384
accordance with any power of nomination conferred in a will, may 385
be a resident of this state or, as provided in this division, a 386
nonresident of this state. To qualify for appointment, a 387
nonresident executor or trustee named in, or nominated pursuant 388
to, a will shall be an individual who is related to the testator 389
by consanguinity or affinity, or a person who resides in a state 390
that has statutes or rules that authorize the appointment of a 391
nonresident person who is not related to the testator by 392
consanguinity or affinity, as an executor or trustee when named 393
in, or nominated pursuant to, a will. No such executor or 394
trustee shall be refused appointment or removed solely because 395
the executor or trustee is not a resident of this state. 396

The court may require that a nonresident executor or 397
trustee named in, or nominated pursuant to, a will assure that 398
all of the assets of the decedent that are in the county at the 399
time of the death of the decedent will remain in the county 400
until distribution or until the court determines that the assets 401
may be removed from the county. 402

(2) In accordance with this division and section 2129.08 403
of the Revised Code, the court shall appoint as an ancillary 404
administrator a person who is named in the will of a nonresident 405
decedent, or who is nominated in accordance with any power of 406
nomination conferred in the will of a nonresident decedent, as a 407
general executor of the decedent's estate or as executor of the 408
portion of the decedent's estate located in this state, whether 409

or not the person so named or nominated is a resident of this 410
state. 411

To qualify for appointment as an ancillary administrator, 412
a person who is not a resident of this state and who is named or 413
nominated as described in this division, shall be an individual 414
who is related to the testator by consanguinity or affinity, or 415
a person who resides in a state that has statutes or rules that 416
authorize the appointment of a nonresident of that state who is 417
not related to the testator by consanguinity or affinity, as an 418
ancillary administrator when the nonresident is named in a will 419
or nominated in accordance with any power of nomination 420
conferred in a will. If a person who is not a resident of this 421
state and who is named or nominated as described in this 422
division so qualifies for appointment as an ancillary 423
administrator and if the provisions of section 2129.08 of the 424
Revised Code are satisfied, the court shall not refuse to 425
appoint the person, and shall not remove the person, as 426
ancillary administrator solely because the person is not a 427
resident of this state. 428

The court may require that an ancillary administrator who 429
is not a resident of this state and who is named or nominated as 430
described in this division, assure that all of the assets of the 431
decedent that are in the county at the time of the death of the 432
decedent will remain in the county until distribution or until 433
the court determines that the assets may be removed from the 434
county. 435

(C) (1) A guardian of the estate shall be a resident of 436
this state, except that the court may appoint a nonresident of 437
this state as a guardian of the estate if any of the following 438
applies: 439

(a) The nonresident is named in a will by a parent of a	440
minor.	441
(b) The nonresident is selected by a minor over the age of	442
fourteen <u>twelve</u> years as provided by section 2111.12 of the	443
Revised Code.	444
(c) The nonresident is nominated in or pursuant to a	445
durable power of attorney under section 1337.24 of the Revised	446
Code or a writing as described in division (A) of section	447
2111.121 of the Revised Code.	448
(2) A guardian of the estate, other than a guardian named	449
in a will by a parent of a minor, selected by a minor over the	450
age of fourteen <u>twelve</u> years, or nominated in or pursuant to a	451
durable power of attorney or writing described in division (C)	452
(1)(c) of this section, may be removed on proof that the	453
guardian of the estate is no longer a resident of this state.	454
(3) The court may appoint a resident or nonresident of	455
this state as a guardian of the person.	456
(D) Any fiduciary, whose residence qualifications are not	457
defined in this section, shall be a resident of this state, and	458
shall be removed on proof that the fiduciary is no longer a	459
resident of this state.	460
(E) Any fiduciary, in order to assist in the carrying out	461
of the fiduciary's fiduciary duties, may employ agents who are	462
not residents of the county or of this state.	463
(F) Every fiduciary shall sign and file with the court a	464
statement of permanent address and shall notify the court of any	465
change of address. A court may remove a fiduciary if the	466
fiduciary fails to comply with this division.	467

Sec. 2111.01. As used in Chapters 2101. to 2131. of the Revised Code:	468 469
(A) "Guardian," other than a guardian under sections 5905.01 to 5905.19 of the Revised Code, means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or both of an incompetent or minor. When applicable, "guardian" includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent.	470 471 472 473 474 475 476 477 478 479 480 481 482
(B) "Ward" means any person <u>incompetent or minor</u> for whom a guardian is acting or for whom the probate court is acting pursuant to section 2111.50 of the Revised Code.	483 484 485
(C) "Resident guardian" means a guardian appointed by a probate court to have the care and management of property in this state that belongs to a nonresident ward.	486 487 488
(D) "Incompetent" means either of the following:	489
(1) Any person <u>adult</u> who is so mentally impaired, as a result of a mental or physical illness or disability, as a result of intellectual disability, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide;	490 491 492 493 494 495 496

(2) Any person <u>adult</u> confined to a correctional institution within this state.	497 498
(E) "Next of kin" means any person who would be entitled to inherit from a ward under Chapter 2105. of the Revised Code if the ward dies intestate.	499 500 501
(F) "Conservator" means a conservator appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of the Revised Code.	502 503 504
(G) "Parent" means a natural parent or adoptive parent of a minor child whose parental rights and responsibilities have not been terminated by a juvenile court or another court <u>of competent jurisdiction</u> .	505 506 507 508
(H) "Financial harm" means impairment of an individual's financial assets by unlawfully obtaining or exerting control over the individual's real or personal property in any of the following ways:	509 510 511 512
(1) Without the consent of the individual or the person authorized to give consent on the individual's behalf;	513 514
(2) Beyond the scope of the express or implied consent of the individual or the person authorized to give consent on the individual's behalf;	515 516 517
(3) By deception;	518
(4) By threat;	519
(5) By intimidation;	520
(6) By fraud;	521
(7) By undue influence.	522
<u>(I) "Limited guardian" means a guardian appointed with</u>	523

specific limited powers, including, but not limited to, 524
overseeing the care and management of mental health, placement, 525
visitation, or other specified limited powers, as outlined in 526
the letters of guardianship. 527

(J) "Standby guardian" means a person nominated in a 528
writing to be a guardian of the person, the estate, or both, of 529
one or more of a nominator's minor children or incompetent adult 530
children pursuant to section 2111.121 of the Revised Code. 531

(K) "Interim guardian" means a person appointed as 532
guardian when an existing guardian is temporarily or permanently 533
removed or resigns and if the welfare of the ward requires 534
immediate action, for a maximum period of fifteen days that may 535
be extended for up to two subsequent thirty-day periods for good 536
cause shown and notice of hearing to the ward and interested 537
parties. 538

(L) "Emergency guardian" means a person appointed as 539
guardian when an emergency exists and it is reasonably certain 540
that immediate action is required to prevent significant injury 541
to the person or estate of a ward, for a maximum period of 542
seventy-two hours that may be extended up to an additional 543
thirty days for good cause shown and notice of hearing to the 544
ward and interested parties. 545

(M) "Successor guardian" means a person appointed by the 546
court when a ward is still in need of a guardian of the person, 547
the estate, or both, but the current guardian dies, resigns, or 548
is removed, or an interim guardianship expires. 549

Sec. 2111.011. (A) The clerk of the probate court shall 550
furnish a guardianship guide, prepared either by the attorney 551
general with the approval of the Ohio judicial conference or by 552

the Ohio judicial conference under division (B) of this section, 553
to a guardian of an incompetent at either of the following 554
times, whichever is applicable: 555

(1) Upon the appointment of the guardian under section 556
2111.02 of the Revised Code; 557

(2) If the guardian was appointed prior to the effective 558
date of this section, upon the first filing by the guardian with 559
the probate court of either of the following, as applicable, 560
after that effective date: 561

(a) A guardian's account, other than a final account, that 562
is required to be filed under section 2109.302 of the Revised 563
Code; 564

(b) A guardian's report that is required to be filed under 565
section 2111.49 of the Revised Code. 566

(B) (1) If the attorney general subsequently prepares any 567
updated version of the guardianship guide, the updated guide 568
shall include the rights of a ward as stated in any relevant 569
provision of the Revised Code that is then current. The clerk of 570
the probate court shall furnish the most recent version of the 571
guide to a guardian at either of the following times, whichever 572
is applicable: 573

(a) Upon the appointment of the guardian under section 574
2111.02 of the Revised Code after the most recent version of the 575
guide is prepared; 576

(b) If the guardian was appointed prior to the date of the 577
most recent version of the guide, upon the first filing by the 578
guardian with the probate court of either of the documents 579
described in divisions (A) (2) (a) and (b) of this section, as 580
applicable, after that date. 581

(2) In the alternative, the Ohio judicial conference may 582
create, at their cost, an alternative guardianship guide for use 583
in all probate courts. The alternative guardianship guide shall 584
be distributed in accordance with all provisions contained in 585
this ~~act~~section. The court shall furnish this alternative 586
guardianship guide in accordance with the provisions of this 587
section. 588

(C) The probate court shall establish a form for a 589
guardian to sign acknowledging that the guardian received a 590
guardianship guide pursuant to this section. 591

(D) Upon receiving a guardianship guide, the guardian 592
shall sign the form specified in division (C) of this section. 593
The signed form shall be kept permanently in the guardianship 594
file of the probate court. 595

Sec. 2111.02. (A) If found necessary, a probate court on 596
its own motion or on application by any interested party shall 597
appoint, subject to divisions (C) and (D) of this section and to 598
section 2109.21 and division (B) of section 2111.121 of the 599
Revised Code, a guardian of the person, the estate, or both, of 600
a minor or incompetent, provided the person for whom the 601
guardian is to be appointed is a resident of the county or has a 602
legal settlement in the county. If the person for whom the 603
guardian is to be appointed is an adult, the person must be a 604
qualified respondent as described in section 2112.21 of the 605
Revised Code and have the opportunity to have the assistance of 606
counsel in the proceeding for the appointment of that guardian. 607
An interested party includes, but is not limited to, a person 608
nominated in a durable power of attorney under division (E) of 609
section ~~1337.24~~ 1337.12 of the Revised Code or in a writing as 610
described in division (A) of section 2111.121 of the Revised 611

Code. 612

Except when the guardian of an incompetent is an agency 613
under contract with the department of developmental disabilities 614
for the provision of protective services under sections 5123.55 615
to 5123.59 of the Revised Code, or another agency or corporation 616
appointed by the court, the guardian of an incompetent, by 617
virtue of the appointment as guardian, shall be the guardian of 618
the minor children of the guardian's ward upon the filing of a 619
separate application under a new case number, unless the court 620
appoints some other person as their guardian. 621

When the primary purpose of the appointment of a guardian 622
is, or was, the collection, disbursement, or administration of 623
moneys awarded by the veterans administration to the ward, or 624
assets derived from those moneys, no court costs shall be 625
charged in the proceeding for the appointment or in any 626
subsequent proceedings made in pursuance of the appointment, 627
unless the value of the estate, including the moneys then due 628
under the veterans administration award, exceeds one thousand 629
five hundred dollars. 630

(B) (1) If the probate court finds it to be in the best 631
interest of an incompetent or minor, it may appoint pursuant to 632
divisions (A) and (C) of this section, on its own motion or on 633
application by an interested party, a limited guardian with 634
specific limited powers. The sections of the Revised Code, 635
rules, and procedures governing guardianships apply to a limited 636
guardian, except that the order of appointment and letters of 637
authority of a limited guardian shall state the reasons for, and 638
specify the limited powers of, the guardian. The court may 639
appoint a limited guardian for a definite or indefinite period. 640
An incompetent or minor for whom a limited guardian has been 641

appointed retains all of the incompetent's or minor's rights in 642
all areas not affected by the court order appointing the limited 643
guardian. 644

(2) If a guardian appointed pursuant to division (A) of 645
this section is temporarily or permanently removed or resigns, 646
and if the welfare of the ward requires immediate action, at any 647
time after the removal or resignation, the probate court may 648
appoint, ex parte and with or without notice to the ward or 649
interested parties, an interim guardian for a maximum period of 650
fifteen days. If the court appoints the interim guardian ex 651
parte or without notice to the ward, the court, at its first 652
opportunity, shall enter upon its journal with specificity the 653
reason for acting ex parte or without notice, and, as soon as 654
possible, shall serve upon the ward a copy of the order 655
appointing the interim guardian. For good cause shown, after 656
notice to the ward and interested parties and after a hearing, 657
the court may extend an interim guardianship for a specified 658
period, but not to exceed ~~an additional thirty days~~two 659
subsequent thirty-day periods. 660

(3) If a guardian appointed pursuant to division (A) of 661
this section dies, resigns, is removed, or an interim 662
guardianship established pursuant to division (B)(2) of this 663
section expires, and the ward is still in need of a guardian of 664
the person, the estate, or both, notice of the vacancy shall be 665
provided to the ward and sent to the ward's nearest next of kin 666
by regular United States mail, provided the court knows the 667
address of that next of kin. The court may appoint a successor 668
guardian upon application by any interested party after 669
providing notice to the ward, or may appoint a successor 670
guardian subject to divisions (C) and (D) of this section if the 671
court finds it necessary to determine the suitability of the 672

applicants or it would otherwise be in the ward's best interest. 673
If a successor guardian application has not been filed by an 674
interested party within thirty days of the notice of the 675
vacancy, the court may appoint a successor guardian sua sponte 676
and without a hearing or further notice to the ward, except that 677
the court shall provide notice to the ward following the 678
appointment of the successor guardian. 679

(4) If a minor or incompetent has not been placed under a 680
guardianship pursuant to division (A) of this section and if an 681
emergency exists and it is reasonably certain that immediate 682
action is required to prevent significant injury to the person 683
or estate of the minor or incompetent, at any time after it 684
receives notice of the emergency, the court, ex parte, may issue 685
any order that it considers necessary to prevent injury to the 686
person or estate of the minor or incompetent, or may appoint an 687
emergency guardian for a maximum period of seventy-two hours. A 688
written copy of any order issued by a court under this division 689
shall be served upon the incompetent or minor as soon as 690
possible after its issuance. Failure to serve that order after 691
its issuance or prior to the taking of any action under its 692
authority does not invalidate the order or the actions taken. 693
The powers of an emergency guardian shall be specified in the 694
letters of appointment, and shall be limited to those powers 695
that are necessary to prevent injury to the person or estate of 696
the minor or incompetent. If the court acts ex parte or without 697
notice to the minor or incompetent, the court, at its first 698
opportunity, shall enter upon its journal a record of the case 699
and, with specificity, the reason for acting ex parte or without 700
notice. For good cause shown, after notice to the minor or 701
incompetent and interested parties, and after a hearing, the 702
court may extend an emergency guardianship for a specified 703

period, but not to exceed an additional thirty days. 704

(C) Prior to the appointment of a guardian or limited 705
guardian under division (A) or (B)(1) of this section, the court 706
shall conduct a hearing on the matter of the appointment. The 707
hearing shall be conducted in accordance with all of the 708
following: 709

(1) The proposed guardian or limited guardian shall appear 710
at the hearing and, if appointed, shall swear under oath that 711
the proposed guardian or limited guardian has made and will 712
continue to make diligent efforts to file a true inventory in 713
accordance with section 2111.14 of the Revised Code and find and 714
report all assets belonging to the estate of the ward and that 715
the proposed guardian or limited guardian faithfully and 716
completely will fulfill the other duties of a guardian, 717
including the filing of timely and accurate reports and 718
accountings. 719

(2) If the hearing is conducted by a magistrate, the 720
procedures set forth in Civil Rule 53 shall be followed. 721

(3) If the hearing concerns the appointment of a guardian 722
or limited guardian for an alleged incompetent, the burden of 723
proving incompetency shall be by clear and convincing evidence. 724

(4) Upon request of the applicant, the alleged incompetent 725
for whom the appointment is sought or the alleged incompetent's 726
counsel, or any interested party, a recording or record of the 727
hearing shall be made. 728

(5) Evidence of a less restrictive alternative to 729
guardianship may be introduced, and when introduced, shall be 730
considered by the court. 731

(6) The court may deny a guardianship based upon a finding 732

that a less restrictive alternative to guardianship exists.	733
(7) If the hearing concerns the appointment of a guardian	734
or limited guardian for an alleged incompetent, the alleged	735
incompetent has all of the following rights:	736
(a) The right to be represented by independent counsel of	737
the alleged incompetent's choice;	738
(b) The right to have a friend or family member of the	739
alleged incompetent's choice present;	740
(c) The right to have evidence of an independent expert	741
evaluation introduced;	742
(d) If the alleged incompetent is indigent, upon the	743
alleged incompetent's request:	744
(i) The right to have counsel and an independent expert	745
evaluator appointed at court expense;	746
(ii) If the guardianship, limited guardianship, or standby	747
guardianship decision is appealed, the right to have counsel	748
appointed and necessary transcripts for appeal prepared at court	749
expense.	750
(D) (1) If a person has been nominated to be a guardian of	751
the estate of a minor in or pursuant to a durable power of	752
attorney under section 1337.24 of the Revised Code or a writing	753
as described in division (A) of section 2111.121 of the Revised	754
Code, the person nominated has preference in appointment over a	755
person selected by the minor. A person who has been nominated to	756
be a guardian of the person of a minor in or pursuant to a	757
durable power of attorney or writing of that nature does not	758
have preference in appointment over a person selected by the	759
minor, but the probate court may appoint the person named in the	760

durable power of attorney or the writing, the person selected by 761
the minor, or another person as guardian of the person of the 762
minor. 763

(2) A person nominated as a guardian of an incompetent 764
adult child pursuant to a durable power of attorney under 765
division (E) of section ~~1337.24~~ 1337.12 of the Revised Code or 766
pursuant to section 2111.121 of the Revised Code shall have 767
preference in appointment over a person applying to be guardian 768
if the person nominated is competent, suitable, and willing to 769
accept the appointment, and if the incompetent adult child does 770
not have a spouse or an adult child and has not designated a 771
guardian prior to the court finding the adult child incompetent. 772

Sec. 2111.021. A competent adult ~~who is physically infirm~~ 773
may petition the probate court of the county in which the 774
petitioner resides, to place, for a definite or indefinite 775
period of time, the petitioner's person, any or all of the 776
petitioner's real or personal property, or both under a 777
conservatorship with the court. A petitioner either may grant 778
specific powers to the conservator or court or may limit any 779
powers granted by law to the conservator or court, except that 780
the petitioner may not limit the powers granted to the court by 781
this section and may not limit the requirement for bond as 782
determined by the court. The petition shall state whether the 783
person of the competent adult will be placed under the 784
conservatorship, shall state with particularity all real and 785
personal property that will be placed under the conservatorship, 786
shall state the powers granted and any limitation upon the 787
powers of the conservator or court, and shall state the name of 788
a proposed suitable conservator. 789

After a hearing, if the court finds that the petition was 790

voluntarily filed and that the proposed conservator is suitable, 791
the court shall issue an order of conservatorship. Upon issuance 792
of the order, all sections of the Revised Code governing a 793
guardianship of the person, the estate, or both, whichever is 794
involved, except those sections the application of which 795
specifically is limited by the petitioner, and all rules and 796
procedures governing a guardianship of the person, the estate, 797
or both, shall apply to the conservatorship, including, but not 798
limited to, applicable bond and accounting requirements. 799

A conservatorship shall terminate upon a judicial 800
determination of incompetency, the death of the petitioner, the 801
order of the probate court, or the execution of a written 802
termination notice by the petitioner. A termination notice shall 803
take effect upon execution by the petitioner, and shall be filed 804
with the court and served upon the conservator. A termination 805
notice executed by a petitioner relative to a conservatorship of 806
the estate and the termination of a conservatorship of the 807
estate based upon a termination notice are void unless the 808
termination notice is filed with the court within fourteen days 809
after its execution. Modification of the powers of a conservator 810
or the court may be made by the petitioner upon motion to the 811
court at any time during the conservatorship. Neither the 812
establishment of a conservatorship nor the filing of a petition 813
for conservatorship with the probate court shall be considered 814
as evidence of mental impairment under section 2111.01 of the 815
Revised Code. 816

Upon motion to the probate court and a showing of good 817
cause, the court may make confidential, or remove from 818
confidential status, any file, record, petition, motion, 819
account, or paper, except for an index, docket, or journal, that 820
pertains to a conservatorship and that is in the possession of 821

the court. 822

Sec. 2111.022. (A) A probate court, on its own motion or 823
on application of an interested party, may issue an emergency ex 824
parte order freezing the financial assets of an individual whom 825
the court or applicant has reason to believe is missing or has 826
gone or been taken ~~to another state~~ away if it is reasonably 827
certain that immediate action is required to prevent significant 828
financial harm to the individual. The order may freeze the 829
individual's assets for a period not exceeding seventy-two 830
hours. If the individual is located, a written copy of the order 831
shall be served upon the individual as soon as possible after 832
its issuance. The court, at its first opportunity, shall enter 833
upon its journal a record of the case and, with specificity, the 834
reason for the action. For good cause shown, after notice to the 835
individual and after a hearing, the court may extend the 836
emergency order for a specified period of not more than thirty 837
additional days. 838

(B) The powers of the probate court under this section are 839
in addition to and not in derogation of any powers the court has 840
under division ~~(B)(3)~~ (B)(4) of section 2111.02 of the Revised 841
Code. 842

Sec. 2111.03. A person applying for appointment as a 843
guardian, including, but not limited to, as a limited guardian, 844
pursuant to section 2111.02 of the Revised Code, shall file with 845
the probate court an application that contains a statement of 846
the whole estate of the ward, its probable value, and the 847
probable annual rents of the ward's real property, and that also 848
contains the following: 849

(A) A statement whether the applicant ever has been 850
charged with or convicted of any crime involving theft, physical 851

violence, or sexual, alcohol, or substance abuse, and, if the 852
applicant has been so charged or convicted, the date and place 853
of each charge and each conviction; 854

(B) A statement whether a limited guardianship is sought 855
and, if sought, a specification of the limited powers that are 856
requested and a statement whether the limited guardianship is to 857
be for a definite or indefinite period; 858

(C) In the case of an application for the appointment of a 859
guardian of a minor, all of the following: 860

(1) Name, age, and residence of the minor; 861

(2) Name and residence of each parent of the minor; 862

(3) Name, degree of kinship, age, and address of next of 863
kin of the minor, if no parent is living or if a parent of the 864
minor is absent, under disability, or for other reason cannot be 865
notified; 866

~~(4) Name and residence address of the person having~~ 867
~~custody of the minor.~~The affidavit as set forth in section 868
3127.23 of the Revised Code; 869

(5) The name and contact information of any person 870
nominated in a writing pursuant to section 2111.121 of the 871
Revised Code. 872

(D) In the case of an application for the appointment of a 873
guardian of an alleged incompetent, all of the following: 874

(1) Name, age, and residence of the person for whom such 875
appointment is sought; 876

(2) Facts upon which the application is based; 877

(3) Name, degree of kinship, age, and address of the next 878

of kin of the alleged incompetent; 879

(4) The proposed ward's military service, if applicable; 880

(5) The name and contact information of any person 881
nominated pursuant to division (E) of section 1337.12 of the 882
Revised Code or nominated in a writing pursuant to section 883
2111.121 of the Revised Code; 884

(6) A statement of expert evaluation under Rule 66 of the 885
Rules of Superintendence for the Courts of Ohio, by a licensed 886
physician, licensed clinical psychologist, licensed social 887
worker, licensed professional clinical counselor, clinical nurse 888
specialist who is certified as a psychiatric-mental health CNS 889
by the American nurses credentialing center, certified nurse 890
practitioner who is certified as a psychiatric-mental health NP 891
by the American nurses credentialing center, physician 892
assistant, or other qualified person as determined by the court, 893
who has evaluated or examined the proposed ward within three 894
months prior to the date of the statement of expert evaluation 895
regarding the need for establishing the guardianship. 896

The court, on its own motion, shall proceed as provided in 897
this chapter, upon suggestion by the bureau of workers' 898
compensation that any person who has made application for or 899
been awarded compensation or death benefits as an employee or 900
the dependent of a killed employee is a minor or incompetent. In 901
that case, no application need be filed and the bureau shall 902
furnish the court with the name and residence of such person and 903
the name, degree of kinship, age, and address of the father, 904
mother, or next of kin of such person insofar as known by the 905
bureau. 906

Sec. 2111.031. In connection with an application for the 907

appointment of a guardian for an alleged incompetent, the court 908
may appoint physicians, and other qualified persons as 909
determined by the court, to examine, investigate, or represent 910
the alleged incompetent, to assist the court in deciding whether 911
a guardianship is necessary. Upon application to the court and 912
for good cause shown, the court may order an appropriate 913
emergency medical technician or law enforcement personnel to 914
transport the proposed ward for evaluation. If the person is 915
determined to be an incompetent and a guardian is appointed for 916
the person, the costs, fees, or expenses incurred to so assist 917
the court shall be charged either against the estate of the 918
person or against the applicant, unless the court determines, 919
for good cause shown, that the costs, fees, or expenses are to 920
be recovered from the county, in which case they shall be 921
charged against the county. If the person is not determined to 922
be an incompetent or a guardian is not appointed for the person, 923
the costs, fees, or expenses incurred to so assist the court 924
shall be charged against the applicant, unless the court 925
determines, for good cause shown, that the costs, fees, or 926
expenses are to be recovered from the county, in which case they 927
shall be charged against the county. 928

A court may require the applicant to make an advance 929
deposit of an amount that the court determines is necessary to 930
defray the anticipated costs of examinations of an alleged 931
incompetent and to cover fees or expenses to be incurred to 932
assist it in deciding whether a guardianship is necessary. 933

This section does not affect or apply to the duties of a 934
probate court investigator under sections 2111.04 and 2111.041 935
of the Revised Code. 936

Sec. 2111.04. (A) Except for an interim, successor, or 937

emergency guardian appointed under division (B) (2) ~~or, (3), or~~ (4) of section 2111.02 of the Revised Code, no guardian of the person, the estate, or both shall be appointed until at least seven days after the probate court has caused written notice, setting forth the time and place of the hearing, to be served as follows:

(1) In the appointment of the guardian of a minor, notice shall be served as follows:

(a) Upon the minor, if over the age of ~~fourteen~~ twelve, by personal service;

(b) Upon each parent of the minor whose name and address is known or with reasonable diligence can be ascertained, provided the parent is free from disability other than minority;

(c) Upon the next of kin of the minor who are known to reside in this state, if there is no living parent, the name and address of the parent cannot be ascertained, or the parent is under disability other than minority;

(d) Upon the person having the custody of the minor.

(2) In the appointment of the guardian of an incompetent, notice shall be served as follows:

(a) (i) Upon the person for whom appointment is sought by personal service, by a probate court investigator, or in the manner provided in division (A) (2) (a) (ii) of this section. The notice shall be in boldface type and shall inform the alleged incompetent, in boldface type, of the alleged incompetent's rights to be present at the hearing, to contest any application for the appointment of a guardian for the alleged incompetent's person, estate, or both, and to be represented by an attorney and of all of the rights set forth in division (C) (7) of section

2111.02 of the Revised Code. 967

(ii) If the person for whom appointment is sought is a 968
resident of, or has a legal settlement in, the county in which 969
the court has jurisdiction, but is absent from that county, the 970
probate court may designate, by order, a temporary probate court 971
investigator, in lieu of a regular probate court investigator 972
appointed or designated under section 2101.11 of the Revised 973
Code, to make the personal service of the notice described in 974
division (A) (2) (a) (i) of this section upon the person for whom 975
appointment is sought. 976

(b) Upon the next of kin of the person for whom 977
appointment is sought who are known to reside in this state. 978

(B) After service of notice in accordance with division 979
(A) of this section and for good cause shown, the court may 980
appoint a guardian prior to the time limitation specified in 981
that division. 982

(C) ~~Notice may not be waived by the person for whom the~~ 983
~~appointment is sought.~~For good cause shown, the requirement of 984
notice under division (A) of this section may be waived, except 985
for the notice to the proposed ward. 986

(D) From the service of notice until the hearing, no sale, 987
gift, conveyance, or encumbrance of the property of an alleged 988
incompetent shall be valid as to persons having notice of the 989
proceeding. 990

Sec. 2111.041. (A) At the time of the service of notice 991
upon an alleged incompetent, as required by division (A) (2) (a) 992
of section 2111.04 of the Revised Code, the court shall require 993
a ~~regular~~ probate court investigator appointed or designated 994
under section 2101.11 of the Revised Code or appoint a temporary 995

probate court investigator to investigate the circumstances of 996
the alleged incompetent, and, to the maximum extent feasible, to 997
communicate to the alleged incompetent in a language or method 998
of communication that the alleged incompetent can understand, 999
the alleged incompetent's rights as specified in that division, 1000
and subsequently to file with the court a report that contains 1001
all of the following: 1002

(1) A statement indicating that the notice was served and 1003
describing the extent to which the alleged incompetent's rights 1004
to be present at the hearing, to contest any application for the 1005
appointment of a guardian for the alleged incompetent's person, 1006
estate, or both, and to be represented by an attorney were 1007
communicated to the alleged incompetent in a language or method 1008
of communication understandable to the alleged incompetent; 1009

(2) A brief description, as observed by the investigator, 1010
of the physical and mental condition of the alleged incompetent; 1011

(3) A recommendation regarding the necessity for a 1012
guardianship or a less restrictive alternative; 1013

(4) A recommendation regarding the necessity of appointing 1014
pursuant to section 2111.031 of the Revised Code, an attorney to 1015
represent the alleged incompetent. 1016

(B) The report that is required by division (A) of this 1017
section shall be made a part of the record in the case and shall 1018
be considered by the court prior to establishing any 1019
guardianship for the alleged incompetent. 1020

Sec. 2111.05. (A) When the whole estate of a ward does not 1021
exceed twenty-five thousand dollars in value, the guardian may 1022
apply to the probate court for an order to terminate the 1023
guardianship of the estate. Upon proof that it would be for the 1024

best interest of the ward to terminate the guardianship, the 1025
court may order the guardianship terminated, ~~and direct the~~ 1026
~~guardian, if.~~ 1027

(1) If the ward is a minor, the court may direct the 1028
guardian to deposit the assets of the guardianship in a 1029
depository authorized to receive fiduciary funds, payable to the 1030
ward when the ward attains minor upon attaining the age of 1031
majority, or the court may authorize the delivery of the assets 1032
to the natural guardian of the minor, to the person by whom the 1033
minor is maintained, to the executive director of children 1034
services in the county, or to the minor's own self. A receipt 1035
verifying the deposit of assets shall be submitted to the court. 1036
Release of any funds held in a depository for the benefit of the 1037
minor shall be by court order, including the release of funds to 1038
the minor upon attaining the age of majority. In the alternative 1039
and for good cause shown, the court may direct the guardian to 1040
deliver the assets to a suitable person. The person receiving 1041
the assets shall hold and dispose of them in the manner the 1042
court directs. 1043

(2) If the ward is an incompetent, and the court orders 1044
the guardianship terminated, the court may authorize the deposit 1045
of the assets of the guardianship in a depository authorized to 1046
receive fiduciary funds in the name of a suitable person to be 1047
designated by the court, or if. A receipt verifying the deposit 1048
of assets shall be submitted to the court. Release of any funds 1049
held in a depository for the benefit of the incompetent shall be 1050
by court order. If the assets do not consist of money, the court 1051
may authorize delivery to a suitable person to be designated by 1052
the court. The person receiving the assets shall hold and 1053
dispose of them in the manner the court directs. 1054

(B) If the court refuses to grant the application to 1055
terminate the guardianship, or if no such application is 1056
presented to the court, the guardian only shall be required to 1057
render account upon the termination of the guardianship, upon 1058
order of the probate court made ~~upon~~on its own motion, or upon 1059
the order of the court made on the motion of a person interested 1060
in the wards or their property, for good cause shown, and set 1061
forth upon the journal of the court. 1062

(C) If the estate of a minor is twenty-five thousand 1063
dollars or less ~~and the ward is a minor~~, the court, without the 1064
appointment of a guardian by the court, or if a guardian is 1065
appointed by the court, without the giving of bond, may 1066
authorize the deposit in a depository authorized to receive 1067
fiduciary funds, payable to the guardian when appointed, or to 1068
the ~~ward when the ward attains minor~~ upon attaining the age of 1069
majority, ~~or the court may authorize delivery to the natural~~ 1070
~~guardian of the minor, to the person by whom the minor is~~ 1071
~~maintained, to the executive director who is responsible for the~~ 1072
~~administration of children services in the county, or to the~~ 1073
~~minor's own self.~~ A receipt verifying the deposit of assets 1074
shall be submitted to the court. Release of any funds held in a 1075
depository for the benefit of the minor shall be by court order, 1076
including the release of the funds to the minor upon attaining 1077
the age of majority. In the alternative and for good cause 1078
shown, the court may authorize delivery of the assets to a 1079
suitable person. The person receiving the assets shall hold and 1080
dispose of them in the manner the court directs. 1081

(D) If the whole estate of a person ~~over~~eighteen years of 1082
age or older, who has been adjudged incompetent, does not exceed 1083
twenty-five thousand dollars in value, the court, without the 1084
appointment of a guardian by the court or if a guardian is 1085

appointed by the court, without the giving of bond, may 1086
authorize the deposit of the estate assets in a depository 1087
authorized to receive fiduciary funds in the name of a suitable 1088
person to be designated by the court, ~~or if.~~ A receipt verifying 1089
the deposit of assets shall be submitted to the court. Release 1090
of any funds held in a depository for the benefit of the 1091
incompetent shall be by court order. If the assets do not 1092
consist of money, the court may authorize delivery to a suitable 1093
person to be designated by the court. The person receiving the 1094
assets shall hold and dispose of them in the manner the court 1095
directs. 1096

Sec. 2111.06. (A) If the powers of the person appointed as 1097
guardian of a minor or incompetent are not limited by the order 1098
of appointment, the person shall be guardian both of the person 1099
and estate of the ward. In every instance, the court shall 1100
appoint the same person as guardian of the person and estate of 1101
the ward, unless in the opinion of the court the interests of 1102
the ward will be promoted by the appointment of different 1103
persons as guardians of the person and of the estate. 1104

(B) A guardian of the person of an incompetent shall 1105
oversee the physical placement, maintenance, and care of the 1106
ward. 1107

(C) A guardian of the person of a minor shall be appointed 1108
as to a minor having no ~~father or mother~~ living parent, whose 1109
parents are unsuitable persons to have the custody of the minor 1110
~~and to provide for the education of the minor as required by~~ 1111
~~section 3321.01 of the Revised Code,~~ or whose interests, in the 1112
opinion of the court, will be promoted by the appointment of a 1113
guardian. ~~A guardian of the person shall have the custody and~~ 1114
~~provide for the maintenance of the ward, and if the ward is a~~ 1115

~~minor, the guardian shall also provide for the education of the~~ 1116
~~ward as required by section 3321.01 of the Revised Code.~~ 1117

(D) (1) A guardian of the person of a minor shall have the 1118
legal custody of the minor. 1119

(2) As used in division (D) (1) of this section, "legal 1120
custody" means a legal status that vests in the custodian the 1121
right to have physical care and control of the minor, and to 1122
determine where and with whom the minor shall live, and the 1123
right and duty to protect, train, and discipline the minor and 1124
to provide the minor with food, shelter, education, and medical 1125
care, all subject to any residual parental rights, privileges, 1126
and responsibilities. 1127

(E) Before exercising its jurisdiction to appoint a 1128
guardian of a minor, the court shall comply with the 1129
jurisdictional standards of sections 3127.01 to 3127.53 of the 1130
Revised Code. 1131

Sec. 2111.08. ~~The wife and husband are the joint natural~~ 1132
~~guardians of their minor children and are equally charged with~~ 1133
~~their care, nurture, welfare, and education and the care and~~ 1134
~~management of their estates. The wife and husband have equal~~ 1135
~~powers, rights, and duties and neither parent has any right~~ 1136
~~paramount to the right of the other concerning the parental~~ 1137
~~rights and responsibilities for the care of the minor or the~~ 1138
~~right to be the residential parent and legal custodian of the~~ 1139
~~minor, the control of the services or the earnings of such~~ 1140
~~minor, or any other matter affecting the minor; provided that if~~ 1141
~~either parent, to the exclusion of the other, is maintaining and~~ 1142
~~supporting the child, that parent shall have the paramount right~~ 1143
~~to control the services and earnings of the child. Neither~~ 1144
~~parent shall forcibly take a child from the guardianship of the~~ 1145

~~parent who is the residential parent and legal custodian of the~~ 1146
~~child.~~ 1147

~~If the wife and husband live apart, the court may award~~ 1148
~~the guardianship of a minor to either parent, and the state in~~ 1149
~~which the parent who is the residential parent and legal~~ 1150
~~custodian or who otherwise has the lawful custody of the minor~~ 1151
~~resides has jurisdiction to determine questions concerning the~~ 1152
~~minor's guardianship.~~ 1153
Married parents are the joint natural 1153
guardians of their minor children. 1154

Sec. 2111.091. No attorney who represents ~~any other person~~ 1155
~~and who is appointed as a~~ guardian under this chapter or under 1156
any other provision of the Revised Code shall do either of the 1157
following: 1158

(A) Act as a person with co-responsibility for any 1159
guardianship asset for which the guardian is responsible; 1160

(B) Be a cosignatory on any financial account related to 1161
the guardianship, including any checking account, savings 1162
account, or other banking or trust account. 1163

Sec. 2111.12. (A) A minor over the age of ~~fourteen~~twelve 1164
years may select a guardian who shall be appointed if a suitable 1165
person. If a minor over the age of ~~fourteen~~twelve years fails 1166
to select a suitable person, an appointment may be made without 1167
reference to the minor's wishes. The minor shall not select one 1168
person to be the guardian of the minor's estate only and another 1169
to be the guardian of the person only, unless the court that 1170
appoints the guardian is of the opinion that the interests of 1171
that minor will be promoted by that selection. 1172

(B) A surviving parent by a will in writing may ~~appoint~~ 1173
nominate a guardian for any of the surviving parent's children, 1174

whether born at the time of making the will or afterward, to 1175
continue during the minority of the child or for a less time. 1176

When the ~~father or mother~~ parent of a minor ~~names~~ 1177
nominates a person as guardian of the estate of that minor in a 1178
will, the person ~~named~~ nominated shall have preference in 1179
appointment over the person selected by the minor. A person 1180
~~named~~ nominated in that will as guardian of the person of that 1181
minor shall have no preference in appointment over the person 1182
selected by the minor, but in that event the probate court may 1183
appoint the person named in the will, the person selected by the 1184
minor, or some other person. 1185

~~Whenever a testamentary guardian is appointed, the~~ 1186
~~testamentary guardian's duties, powers, and liabilities in all~~ 1187
~~other respects shall be governed by the law regulating guardians~~ 1188
~~not appointed by will.~~ 1189

(C) A parent pursuant to a durable power of attorney under 1190
section 1337.24 of the Revised Code or a writing as described in 1191
division (A) of section 2111.121 of the Revised Code may 1192
nominate a person to be a guardian for one or more of the 1193
parent's minor children, whether born at the time of the making 1194
of the nomination or afterward. 1195

Sec. 2111.13. (A) When a guardian is appointed to have the 1196
custody and maintenance of a ward, and to have charge of the 1197
education of the ward if the ward is a minor, the guardian's 1198
duties are as follows: 1199

(1) To ~~protect and control the person~~ oversee the physical 1200
placement, maintenance, and care of the ward; 1201

(2) To provide suitable maintenance for the ward when 1202
necessary, which shall be paid out of the estate of such ward 1203

upon the order of the guardian of the person; 1204

(3) To provide ~~such the~~ maintenance and education for such 1205
ward ~~as that~~ the amount of the ward's estate justifies when the 1206
ward is a minor and has no ~~father or mother~~parent, or has a 1207
~~father or mother~~parent who fails to maintain or educate the 1208
ward, which shall be paid out of such ward's estate upon the 1209
order of the guardian of the person; 1210

(4) To obey all the orders and judgments of the probate 1211
court touching the guardianship; 1212

(5) To identify both family and nonfamily members with 1213
whom the ward desires to communicate, and to facilitate the 1214
contact that the guardian believes is in the best interest of 1215
the ward. Any dispute regarding visitation of the ward shall be 1216
reviewed as provided in Rule 66 of the Rules of Superintendence 1217
for the Courts of Ohio. 1218

(B) Except as provided in section 2111.131 of the Revised 1219
Code, no part of the ward's estate shall be used for the 1220
support, maintenance, or education of such ward unless ordered 1221
and approved by the court. 1222

(C) A guardian of the person may authorize or approve the 1223
provision to the ward of medical, health, or other professional 1224
care, counsel, treatment, or services unless the ward or an 1225
interested party files objections with the probate court, or the 1226
court, by rule or order, provides otherwise. 1227

(D) Unless a person with the right of disposition for a 1228
ward under section 2108.70 or 2108.81 of the Revised Code has 1229
made a decision regarding whether or not consent to an autopsy 1230
or post-mortem examination on the body of the deceased ward 1231
under section 2108.50 of the Revised Code shall be given, a 1232

guardian of the person of a ward who has died may consent to the 1233
autopsy or post-mortem examination. 1234

(E) If a deceased ward did not have a guardian of the 1235
estate, the estate is not required to be administered by a 1236
probate court, and a person with the right of disposition for a 1237
ward, as described in section 2108.70 or 2108.81 of the Revised 1238
Code, has not made a decision regarding the disposition of the 1239
ward's body or remains, the guardian of the person of the ward 1240
may authorize the burial or cremation of the ward. 1241

(F) A guardian who gives consent or authorization as 1242
described in divisions (D) and (E) of this section shall notify 1243
the probate court as soon as possible after giving the consent 1244
or authorization. 1245

Sec. 2111.131. (A) The probate court may enter an order 1246
that authorizes a person under a duty to pay or deliver money or 1247
personal property to a minor who does not have a guardian of the 1248
person and estate or a guardian of the estate, to perform that 1249
duty in ~~amounts~~ an amount not exceeding ~~five-twenty-five~~ 1250
thousand dollars ~~annually~~, by paying or delivering the money or 1251
property to any of the following: 1252

(1) The guardian of the person only of the minor; 1253

(2) The minor's natural guardians, if any, as determined 1254
pursuant to section 2111.08 of the Revised Code; 1255

(3) The minor; 1256

(4) Any person who has the care and custody of the minor 1257
and with whom the minor resides, other than a guardian of the 1258
person only or a natural guardian; 1259

(5) A financial institution incident to a deposit in a 1260

federally insured savings account in the sole name of the 1261
minor~~r~~. A receipt verifying the deposit shall be submitted to 1262
the court. Release of any funds held in a depository for the 1263
benefit of the minor shall be upon court order, including the 1264
release of funds to the minor upon attaining the age of 1265
majority. 1266

(6) A custodian designated by the court in its order, for 1267
the minor under sections 5814.01 to 5814.10 of the Revised Code; 1268

(7) A trust for the benefit of the minor pursuant to 1269
section 2111.182 of the Revised Code. 1270

(B) An order entered pursuant to division (A) of this 1271
section authorizes the person or entity specified in it, to 1272
receive the money or personal property on behalf of the minor 1273
from the person under the duty to pay or deliver it, in ~~amounts~~ 1274
an amount not exceeding five-twenty-five thousand dollars 1275
annually. Money or personal property so received by guardians of 1276
the person only, natural guardians, and custodians as described 1277
in division (A) (4) of this section may be used by them only for 1278
the support, maintenance, or education of the minor involved. 1279
The order of the court is prima-facie evidence that a guardian 1280
of the person only, a natural guardian, or a custodian as 1281
described in division (A) (4) of this section has the authority 1282
to use the money or personal property received. 1283

(C) A person who pays or delivers moneys or personal 1284
property in accordance with a court order entered pursuant to 1285
division (A) of this section is not responsible for the proper 1286
application of the moneys or property by the recipient. 1287

Sec. 2111.18. (A) If personal injury, damage to tangible 1288
or intangible property, or damage or loss on account of personal 1289

injury or damage to tangible or intangible property is caused to 1290
a ward by wrongful act, neglect, or default that would entitle 1291
the ward to maintain an action and recover damages for the 1292
injury, damage, or loss, and when any ward is entitled to 1293
maintain an action for damages or any other relief based on any 1294
claim or is subject to any claim to recover damages or any other 1295
relief based on any claim, the guardian of the estate of the 1296
ward may adjust and settle the claim with the advice, approval, 1297
and consent of the probate court. 1298

If it is proposed that a claim be settled for the net 1299
amount of twenty-five thousand dollars or less after payment of 1300
fees and expenses as allowed by the court, the court, upon 1301
application by a guardian of the person of the ward, or any 1302
suitable person whom the court may authorize to receive and 1303
receipt for the settlement, may authorize the settlement without 1304
the appointment of a guardian of the estate of the ward and 1305
authorize the delivery of the moneys as provided in section 1306
2111.05 of the Revised Code. The court may authorize the person 1307
receiving the moneys to execute a complete release on account of 1308
the receipt. The payment shall be a complete and final discharge 1309
of that claim. In the settlement, if the ward is a minor, the 1310
parent or parents of the minor may waive all claim for damages 1311
on account of loss of service of the minor, and that claim may 1312
be included in the settlement. 1313

(B) Nothing in this section is intended to create or imply 1314
a duty upon a guardian of the person of the ward to apply for 1315
authority to exercise any power authorized in this section. No 1316
inference of impropriety or liability of a guardian of the 1317
person of the ward or others associated with the guardian of the 1318
person of the ward arises as a result of the guardian of the 1319
person of the ward not applying for authority to exercise a 1320

power authorized in this section. 1321

Sec. 2111.181. If personal injury, damage to tangible or 1322
intangible property, or damage or loss on account of personal 1323
injury or damage to tangible or intangible property is caused to 1324
a minor who claims to be emancipated, by wrongful act, neglect, 1325
or default that would entitle the minor to maintain an action 1326
and recover damages for the injury, damage, or loss, and if any 1327
minor who claims to be emancipated is entitled to maintain an 1328
action for damages or any other relief based on any claim, or is 1329
subject to any claim to recover damages or any other relief 1330
based on any claim, the minor who claims to be emancipated may 1331
file an application in the probate court in the county where the 1332
minor then resides, praying for a finding by the court that the 1333
minor is in fact emancipated for the sole purpose of settlement 1334
of the claim, and authorizing, approving, and consenting to the 1335
settlement of the claim by the minor without the appointment of 1336
a guardian. 1337

Upon a hearing on the application, after five days' 1338
written notice of the time and place of the hearing has been 1339
given to each of the living parents of the minor, whose name and 1340
address is known, provided the parent is free from disability 1341
other than minority, or, if there is no living parent, after 1342
that notice to the next of kin of the minor known to reside in 1343
the county, the court may find the minor to be emancipated, may 1344
authorize, approve, and consent to the settlement of the claim 1345
by the minor without the appointment of a guardian, may 1346
authorize the minor to receive and receipt for the settlement, 1347
and, upon the minor executing and delivering a full and complete 1348
release for the injuries, damages, losses, or claims, may 1349
authorize the delivery and payment of the moneys to the minor, 1350
to a trustee or guardian of the estate of the minor appointed by 1351

the court for the benefit of the minor, or to a depository 1352
authorized to receive fiduciary funds to hold the moneys payable 1353
to the ~~ward~~ minor when the ~~ward~~ minor attains the age of 1354
majority, or for the benefit of the minor, as the court may 1355
direct. 1356

Upon the finding of the probate court that the minor was, 1357
at the time of the injury, damage, loss, or claim, an 1358
emancipated minor, and provided the notice required by this 1359
section has been given to each living parent, whose name and 1360
address is known, then the release executed by the emancipated 1361
minor shall be a full and complete discharge and release of any 1362
claim that either or both of the parents might have by reason of 1363
the personal injury, damage to tangible or intangible property, 1364
damage or loss on account of personal injury, or damage to 1365
tangible or intangible property, or any other claim of the 1366
minor. 1367

Sec. 2111.19. A guardian, whether appointed by a court in 1368
this state or elsewhere, may complete the contracts of the ward 1369
for the purchase or sale of real property ~~or~~. An appointed 1370
successor guardian may complete any authorized contract relating 1371
to real property entered into by a guardian who has died or been 1372
removed. The appointed successor guardian shall proceed in the 1373
manner provided by sections 2113.48 to 2113.50 of the Revised 1374
Code. 1375

Sec. 2111.20. The guardian of the person and estate, or of 1376
the estate only, may sell all or any part of the personal 1377
property of the ward if the sale is for the best interest of the 1378
ward, with prior court approval. 1379

Sec. 2111.23. Whenever a ward, for whom a guardian of the 1380
estate or of the person and estate has been appointed, is 1381

interested in any suit or proceeding in the probate court, such 1382
guardian shall in all such suits or proceedings act as guardian 1383
ad litem for such ward, except as to suits or proceedings in 1384
which the guardian has an adverse interest. In a suit or 1385
proceeding in which the guardian has an adverse interest, the 1386
court shall appoint a guardian ad litem to represent that ward. 1387

Whenever a minor or other person under legal disability, 1388
for whom no guardian of the estate or of the person and estate 1389
has been appointed, is interested in any suit or proceeding in 1390
such court, the court may appoint a guardian or a guardian ad 1391
litem. ~~In a suit or proceeding in which the guardian has an~~ 1392
~~adverse interest, the court shall appoint a guardian ad litem to~~ 1393
~~represent such minor or other person under legal disability.~~ 1394

Sec. 2111.26. A guardian may lease ~~the possession and use~~ 1395
~~of to others~~ the real property of the ~~guardian's~~ ward or any 1396
part of it for a term of years, renewable or otherwise, by 1397
perpetual lease, with or without the privilege of purchase, or 1398
may lease upon the terms and for the time that the probate court 1399
approves any lands belonging to the ward containing coal, 1400
gypsum, petroleum oil, natural gas, gravel, stone, or any other 1401
mineral substance for the purpose of drilling, mining, or 1402
excavating for and removing any of those substances, or the 1403
guardian may modify or change in any respect any lease 1404
previously made. 1405

The lease, or modification or change in a lease previously 1406
made, may be made when the guardian of the person and estate or 1407
of the estate only applies to the court by which the guardian 1408
was appointed and the court finds that the lease or modification 1409
or change is necessary for the support of the ward or of the 1410
ward's family, for the payment of the just debts of the ward, 1411

for the ward's education, if a minor, to secure the improvement 1412
of the real property of the ward and increase the rent, to pay 1413
any liens or claims against the real property, if the court 1414
finds that the real property is suffering unavoidable waste, or 1415
that in any other respect it will be for the best interests of 1416
the ward or those persons for whom the ward is required by law 1417
to provide. 1418

Sec. 2111.33. (A) ~~A~~ Upon motion, a guardian may use the 1419
moneys and personal property of the guardian's ward to improve 1420
the ward's real property. The guardian shall file in the probate 1421
court in which the guardian was appointed a ~~petition~~ motion 1422
containing the following: 1423

- (1) A description of the premises to be improved; 1424
- (2) ~~The~~ If applicable, the amount of rent the premises 1425
yield at the time the ~~petition~~ motion is filed; 1426
- (3) In what manner the improvement is proposed to be made; 1427
- (4) The proposed expenditures for the improvement; 1428
- (5) The rent the premises will probably yield when so 1429
improved, if any; 1430
- (6) A statement of the value of the ward's personal 1431
property; 1432
- (7) Other facts that are pertinent to the question whether 1433
the improvement should be made; 1434
- ~~(8) A prayer that the guardian be authorized to use so~~ 1435
~~much of the ward's money and personal property that is necessary~~ 1436
~~to make the improvement;~~ 1437
- ~~(9) The character of the disability of the ward, and if it~~ 1438

~~is incompetency, whether the disability is curable or not,
temporary, or confirmed, and its duration;~~ 1439
1440

~~(10) The names, ages, and residence of the family of the
ward, including the spouse and those known to be residents of
the county who have the next estate of inheritance from the
ward. All of those persons, as well as the ward, shall be made
defendants and notified of the pendency and prayer of the
petition in the manner that the court directs.~~ 1441
1442
1443
1444
1445
1446

~~(B) If the property is so situated that, to the best
interests of the ward's estate, it can be advantageously
improved in connection with the improvement of property adjacent
to it, the petition shall show this and have a prayer to so
improve the property.~~ 1447
1448
1449
1450
The court may appoint a guardian ad litem to
report to the court the guardian ad litem's opinion whether the
improvement proposed will be necessary, reasonable, and
beneficial to the estate of the ward. 1451
1452
1453
1454

Sec. 2111.37. ~~If a nonresident minor, or incompetent, or~~ 1455
~~person confined in a state, charitable, or correctional~~ 1456
~~institution~~ has real property or rights, credits, moneys, or 1457
other personal property in this state, the probate court of the 1458
county in which the property or a part of it is situated may 1459
appoint a resident guardian of the ward to manage, collect, 1460
lease, and take care of the ward's property. The appointment may 1461
be made whether or not a ward has a guardian, trustee, or other 1462
conservator in the state of the ward's residence, and, if the 1463
ward has a guardian, trustee, or other conservator in the state 1464
of the ward's residence, the control and authority of the 1465
resident guardian appointed in this state shall be superior as 1466
to all property of the ward in this state. 1467

The first appointment of a resident guardian of a 1468

nonresident ward shall extend to all the property and effects of 1469
the ward in this state and exclude the jurisdiction of the 1470
probate court of any other county. 1471

Sec. 2111.38. The resident guardian of a nonresident ward 1472
shall give bond and be bound and controlled by all the statutes 1473
of this state as though the resident guardian were a guardian of 1474
a ward resident in this state, and shall have all of the 1475
authority of a guardian of a resident ward including the 1476
authority to lease or sell real property belonging to the ward. 1477

Unless removed by the probate court, a resident guardian 1478
of a nonresident minor shall hold that appointment until the 1479
minor dies or arrives at the age of majority, whether or not the 1480
minor ~~is was~~ over fourteen years of age at the time of 1481
appointment prior to the effective date of this section or 1482
whether or not the minor is over twelve years of age at the time 1483
of appointment on or after the effective date of this section. A 1484
resident guardian of any other nonresident ward shall hold that 1485
appointment until the death of the ward or until the court is 1486
satisfied that the necessity for the guardianship no longer 1487
exists. 1488

All moneys due to the nonresident ward while the resident 1489
guardianship continues shall be paid over to the ward's foreign 1490
guardian ~~so far as necessary or proper for the ward's support~~ 1491
~~and maintenance~~ if it is in the ward's best interest. If the ward 1492
dies, the moneys shall be paid to the ward's ancillary 1493
administrator or other legal representative, provided that the 1494
court that appointed the resident guardian has satisfactory 1495
proof, as provided by section 2111.39 of the Revised Code, of 1496
the authority of the foreign guardian, administrator, or other 1497
legal representative to receive the moneys or properties of the 1498

nonresident ward, that the security given by the foreign 1499
guardian, administrator, or other legal representative is 1500
sufficient to protect the ward's interest or estate, and that 1501
the court considers it best for the ward or the ward's estate. 1502

Sec. 2111.39. When a foreign legal representative of a 1503
nonresident ~~ward~~minor or incompetent applies to have all or any 1504
of the moneys or property in the possession or under the control 1505
of the resident guardian of the ~~ward~~nonresident minor or
incompetent paid or delivered to the foreign representative, the 1506
foreign representative shall file a petition or motion in the 1507
probate court by which the resident guardian was appointed. The 1508
resident guardian shall be given thirty days' notice of the time 1509
of hearing on the petition or motion, and the foreign 1510
representative shall produce an exemplification under the seal 1511
of the office, if there is a seal, of the proper court of the 1512
state of the foreign representative's residence containing all 1513
the entries on record in relation to the foreign 1514
representative's appointment and qualification, authenticated as 1515
required by the act of congress in those cases. Upon the 1516
hearing, the court shall make an order that it considers for the 1517
best interests of the nonresident ~~ward~~minor or the nonresident-
~~ward's estate~~incompetent. 1518
1519
1520

Sec. 2111.44. ~~Applications~~Proceedings for the sale of real 1521
property by resident guardians of ~~wards who live out of this-~~ 1522
~~state~~nonresident minors or incompetents shall be made in the 1523
county in which the land is situated. If the real property is 1524
situated in two or more counties, the ~~application~~proceedings 1525
shall be ~~made~~commenced in one of the counties in which a part 1526
of it is situated. Additional ~~security that bond~~ may be ~~approved-~~ 1527
ordered by the ~~probate~~ court of the county in which the 1528
~~application is made~~ shall be required from the guardian 1529

proceedings are commenced if considered necessary and in the 1530
nonresident minor's or incompetent's best interest. 1531

Sec. 2111.46. When a guardian has been appointed for a 1532
minor before the minor is over ~~fourteen~~twelve years of age, the 1533
guardian's power shall continue until the ward arrives at the 1534
age of majority, unless removed for good cause or unless the 1535
ward selects another suitable guardian. After the selection is 1536
made and approved by the probate court and the person selected 1537
is appointed and qualified, the powers of the former guardian 1538
shall cease. The former guardian's final account as guardian 1539
shall then be filed and settled in court. 1540

Upon the termination of a guardianship of the person, 1541
estate, or both of a minor before the minor reaches eighteen 1542
years of age, if a successor guardian is not appointed and if 1543
the court finds that the minor is without proper care, the court 1544
shall certify a copy of its finding together with as much of the 1545
record and any further information that the court considers 1546
necessary, or as the juvenile court may request, to the juvenile 1547
court for further proceedings. Upon that certification, the 1548
juvenile court shall have exclusive jurisdiction respecting the 1549
minor. 1550

Sec. 2111.47. (A) Except as provided in this division, for 1551
any guardianship of an incompetent, upon written request by the 1552
ward, the ward's attorney, or any interested party made at any 1553
time after the original appointment of the guardian, a hearing 1554
shall be held in accordance with section 2111.02 of the Revised 1555
Code to evaluate the continued necessity of the guardianship. 1556
Upon written request by the ward, the ward's attorney, or any 1557
interested party, the court shall conduct a minimum of one 1558
hearing under this division in the calendar year in which the 1559

guardian was appointed, and upon such written request, shall 1560
conduct a minimum of one hearing in each of the following 1561
calendar years. On its own motion or upon written request by the 1562
ward, the ward's attorney, or any interested party, the court 1563
may, in its discretion, conduct a hearing within the first one 1564
hundred twenty days after appointment of the guardian or conduct 1565
more than one hearing in a calendar year. 1566

(B) If the ward alleges competence, the burden of proving 1567
incompetence shall be upon the guardian, by clear and convincing 1568
evidence. The statement of expert evaluation filed with the 1569
application for appointment of the guardian or the most recent 1570
statement of expert evaluation filed with the guardian's annual 1571
or biennial report, or both statements, may satisfy the 1572
guardian's burden of proof unless contradicted by medical 1573
evidence or a statement from a licensed physician, licensed 1574
clinical psychologist, licensed social worker, licensed 1575
professional clinical counselor, clinical nurse specialist who 1576
is certified as a psychiatric-mental health CNS by the American 1577
nurses credentialing center, certified nurse practitioner who is 1578
certified as a psychiatric-mental health NP by the American 1579
nurses credentialing center, physician assistant, or 1580
developmental disabilities team member, submitted by the ward. 1581

(C) Upon reasonable notice to the guardian, to the ward, 1582
and to the person on whose application the appointment was made, 1583
and upon satisfactory proof that the necessity for the 1584
guardianship no longer exists or that the letters of appointment 1585
were improperly issued, the probate court shall order that the 1586
guardianship of an incompetent terminate and shall make an 1587
appropriate entry upon the journal. ~~Thereupon~~ Upon such entry, 1588
the guardianship shall cease, the accounts of the guardian shall 1589
be settled by the court, and the ward shall be restored to the 1590

full control of the ward's property as before the appointment. 1591
~~Such~~The entry terminating the guardianship of an incompetent 1592
person shall have the same effect as a determination by the 1593
court that such person is competent. 1594

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 1595
section, the guardian of an incompetent person shall file a 1596
guardian's report with the court two years after the date of the 1597
issuance of the guardian's letters of appointment and biennially 1598
after that time, or at any other time upon the motion or a rule 1599
of the probate court. The report shall be in a form prescribed 1600
by the court and shall include all of the following. 1601

(a) The present address of the place of residence of the 1602
ward; 1603

(b) The present address of the guardian; 1604

(c) If the place of residence of the ward is not the 1605
ward's personal home, the name of the facility at which the ward 1606
resides and the name of the person responsible for the ward's 1607
care; 1608

(d) The approximate number of times during the period 1609
covered by the report that the guardian has had contact with the 1610
ward, the nature of those contacts, and the date that the ward 1611
was last seen by the guardian; 1612

(e) Any major changes in the physical or mental condition 1613
of the ward observed by the guardian; 1614

(f) The opinion of the guardian as to the necessity for 1615
the continuation of the guardianship; 1616

(g) The opinion of the guardian as to the adequacy of the 1617
present care of the ward; 1618

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

(i) A statement by a licensed physician, licensed clinical
psychologist, licensed independent social worker, licensed
professional clinical counselor, clinical nurse specialist who
is certified as a psychiatric-mental health CNS by the American
nurses credentialing center, certified nurse practitioner who is
certified as a psychiatric-mental health NP by the American
nurses credentialing center, physician assistant, or
developmental disability team ~~that~~ member, or other qualified
person who has evaluated or examined the ward within three
months prior to the date of the report as to the need for
continuing the guardianship. The court may waive the requirement
of filing further biennial statements of expert evaluation if,
in the opinion of the qualified evaluator, it is reasonably
certain that the ward's condition will not improve and that the
necessity for guardianship will continue to exist.

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

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

(B) If, upon review of any report required by division (A) 1649
(1) of this section, the court finds that it is necessary to 1650
intervene in a guardianship, the court shall take any action 1651
that it determines is necessary, including, but not limited to, 1652
terminating or modifying the guardianship. 1653

~~(C) Except as provided in this division, for any 1654
guardianship, upon written request by the ward, the ward's 1655
attorney, or any other interested party made at any time after 1656
the expiration of one hundred twenty days from the date of the 1657
original appointment of the guardian, a hearing shall be held in 1658
accordance with section 2111.02 of the Revised Code to evaluate 1659
the continued necessity of the guardianship. Upon written 1660
request, the court shall conduct a minimum of one hearing under 1661
this division in the calendar year in which the guardian was 1662
appointed, and upon written request, shall conduct a minimum of 1663
one hearing in each of the following calendar years. Upon its 1664
own motion or upon written request, the court may, in its 1665
discretion, conduct a hearing within the first one hundred 1666
twenty days after appointment of the guardian or conduct more 1667
than one hearing in a calendar year. If the ward alleges 1668
incompetence, the burden of proving incompetence shall be upon the 1669
applicant for guardianship or the guardian, by clear and 1670
convincing evidence. 1671~~

Sec. 2111.50. (A) (1) At all times, the probate court is 1672
the superior guardian of wards who are subject to its 1673
jurisdiction, and all guardians who are subject to the 1674
jurisdiction of the court shall obey all orders of the court 1675
that concern their wards or guardianships. 1676

(2) (a) Subject to divisions (A) (2) (b) and (c) of this 1677
section, the control of a guardian over the person, the estate, 1678

or both of the guardian's ward is limited to the authority that 1679
is granted to the guardian by the Revised Code, relevant 1680
decisions of the courts of this state, and orders or rules of 1681
the probate court. 1682

(b) Except for the powers specified in division (E) of 1683
this section and unless otherwise provided in or inconsistent 1684
with another section of the Revised Code, the probate court may 1685
confer upon a guardian any power that this section grants to the 1686
probate court in connection with wards. Nothing in this section 1687
is intended to create or imply a duty upon a guardian to apply 1688
for authority to exercise any power authorized in this section. 1689
No inference of impropriety or liability of the guardian or 1690
others associated with the guardian shall arise as a result of a 1691
guardian not applying for authority to exercise a power 1692
authorized in this section. 1693

(c) For good cause shown, the probate court may limit or 1694
deny, by order or rule, any power that is granted to a guardian 1695
by a section of the Revised Code or relevant decisions of the 1696
courts of this state. 1697

(B) In connection with any person whom the probate court 1698
has found to be an incompetent or a minor subject to 1699
guardianship and for whom the court has appointed a guardian, 1700
the court has, subject to divisions (C) to (E) of this section, 1701
all the powers that relate to the person and estate of the ward 1702
and that the ward could exercise if present and not a minor or 1703
under a disability, except the power to make or revoke a will. 1704
These powers include, but are not limited to, the power to do 1705
any of the following: 1706

(1) Convey, release, or disclaim the present, contingent, 1707
or expectant interests in real or personal property of the ward, 1708

including, but not limited to, dower and any right of	1709
survivorship incident to a transfer on death designation,	1710
payable on death designation, survivorship tenancy, joint	1711
tenancy, or tenancy by the entirety;	1712
(2) Exercise, release, or disclaim powers as a trustee,	1713
personal representative, custodian for a minor, guardian, or	1714
donee of a power of appointment;	1715
(3) Subject to division (B) (4) of this section, enter into	1716
contracts that may not extend beyond the minority, disability,	1717
or life of the ward;	1718
(4) Create, amend, or revoke revocable trusts of property	1719
of the estate of the ward that may extend beyond the minority,	1720
disability, or life of the ward;	1721
(5) Exercise options to purchase securities or other	1722
property;	1723
(6) Exercise rights to elect options under annuities and	1724
insurance policies, including changing beneficiaries of	1725
insurance policies, retirement plans, individual retirement	1726
accounts, and annuities, and to surrender an annuity or	1727
insurance policy for its cash value;	1728
(7) Exercise the right to an elective share in the estate	1729
of the deceased spouse of the ward pursuant to Chapter 2106. of	1730
the Revised Code;	1731
(8) Make gifts, in trust or otherwise, to relatives of the	1732
ward and, consistent with any prior pattern of the ward of	1733
giving to charities or of providing support for friends, to	1734
charities and friends of the ward.	1735
(C) Except for the powers specified in division (D) of	1736

this section, all powers of the probate court that are specified 1737
in this chapter and that relate either to any person whom it has 1738
found to be an incompetent or a minor subject to guardianship 1739
and for whom it has appointed a guardian and all powers of a 1740
guardian that relate to the guardian's ward or guardianship as 1741
described in division (A) (2) of this section, shall be exercised 1742
in the best interest, as determined in the court's or guardian's 1743
judgment, of the following: 1744

(1) The ward whom the probate court has found to be an 1745
incompetent or a minor subject to guardianship; 1746

(2) The dependents of the ward; 1747

(3) The members of the household of the ward. 1748

(D) If the court is to exercise or direct the exercise, 1749
pursuant to division (B) of this section, of the power to make 1750
gifts in trust or otherwise, the following conditions shall 1751
apply: 1752

(1) The exercise of the particular power shall not impair 1753
the financial ability of the estate of the ward whom the probate 1754
court has found to be an incompetent or a minor subject to 1755
guardianship and for whom the court has appointed a guardian, to 1756
provide for the ward's foreseeable needs for maintenance and 1757
care; 1758

(2) If applicable, the court shall consider any of the 1759
following: 1760

(a) The estate, income, and other tax advantages of the 1761
exercise of a particular power to the estate of a ward whom the 1762
probate court has found to be an incompetent or a minor subject 1763
to guardianship and for whom the court has appointed a guardian; 1764

(b) Any pattern of giving of, or any pattern of support provided by, the ward prior to the ward's incompetence;	1765 1766
(c) The disposition of property made by the ward's will or revocable trust;	1767 1768
(d) If there is no knowledge of a will or revocable trust of the ward, the ward's prospective heirs;	1769 1770
(e) Any relevant and trustworthy statements of the ward, whether established by hearsay or other evidence.	1771 1772
(E) (1) The probate court shall cause notice as described in division (E) (2) of this section to be given and a hearing to be conducted prior to its exercise or direction of the exercise of any of the following powers pursuant to division (B) of this section:	1773 1774 1775 1776 1777
(a) The exercise, release, or disclaimer of powers as a donee of a power of appointment;	1778 1779
(b) Unless <u>If</u> the amount of the gift is no more than one thousand dollars, the making of a gift, in trust or otherwise;	1780 1781
(c) The power to create, amend, or revoke a revocable trust as described in division (B) (4) of this section;	1782 1783
(d) The power to exercise rights to elect options under annuities and insurance policies, including changing beneficiaries of insurance policies, retirement plans, individual retirement accounts, and annuities, and to surrender an annuity or insurance policy for its cash value, as described in division (B) (6) of this section.	1784 1785 1786 1787 1788 1789
(2) The notice required by division (E) (1) of this section shall be given to the following persons:	1790 1791

(a) Unless a guardian of a ward has applied for the	1792
exercise of a power specified in division (E) (1) of this	1793
section, to the guardian;	1794
(b) To the ward whom the probate court has found to be an	1795
incompetent or a minor subject to guardianship;	1796
(c) If known, to a guardian who applied for the exercise	1797
of a power specified in division (E) (1) of this section, to the	1798
prospective heirs of the ward whom the probate court has found	1799
to be an incompetent or a minor subject to guardianship under	1800
section 2105.06 of the Revised Code, to the beneficiaries under	1801
the last known will of the ward or under an existing revocable	1802
trust of the ward, and to any person who has a legal interest in	1803
property that may be divested or limited as the result of the	1804
exercise of a power specified in division (E) (1) of this	1805
section;	1806
(d) To all of the following as applicable:	1807
(i) The heirs at law and next of kin of the ward;	1808
(ii) The beneficiaries under an existing will or revocable	1809
trust of the ward;	1810
(iii) The beneficiaries of any insurance policies,	1811
retirement plans, individual retirement accounts, and annuities	1812
owned by the ward;	1813
(iv) The beneficiaries under any proposed revocable trust	1814
and the proposed beneficiaries under any changes in the	1815
designation of beneficiaries of any insurance policies,	1816
retirement plans, individual retirement accounts, or annuities	1817
as described in division (E) (2) (d) (iii) of this section.	1818
(e) To any other persons the court orders.	1819

(F) When considering any question related to, and issuing 1820
orders for, medical or surgical care or treatment of 1821
incompetents or minors subject to guardianship, the probate 1822
court has full parens patriae powers unless otherwise provided 1823
by a section of the Revised Code. 1824

Sec. 2112.01. As used in this chapter: 1825

(A) "Adult" means an individual who is eighteen years of 1826
age or older. 1827

(B) "Guardian" has the same meaning as in section 2111.01 1828
of the Revised Code. 1829

(C) "Guardian of the person" means a person appointed by 1830
the court to make decisions regarding the support, care, 1831
education, health, and welfare of a ward. "Guardian of the 1832
person" does not include a guardian ad litem. 1833

(D) "Guardian of the estate" means a person appointed by 1834
the court to administer the estate of a ward. 1835

(E) "Ward" means any adult who has been adjudicated 1836
incompetent and for whom a guardian is acting or for whom the 1837
probate court is acting pursuant to section 2111.50 of the 1838
Revised Code. 1839

(F) "Emergency" means a circumstance that makes it 1840
reasonably certain that immediate action is required to prevent 1841
significant injury to a respondent's health, safety, welfare, or 1842
property and for which the appointment of a guardian or issuance 1843
of a protective order is necessary because no other person has 1844
authority and is willing to act on the respondent's behalf. 1845

(G) "Guardianship order" means an order appointing a 1846
guardian. 1847

(H) "Guardianship proceeding" means a judicial proceeding 1848
in which an order for the appointment of a guardian is sought or 1849
has been issued. 1850

(I) "Home state" means the state in which the respondent 1851
was physically present, including any period of temporary 1852
absence, for at least six consecutive months immediately before 1853
the filing of an application for appointment of a guardian or 1854
the issuance of a protective order or, if none, the state in 1855
which the respondent was physically present, including any 1856
period of temporary absence, for at least six consecutive months 1857
ending within the six months prior to the filing of the 1858
application. 1859

(J) "Party" means the respondent, applicant, guardian, or 1860
other person allowed by the court to participate in a 1861
guardianship or protective proceeding. 1862

(K) "Person," except in the terms guardian of the person 1863
and protected person, means an individual, parent, corporation, 1864
business trust, estate, trust, partnership, limited liability 1865
company, association, joint venture, government, governmental 1866
agency or instrumentality, public corporation, or other legal or 1867
commercial entity. 1868

(L) "Protected person" means an adult for whom a 1869
protective order has been issued. 1870

(M) "Protective order" means an order appointing a 1871
guardian or other order under division ~~(B) (3)~~ (B) (4) of section 1872
2111.02 of the Revised Code related to the management of an 1873
adult's person, property, or both or an order under section 1874
2111.022 of the Revised Code related to the management of an 1875
individual's property. 1876

(N) "Protective proceeding" means a judicial proceeding in 1877
which a protective order is sought or has been issued. 1878

(O) "Record" means information that is inscribed on a 1879
tangible medium or that is stored in an electronic or other 1880
medium and is retrievable in perceivable form. 1881

(P) "Respondent" means an adult for whom a protective 1882
order or the appointment of a guardian is sought. 1883

(Q) "Significant-connection state" means a state, other 1884
than the home state, with which a respondent has a significant 1885
connection other than mere physical presence and in which 1886
substantial evidence concerning the respondent is available. 1887

(R) "Incompetent" has the same meaning as in section 1888
2111.01 of the Revised Code. 1889

(S) "State" means a state of the United States, the 1890
District of Columbia, Puerto Rico, the United States Virgin 1891
Islands, or any territory or insular possession subject to the 1892
jurisdiction of the United States. "State" includes an Indian 1893
tribe or band that is recognized by federal law or formally 1894
acknowledged by a state. 1895

Sec. 2303.201. (A) (1) The court of common pleas of any 1896
county may determine that for the efficient operation of the 1897
court additional funds are required to computerize the court, to 1898
make available computerized legal research services, or to do 1899
both. Upon making a determination that additional funds are 1900
required for either or both of those purposes, the court shall 1901
authorize and direct the clerk of the court of common pleas to 1902
charge one additional fee, not to exceed six dollars, on the 1903
filing of each cause of action or appeal under divisions (A), 1904
(Q), and (U) of section 2303.20 of the Revised Code. 1905

(2) All fees collected under division (A) (1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed either upon an order of the court, subject to an appropriation by the board of county commissioners, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A) (2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A) (1) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend those surplus funds, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend those surplus funds, for other appropriate technological expenses of the court.

(B) (1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to make technological advances in or to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed twenty dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of

section 2303.20 of the Revised Code and not to exceed one dollar 1937
each for the services described in divisions (B), (C), (D), (F), 1938
(H), and (L) of section 2303.20 of the Revised Code. Subject to 1939
division (B)(2) of this section, all moneys collected under 1940
division (B)(1) of this section shall be paid to the county 1941
treasurer to be disbursed, upon an order of the court of common 1942
pleas and subject to appropriation by the board of county 1943
commissioners, in an amount no greater than the actual cost to 1944
the court of procuring and maintaining technology and computer 1945
systems for the office of the clerk of the court of common 1946
pleas. 1947

(2) If the court of common pleas of a county makes the 1948
determination described in division (B)(1) of this section, the 1949
board of county commissioners of that county may issue one or 1950
more general obligation bonds for the purpose of procuring and 1951
maintaining the technology and computer systems for the office 1952
of the clerk of the court of common pleas. In addition to the 1953
purposes stated in division (B)(1) of this section for which the 1954
moneys collected under that division may be expended, the moneys 1955
additionally may be expended to pay debt charges on and 1956
financing costs related to any general obligation bonds issued 1957
pursuant to division (B)(2) of this section as they become due. 1958
General obligation bonds issued pursuant to division (B)(2) of 1959
this section are Chapter 133. securities. 1960

(C) The court of common pleas shall collect the sum of 1961
twenty-six dollars as additional filing fees in each new civil 1962
action or proceeding for the charitable public purpose of 1963
providing financial assistance to legal aid societies that 1964
operate within the state and to support the office of the state 1965
public defender. This division does not apply to a juvenile 1966
division of a court of common pleas, except that an additional 1967

filing fee of fifteen dollars shall apply to custody, 1968
visitation, and parentage actions; to a probate division of a 1969
court of common pleas, except that the additional filing fees 1970
shall apply to name change, guardianship, adoption, and 1971
decedents' estate proceedings; or to an execution on a judgment, 1972
proceeding in aid of execution, or other post-judgment 1973
proceeding arising out of a civil action. The filing fees 1974
required to be collected under this division shall be in 1975
addition to any other filing fees imposed in the action or 1976
proceeding and shall be collected at the time of the filing of 1977
the action or proceeding. The court shall not waive the payment 1978
of the additional filing fees in a new civil action or 1979
proceeding unless the court waives the advanced payment of all 1980
filing fees in the action or proceeding. All such moneys 1981
collected during a month except for an amount equal to up to one 1982
per cent of those moneys retained to cover administrative costs 1983
shall be transmitted on or before the twentieth day of the 1984
following month by the clerk of the court to the treasurer of 1985
state in a manner prescribed by the treasurer of state or by the 1986
Ohio access to justice foundation. The treasurer of state shall 1987
deposit four per cent of the funds collected under this division 1988
to the credit of the civil case filing fee fund established 1989
under section 120.07 of the Revised Code and ninety-six per cent 1990
of the funds collected under this division to the credit of the 1991
legal aid fund established under section 120.52 of the Revised 1992
Code. 1993

The court may retain up to one per cent of the moneys it 1994
collects under this division to cover administrative costs, 1995
including the hiring of any additional personnel necessary to 1996
implement this division. If the court fails to transmit to the 1997
treasurer of state the moneys the court collects under this 1998

division in a manner prescribed by the treasurer of state or by 1999
the Ohio access to justice foundation, the court shall forfeit 2000
the moneys the court retains under this division to cover 2001
administrative costs, including the hiring of any additional 2002
personnel necessary to implement this division, and shall 2003
transmit to the treasurer of state all moneys collected under 2004
this division, including the forfeited amount retained for 2005
administrative costs, for deposit in the legal aid fund. 2006

(D) On and after the thirtieth day after December 9, 1994, 2007
the court of common pleas shall collect the sum of thirty-two 2008
dollars as additional filing fees in each new action or 2009
proceeding for annulment, divorce, or dissolution of marriage 2010
for the purpose of funding shelters for victims of domestic 2011
violence pursuant to sections 3113.35 to 3113.39 of the Revised 2012
Code. The filing fees required to be collected under this 2013
division shall be in addition to any other filing fees imposed 2014
in the action or proceeding and shall be collected at the time 2015
of the filing of the action or proceeding. The court shall not 2016
waive the payment of the additional filing fees in a new action 2017
or proceeding for annulment, divorce, or dissolution of marriage 2018
unless the court waives the advanced payment of all filing fees 2019
in the action or proceeding. On or before the twentieth day of 2020
each month, all moneys collected during the immediately 2021
preceding month pursuant to this division shall be deposited by 2022
the clerk of the court into the county treasury in the special 2023
fund used for deposit of additional marriage license fees as 2024
described in section 3113.34 of the Revised Code. Upon their 2025
deposit into the fund, the moneys shall be retained in the fund 2026
and expended only as described in section 3113.34 of the Revised 2027
Code. 2028

(E) (1) The court of common pleas may determine that, for 2029

the efficient operation of the court, additional funds are 2030
necessary to acquire and pay for special projects of the court, 2031
including, but not limited to, the acquisition of additional 2032
facilities or the rehabilitation of existing facilities, the 2033
acquisition of equipment, the hiring and training of staff, 2034
community service programs, mediation or dispute resolution 2035
services, the employment of legal counsel, the employment of 2036
magistrates, the training and education of judges, acting 2037
judges, and magistrates, and other related services. Upon that 2038
determination, the court by rule may charge a fee, in addition 2039
to all other court costs, on the filing of each criminal cause, 2040
civil action or proceeding, or judgment by confession. Moneys 2041
used to employ legal counsel pursuant to section 309.09 of the 2042
Revised Code shall be reimbursed by the county general fund. 2043

If the court of common pleas offers or requires a special 2044
program or additional services in cases of a specific type, the 2045
court by rule may assess an additional charge in a case of that 2046
type, over and above court costs, to cover the special program 2047
or service. The court shall adjust the special assessment 2048
periodically, but not retroactively, so that the amount assessed 2049
in those cases does not exceed the actual cost of providing the 2050
service or program. 2051

All moneys collected under division (E) of this section 2052
shall be paid to the county treasurer for deposit into either a 2053
general special projects fund or a fund established for a 2054
specific special project. Moneys from a fund of that nature 2055
shall be disbursed upon an order of the court, subject to an 2056
appropriation by the board of county commissioners, in an amount 2057
no greater than the actual cost to the court of a project. If a 2058
specific fund is terminated because of the discontinuance of a 2059
program or service established under division (E) of this 2060

section, the court may order, subject to an appropriation by the board of county commissioners, that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (E) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

Section 2. That existing sections 305.14, 309.09, 309.10, 1545.07, 2101.19, 2109.21, 2111.01, 2111.011, 2111.02, 2111.021, 2111.022, 2111.03, 2111.031, 2111.04, 2111.041, 2111.05, 2111.06, 2111.08, 2111.091, 2111.12, 2111.13, 2111.131, 2111.18, 2111.181, 2111.19, 2111.20, 2111.23, 2111.26, 2111.33, 2111.37, 2111.38, 2111.39, 2111.44, 2111.46, 2111.47, 2111.49, 2111.50, 2112.01, and 2303.201 of the Revised Code are hereby repealed.

Section 3. That sections 2111.07, 2111.15, 2111.34, 2111.35, 2111.36, and 2111.45 of the Revised Code are hereby repealed.

Section 4. The General Assembly, applying the principle

stated in division (B) of section 1.52 of the Revised Code that 2090
amendments are to be harmonized if reasonably capable of 2091
simultaneous operation, finds that the following sections, 2092
presented in this act as composites of the sections as amended 2093
by the acts indicated, are the resulting versions of the 2094
sections in effect prior to the effective date of the sections 2095
as presented in this act: 2096

Section 2109.21 of the Revised Code as amended by both 2097
S.B. 117 and S.B. 124 of the 129th General Assembly. 2098

Section 2111.12 of the Revised Code as amended by both 2099
S.B. 117 and S.B. 124 of the 129th General Assembly. 2100