

**As Passed by the House**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 7**

**Representatives Grendell, Stewart**

**Cosponsors: Representatives Dean, Seitz, Miranda, Roemer, Skindell, Pavliga, Schmidt, Galonski, Lampton, Brown, Callender, Carruthers, Click, Crossman, Fraizer, Ginter, Gross, Hall, Hicks-Hudson, Hillyer, Kick, Lightbody, Miller, A., Miller, J., Patton, Plummer, Sheehy, Sobecki, Swearingen, Troy, White, Young, B., Young, T., Speaker Cupp**

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**A BILL**

To amend sections 1721.21, 2101.15, 2106.13, 1  
2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2  
2108.34, 2111.10, 2111.50, 2133.07, 2701.10, 3  
2717.01, 5122.15, 5804.11, 5805.06, 5816.02, 4  
5816.05, 5816.06, 5816.09, 5816.10, and 5816.14;  
to amend, for the purpose of adopting a new 5  
section number as indicated in parentheses, 6  
section 2717.01 (2717.02); to enact new section 7  
2717.01 and sections 2717.03, 2717.04, 2717.05, 8  
2717.06, 2717.07, 2717.08, 2717.09, 2717.10, 9  
2717.11, 2717.13, 2717.14, 2717.16, 2717.18, and 10  
2717.19; and to repeal section 2133.16 of the 11  
Revised Code to make changes in the Probate Law, 12  
the Guardianship Law, the Ohio Trust Code, the 13  
Ohio Legacy Trust Act, the laws regarding 14  
cemetery endowment care trusts, referral of 15  
actions to a retired judge, involuntary mental 16  
health placements, and change of name 17  
procedures. 18  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1721.21, 2101.15, 2106.13, 20  
2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2108.34, 2111.10, 21  
2111.50, 2133.07, 2701.10, 5122.15, 5804.11, 5805.06, 5816.02, 22  
5816.05, 5816.06, 5816.09, 5816.10, and 5816.14 be amended; 23  
section 2717.01 (2717.02) be amended for the purpose of adopting 24  
a new section number as indicated in parentheses; and new 25  
section 2717.01 and sections 2717.03, 2717.04, 2717.05, 2717.06, 26  
2717.07, 2717.08, 2717.09, 2717.10, 2717.11, 2717.13, 2717.14, 27  
2717.16, 2717.18, and 2717.19 of the Revised Code be enacted to 28  
read as follows: 29

**Sec. 1721.21.** (A) As used in this section: 30

(1) "Person" means any corporation, company, partnership, 31  
individual, or other entity owning or operating a cemetery for 32  
the disposition of human remains. 33

(2) "Cemetery" means any one or a combination of more than 34  
one of the following: 35

(a) A burial ground for earth interments; 36

(b) A mausoleum for crypt entombments; 37

(c) A columbarium for the deposit of cremated remains; 38

(d) A scattering ground for the spreading of cremated 39  
remains. 40

(3) "Interment" means the disposition of human remains by 41  
earth burial, entombment, or inurnment. 42

(4) "Burial right" means the right of earth interment. 43

(5) "Entombment right" means the right of entombment in a mausoleum. 44  
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(6) "Columbarium right" means the right of inurnment in a columbarium for cremated remains. 46  
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(7) "Human remains" means any part of the body of a deceased human being, in any stage of decomposition or state of preservation, or the remaining bone fragments from the body of a deceased human being that has been reduced by cremation or alternative disposition. 48  
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(B) No person shall operate or continue to operate any cemetery in this state unless an endowment care trust is established and maintained as required by this section. 53  
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(C) Any person desiring to operate any cemetery that is organized or developed after July 1, 1970, before offering to sell or selling any burial lot, burial right, entombment right, or columbarium right in that cemetery, shall first establish an endowment care trust, segregated from other assets, and place in that fund a minimum of fifty thousand dollars in cash or in bonds of the United States, this state, or any county or municipal corporation of this state. 56  
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Whenever any person described in this division has placed another fifty thousand dollars in the endowment care trust out of gross sales proceeds, in addition to the deposit required by this division, that person, after submitting proof of this fact to the trustees of the endowment care trust, may be paid a distribution in the sum of fifty thousand dollars from the endowment care trust. 64  
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(D) Any person desiring to operate or to continue to operate any cemetery after July 1, 1970, shall place into the 71  
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endowment care trust as required by this section not less than 73  
ten per cent of the gross sales proceeds received from the sale 74  
of any burial lot, burial right, entombment right, or 75  
columbarium right. This percentage shall be placed in the 76  
endowment care trust no later than thirty days following the 77  
month in which the entire gross sales are received. 78

(E) The trustees of the endowment care trust shall consist 79  
of at least three individuals who have been residents of the 80  
county in which the cemetery is located for at least one year, 81  
or a trust company licensed under Chapter 1111. of the Revised 82  
Code or a national bank or federal savings association that has 83  
securities pledged in accordance with section 1111.04 of the 84  
Revised Code. If the trustees are not a financial institution or 85  
trust company, the trustees shall be bonded by a fidelity bond, 86  
or insured under an insurance policy less any deductible, in an 87  
aggregate amount of not less than one hundred per cent of the 88  
funds held by the trustees. The trustees or their agent shall, 89  
on a continuous basis, keep exact records as to the amount of 90  
funds under any joint account or trust instrument being held for 91  
the individual beneficiaries showing the amount paid, the amount 92  
deposited and invested, and accruals and income. 93

The funds of the endowment care trust shall be held and 94  
invested in the manner in which trust funds are permitted to be 95  
held and invested pursuant to sections 2109.37 and 2109.371 of 96  
the Revised Code or, if provided for in the instrument creating 97  
the trust, pursuant to the Ohio Uniform Prudent Investor Act. 98

(F) Any person offering to sell or selling any burial lot, 99  
burial right, entombment right, or columbarium right shall give 100  
to the purchaser of the lot or right, at the time of sale, a 101  
written agreement that identifies and unconditionally guarantees 102

to the purchaser the specific location of the lot or the 103  
specific location to which the right applies. 104

(G) No person shall open or close any grave, crypt, or 105  
niche for the interment of human remains in a cemetery without 106  
the permission of the cemetery association or other entity 107  
having control and management of the cemetery. 108

(H) Except as provided in division (G) of this section, 109  
this section does not apply to a family cemetery as defined in 110  
section 4767.02 of the Revised Code, to any cemetery that is 111  
owned and operated entirely and exclusively by churches, 112  
religious societies, established fraternal organizations, 113  
municipal corporations, or other political subdivisions of the 114  
state, or to a national cemetery. 115

(I) ~~The dividend and interest income distribution~~ from the 116  
endowment care trust shall be used only to pay for the both of 117  
the following: 118

(1) The cost and expenses incurred to establish, manage, 119  
invest, and administer the records and the trust and for the; 120

(2) The maintenance, supervision, improvement, and 121  
preservation of the grounds, lots, buildings, equipment, 122  
statuary, and other real and personal property of the cemetery. 123

(J) (1) Annual reports of all the assets and investments of 124  
the endowment care trust shall be prepared and maintained, and 125  
shall be available for inspection at reasonable times by any 126  
owner of interment rights in the cemetery. 127

(2) Every cemetery required to establish and maintain an 128  
endowment care trust shall ensure each of the following: 129

(a) That the cemetery has deposited, at the time specified 130

in division (D) of this section, the amounts required by that 131  
division in the cemetery's endowment care trust; 132

~~(b) That only dividend and interest income have been paid-~~ 133  
~~from the endowment care trust, and the cemetery used the amounts~~ 134  
withdrawn only for the purposes specified in division (I) of 135  
this section; 136

~~(c) That~~ Subject to division (K) (5) of this section, that 137  
all principal and capital gains, less any payment of taxes 138  
associated with such gains, have remained in the endowment care 139  
trust; 140

(d) That the endowment care trust has not been used to 141  
collateralize or guarantee loans and has not otherwise been 142  
subjected to any consensual lien; 143

(e) That the endowment care trust is invested in 144  
compliance with the investing standards set forth in sections 145  
2109.37 and 2109.371 of the Revised Code, or, if provided for in 146  
the instrument creating the trust, the Ohio Uniform Prudent 147  
Investor Act. 148

(3) Every cemetery required to establish and maintain an 149  
endowment care trust shall ~~file~~ do both of the following: 150

(a) File an affidavit annually with the division of real 151  
estate of the department of commerce, in a form prescribed by 152  
the division, certifying under oath the cemetery satisfied 153  
division (J) (2) of this section; 154

(b) Notify the division of real estate of the department 155  
of commerce, in a form prescribed by the division, of the 156  
percentage of the unitrust distribution from the endowment care 157  
trust, as described in divisions (K) (2) (a) (ii) and (b) of this 158  
section. 159

(K) (1) Every cemetery shall choose the distribution of 160  
either of the following from the endowment care trust: 161

(a) All net ordinary income, which includes collected 162  
dividends, interest, and other income earned by the trust, 163  
reduced by any expenses, including, but not limited to, taxes on 164  
income, fees, commissions, and costs; 165

(b) A unitrust disbursement not exceeding five per cent of 166  
the fair market value of the endowment care fund. "Fair market 167  
value," for the purpose of division (K) (1) (b) of this section, 168  
means the average of the net fair market value of the assets of 169  
the endowment care trust as of the last trading day for each of 170  
the three preceding fiscal year ends. 171

(2) (a) A cemetery that selects the unitrust disbursement 172  
distribution method, as provided in division (K) (1) (b) of this 173  
section, shall do both of the following: 174

(i) Deliver to the trustees of the endowment care trust 175  
written instructions, including the disbursement percentage 176  
selected, not later than sixty days prior to the beginning of a 177  
calendar year; 178

(ii) Deliver to the division of real estate of the 179  
department of commerce notification that the cemetery selected 180  
the unitrust disbursement method and the percentage selected, in 181  
compliance with division (J) (3) (b) of this section. 182

(b) The distribution method and, if a unitrust 183  
disbursement, the disbursement percentage selected shall remain 184  
in effect unless the cemetery notifies the trustees and the 185  
division of real estate of the department of commerce of its 186  
desire to effect a change. The trustees shall ensure that an 187  
investment policy is in place whose goals and objectives are 188

supportive of the growth of the endowment care trust. 189

(3) Distributions from the endowment care trust shall be 190  
made on a monthly, quarterly, semiannual, or annual basis, as 191  
agreed upon by the cemetery and the trustees. If the trustees do 192  
not receive written instructions from the cemetery informing the 193  
trustees of the method of calculation and distribution chosen, 194  
the trustees shall calculate and distribute the net income, as 195  
earned, on a monthly basis. 196

(4) In order to withdraw a unitrust disbursement, the fair 197  
market value of the endowment care trust after the disbursement 198  
shall be greater than eighty per cent of the aggregate fair 199  
market value of the endowment care trust as of the end of the 200  
immediately preceding calendar year. Should this not be the 201  
case, disbursement shall be limited for that year to net 202  
ordinary income. 203

(5) The trustees shall pay reasonable operating expenses 204  
and taxes of the endowment care trust itself. If the operating 205  
expenses and taxes paid are greater than two and one-half per 206  
cent of the fair market value for the preceding calendar year 207  
end and the cemetery has selected a unitrust disbursement, the 208  
trustees shall reduce the unitrust disbursement by the amount 209  
exceeding two and one-half per cent. 210

**Sec. 2101.15.** In each case, examination, or proceeding, 211  
the probate judge shall file an itemized account of fees 212  
received or charged by the judge. ~~On the first~~ Not later than 213  
the fifteenth day of January, in each year, the judge shall file 214  
with the county auditor an account, certified by the judge, of 215  
all fees received by the judge during the preceding year. No 216  
judge shall fail to perform the duties imposed in this section. 217  
At the instance of any person, the prosecuting attorney shall 218



institute and prosecute an action against the defaulting judge. 219

**Sec. 2106.13.** (A) If a person dies leaving a surviving 220  
spouse and no minor children, leaving a surviving spouse and 221  
minor children, or leaving minor children and no surviving 222  
spouse, the surviving spouse, minor children, or both shall be 223  
entitled to receive, subject to division (B) of this section, in 224  
money or property the sum of forty thousand dollars as an 225  
allowance for support. If the surviving spouse selected ~~one or~~ 226  
~~more automobiles~~ more than one automobile under section 2106.18 227  
of the Revised Code, the allowance for support prescribed by 228  
this section shall be reduced by the value of the automobile 229  
having the lowest value ~~if more than one automobile is of the~~ 230  
automobiles so selected. The money or property set off as an 231  
allowance for support shall be considered estate assets. 232

(B) The probate court shall order the distribution of the 233  
allowance for support described in division (A) of this section 234  
as follows: 235

(1) If the person died leaving a surviving spouse and no 236  
minor children, one hundred per cent to the surviving spouse; 237

(2) If the person died leaving a surviving spouse and 238  
minor children, and if all of the minor children are the 239  
children of the surviving spouse, one hundred per cent to the 240  
surviving spouse; 241

(3) If the person died leaving a surviving spouse and 242  
minor children, and if not all of the minor children are 243  
children of the surviving spouse, in equitable shares, as fixed 244  
by the probate court in accordance with this division, to the 245  
surviving spouse and the minor children who are not the children 246  
of the surviving spouse. In determining equitable shares under 247

this division, the probate court shall do all of the following: 248

(a) Consider the respective needs of the surviving spouse, 249  
the minor children who are children of the surviving spouse, and 250  
the minor children who are not children of the surviving spouse; 251

(b) Allocate to the surviving spouse, the share that is 252  
equitable in light of the needs of the surviving spouse and the 253  
minor children who are children of the surviving spouse; 254

(c) Allocate to the minor children who are not children of 255  
the surviving spouse, the share that is equitable in light of 256  
the needs of those minor children. 257

(4) If the person died leaving minor children and no 258  
surviving spouse, in equitable shares, as fixed by the probate 259  
court in accordance with this division, to the minor children. 260  
In determining equitable shares under this division, the probate 261  
court shall consider the respective needs of the minor children 262  
and allocate to each minor child the share that is equitable in 263  
light of the child's needs. 264

(C) If the surviving spouse selected ~~one or more~~ 265  
automobiles more than one automobile under section 2106.18 of 266  
the Revised Code, the probate court, in considering the 267  
respective needs of the surviving spouse and the minor children 268  
when allocating an allowance for support under division (B) (3) 269  
of this section, shall consider the benefit derived by the 270  
surviving spouse from the transfer of the automobile having the 271  
lowest value ~~if more than one automobile is~~ of the automobiles 272  
so selected. 273

(D) If, pursuant to this section, the probate court must 274  
allocate the allowance for support, the administrator or 275  
executor, within five months of the initial appointment of an 276

administrator or executor, shall file with the probate court an 277  
application to allocate the allowance for support. 278

(E) The administrator or executor shall pay the allowance 279  
for support unless a competent adult or a guardian with the 280  
consent of the court having jurisdiction over the guardianship 281  
waives the allowance for support to which the adult or the ward 282  
represented by the guardian is entitled. 283

(F) For the purposes of this section, the value of an 284  
automobile that a surviving spouse selects pursuant to section 285  
2106.18 of the Revised Code is the value that the surviving 286  
spouse specifies for the automobile in the affidavit executed 287  
pursuant to division (B) of section 4505.10 of the Revised Code. 288

**Sec. 2108.05.** (A) A donor may make an anatomical gift by 289  
doing any of the following: 290

(1) Authorizing a statement or symbol to be imprinted on 291  
the donor's driver's license or identification card indicating 292  
that the donor has certified a willingness to make an anatomical 293  
gift; 294

~~(2) Specifying in the donor's will an intent to make an 295  
anatomical gift;~~ 296

~~(3) Specifying an intent to make an anatomical gift in the 297  
donor's declaration as described in section 2133.16 of the 298  
Revised Code;~~ 299

~~(4) During a terminal illness or injury of the donor, 300  
communicating in any manner to a minimum of two adults, at least 301  
one of whom is a disinterested witness, that the donor intends 302  
to make an anatomical gift;~~ 303

~~(5) (3) Following the procedure in division (B) of this 304~~

section. 305

(B) A donor or other person authorized to make an 306  
anatomical gift under section 2108.04 of the Revised Code may 307  
make a gift by a donor card or other record signed by the donor 308  
or other person making the gift or by authorizing that a 309  
statement or symbol indicating that the donor has certified a 310  
willingness to make an anatomical gift be included in a donor 311  
registry. If the donor or other person is physically unable to 312  
sign a record, the record may be signed by another individual at 313  
the direction of the donor or other person and shall do both of 314  
the following: 315

(1) Be witnessed by at least two adults, at least one of 316  
whom is a disinterested witness, who have signed at the request 317  
of the donor or the other person; 318

(2) State that it has been signed and witnessed as 319  
provided in division (B)(1) of this section. 320

(C) Once a donor has authorized a statement or symbol to 321  
be imprinted on the donor's driver's license or identification 322  
card indicating that the donor has certified a willingness to 323  
make an anatomical gift, the donor does not need to recertify 324  
the donor's willingness to make an anatomical gift upon renewal 325  
of the driver's license or identification card. The 326  
authorization shall remain in effect until the donor withdraws 327  
that authorization. 328

(D) Revocation, suspension, expiration, or cancellation of 329  
a driver's license or identification card upon which an 330  
anatomical gift is indicated does not invalidate the gift. 331

~~(E) An anatomical gift made by will takes effect on the 332  
donor's death whether or not the will is probated. Invalidation 333~~

~~of the will after the donor's death does not invalidate the~~ 334  
~~gift.~~ 335

**Sec. 2108.06.** (A) Subject to section 2108.08 of the 336  
Revised Code, an anatomical gift made under section 2108.04 of 337  
the Revised Code may be amended by any of the following means: 338

(1) By a record signed by the donor or other person 339  
authorized to make an anatomical gift under section 2108.04 of 340  
the Revised Code; 341

(2) Subject to division (C) of this section, by a record 342  
signed by another individual acting at the direction of the 343  
donor or other person authorized to make an anatomical gift 344  
under section 2108.04 of the Revised Code if the donor or other 345  
person is physically unable to sign; 346

(3) By a later-executed document of gift that amends a 347  
previous anatomical gift or portion of an anatomical gift, 348  
either expressly or by inconsistency; 349

(4) By any form of communication during a terminal illness 350  
or injury addressed to at least two adults; 351

(5) By a parent who is reasonably available, if the donor 352  
is an unemancipated minor who has died; 353

~~(6) If made in a will, by the manner provided for~~ 354  
~~amendment of wills or by any of the applicable means described~~ 355  
~~in divisions (B)(1) to (5) of this section.~~ 356

(B) Subject to section 2108.08 of the Revised Code, an 357  
anatomical gift made under section 2108.04 of the Revised Code 358  
may be revoked by any of the following means: 359

(1) By a record signed by the donor or other person 360  
authorized to make an anatomical gift under section 2108.04 of 361

the Revised Code;	362
(2) Subject to division (C) of this section, by a record	363
signed by another individual acting at the direction of the	364
donor or other person authorized to make an anatomical gift	365
under section 2108.04 of the Revised Code if the donor or other	366
person is physically unable to sign;	367
(3) By a later-executed document of gift that revokes a	368
previous anatomical gift or portion of an anatomical gift,	369
either expressly or by inconsistency;	370
(4) By any form of communication during a terminal illness	371
or injury addressed to at least two adults;	372
(5) By a parent who is reasonably available, if the donor	373
is an unemancipated minor who has died;	374
(6) By the destruction or cancellation of the document of	375
gift, or the portion of the document of gift, used to make the	376
gift, with the intent to revoke the gift;	377
<del>(7) If made in a will, by the manner provided for</del>	378
<del>revocation of wills or by any of the applicable means described</del>	379
<del>in divisions (B) (1) to (6) of this section.</del>	380
(C) A record signed pursuant to division (A) (2) or (B) (2)	381
of this section shall do both of the following:	382
(1) Be witnessed by a minimum of two adults who have	383
signed at the request of the donor or other person;	384
(2) State that it has been signed and witnessed as	385
provided in division (C) (1) of this section.	386
<b>Sec. 2108.07.</b> (A) An individual may refuse to make an	387
anatomical gift of the individual's body or part by doing any of	388

the following:	389
(1) Indicating a refusal in a record signed by either of	390
the following:	391
(a) The individual;	392
(b) Subject to division (B) of this section, another	393
individual acting at the direction of the individual, if the	394
individual is physically unable to sign.	395
(2) <del>Indicating a refusal in the individual's will, whether</del>	396
<del>or not the will is admitted to probate or invalidated after the</del>	397
<del>individual's death;</del>	398
<del>(3) Indicating a refusal by any form of communication made</del>	399
by the individual during the individual's terminal illness or	400
injury addressed to a minimum of two adults.	401
(B) A record signed pursuant to division (A) (1) (b) of this	402
section shall do both of the following:	403
(1) Be witnessed by at least two adults who have signed at	404
the request of the individual;	405
(2) State that it has been signed and witnessed as	406
provided in division (B) (1) of this section.	407
(C) An individual who has made a refusal may amend or	408
revoke the refusal by doing any of the following:	409
(1) Amending or revoking the refusal in the manner	410
provided in division (A) of this section for making a refusal;	411
(2) Subsequently making an anatomical gift pursuant to	412
section 2108.05 of the Revised Code that is inconsistent with	413
the refusal;	414
(3) Destroying or canceling the record evidencing the	415

refusal, or the portion of the record used to make the refusal, 416  
with the intent to revoke the refusal. 417

(D) Except as provided in division (E) of this section, in 418  
the absence of an express, contrary indication by the individual 419  
set forth in the refusal, an individual's unrevoked refusal to 420  
make an anatomical gift of the individual's body or part bars 421  
all other persons from making an anatomical gift of the 422  
individual's body or part. 423

(E) The parent of a deceased unemancipated minor who is 424  
reasonably available may revoke a refusal made by the minor. 425

**Sec. 2108.23.** (A) (1) The bureau of motor vehicles shall 426  
develop and maintain a donor registry that identifies each 427  
individual who has agreed to make an anatomical gift by a 428  
designation on a driver's license or identification card as 429  
provided in division (A) (1) of section 2108.05 of the Revised 430  
Code. The registry shall be fully operational not later than 431  
July 1, 2002. 432

(2) Any person who provides to the bureau the form set 433  
forth in division ~~(D) (2)~~ (C) (2) of section 2133.07 of the 434  
Revised Code requesting to be included in the donor registry 435  
shall be included. 436

(B) The bureau shall maintain the registry in a manner 437  
that provides to organ procurement organizations, tissue banks, 438  
and eye banks immediate access to the information in the 439  
registry twenty-four hours a day and seven days a week. 440

(C) (1) The registrar of motor vehicles, in consultation 441  
with the director of health and the second chance trust fund 442  
advisory committee created under section 2108.35 of the Revised 443  
Code, shall formulate proposed rules that specify all of the 444



following:	445
(a) The information to be included in the registry;	446
(b) A process, in accordance with division (B) of section 2108.06 of the Revised Code, for an individual to revoke the individual's intent to make an anatomical gift and for updating information in the registry;	447 448 449 450
(c) How the registry will be made available to organ procurement organizations, tissue banks, and eye banks;	451 452
(d) Limitations on the use of and access to the registry;	453
(e) How information on organ, tissue, and eye donation will be developed and disseminated to the public by the bureau and the department of health;	454 455 456
(f) Anything else the registrar considers appropriate.	457
(2) In adopting the proposed rules under this division, the registrar may consult with any person or entity that expresses an interest in the matters to be dealt with in the rules.	458 459 460 461
(3) Following formulation of the proposed rules, but not later than January 1, 2002, the registrar shall adopt rules in accordance with Chapter 119. of the Revised Code.	462 463 464
(D) The costs of developing and initially implementing the registry shall be paid from the second chance trust fund created in section 2108.34 of the Revised Code.	465 466 467
<b>Sec. 2108.24.</b> (A) As used in this section:	468
(1) "Advance health-care directive" means a durable power of attorney for health care or a record signed by a prospective donor containing the prospective donor's direction concerning a	469 470 471

health-care decision. 472

(2) ~~"Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.~~ 473  
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~~(3)~~ "Health care decision" means any decision regarding 475  
the health care of the prospective donor. 476

(B) If a prospective donor has ~~a declaration or an~~ advance 477  
health-care directive the terms of which are in conflict with 478  
the express or implied terms of a potential anatomical gift with 479  
regard to administration of measures necessary to ensure the 480  
medical suitability of a part for transplantation or therapy and 481  
the prospective donor is capable of resolving the conflict, 482  
subject to division (G) of this section, the prospective donor's 483  
attending physician shall confer with the prospective donor to 484  
resolve the conflict. 485

(C) If a prospective donor has ~~a declaration or an~~ advance 486  
health-care directive the terms of which are in conflict with 487  
the express or implied terms of a potential anatomical gift with 488  
regard to administration of measures necessary to ensure the 489  
medical suitability of a part for transplantation or therapy and 490  
the prospective donor is incapable of resolving the conflict, 491  
one of the following shall apply depending on the circumstances: 492

(1) If the prospective donor has an agent, the agent 493  
shall, subject to division (G) of this section, act for the 494  
prospective donor to resolve the conflict. 495

(2) If the prospective donor does not have an agent, the 496  
individual or class of individuals determined in the following 497  
descending order of priority and subject to divisions (D), (E), 498  
(F), and (G) of this section shall act for the prospective donor 499  
to resolve the conflict: 500

(a) The prospective donor's surviving spouse;	501
(b) The prospective donor's surviving adult children;	502
(c) The prospective donor's surviving parent or parents;	503
(d) The prospective donor's surviving adult siblings;	504
(e) The prospective donor's surviving adult grandchildren;	505
(f) The prospective donor's surviving grandparent or grandparents;	506 507
(g) A surviving adult who exhibited special care and concern for the prospective donor;	508 509
(h) The prospective donor's guardians of the person;	510
(i) The persons, other than those in divisions (C) (2) (a) to (h) of this section, to whom the prospective donor has assigned the right of disposition for the prospective donor's body pursuant to section 2108.70 of the Revised Code or who have the right of disposition for the prospective donor's body at the time of death as described in section 2108.81 of the Revised Code.	511 512 513 514 515 516 517
(D) If an appropriate individual entitled to resolve a conflict between the terms of a prospective donor's <del>declaration</del> <del>or</del> advance health-care directive and the express or implied terms of a potential anatomical gift as described in division (C) of this section is not reasonably available to resolve the conflict, is incapacitated, or declines to resolve the conflict, the next priority individual or class of individuals specified in that division is authorized to resolve the conflict.	518 519 520 521 522 523 524 525
(E) If at least one individual in a class of individuals entitled to resolve a conflict between the terms of a	526 527

prospective donor's ~~declaration or~~ advance health-care directive 528  
and the express or implied terms of a potential anatomical gift 529  
is not reasonably available, is incapacitated, or declines to 530  
resolve the conflict, the conflict shall be resolved by the 531  
individual or individuals in the class who are reasonably 532  
available, not incapacitated, and willing to resolve the 533  
conflict. 534

(F) If individuals in a class of individuals determined in 535  
accordance with division (C) (2) of this section disagree on how 536  
a conflict between the terms of a prospective donor's 537  
~~declaration or~~ advance health-care directive and the express or 538  
implied terms of a potential anatomical gift should be resolved, 539  
the opinion of the majority of the individuals who are 540  
reasonably available, not incapacitated, and are willing to 541  
resolve the conflict shall prevail. 542

(G) A conflict between the terms of a prospective donor's 543  
~~declaration or~~ advance health-care directive and the express or 544  
implied terms of a potential anatomical gift with regard to the 545  
administration of measures necessary to ensure the medical 546  
suitability of a part for transplantation or therapy shall be 547  
resolved as expeditiously as possible. Information relevant to 548  
the resolution of the conflict may be obtained from the 549  
appropriate procurement organization and any other person 550  
authorized to make an anatomical gift for the prospective donor 551  
under section 2108.09 of the Revised Code. Before resolution of 552  
the conflict, measures necessary to ensure the medical 553  
suitability of the part shall not be withheld or withdrawn from 554  
the prospective donor unless withholding or withdrawing the 555  
measures is necessary for appropriate end-of-life care. 556

**Sec. 2108.34.** (A) There is hereby created in the state 557

treasury the second chance trust fund. The fund shall consist of 558  
voluntary contributions deposited as provided in sections 559  
4503.721, 4506.081, 4507.231, and 4507.501 of the Revised Code. 560  
All investment earnings of the fund shall be credited to the 561  
fund. 562

(B) The director of health shall use the money in the fund 563  
only for the following purposes: 564

(1) Development and implementation of a campaign that 565  
explains and promotes the second chance trust fund; 566

(2) Development and implementation of local and statewide 567  
public education programs about organ, tissue, and eye donation, 568  
including the informational material required to be provided 569  
under sections 4506.081, 4507.231, and 4507.501 of the Revised 570  
Code; 571

(3) Development and implementation of local and statewide 572  
donor awareness programs in schools; 573

(4) Development and implementation of local and statewide 574  
programs to recognize donor families; 575

(5) Development and distribution of materials promoting 576  
organ, tissue, and eye donation; 577

(6) Cooperation with the Ohio Supreme Court, Ohio State 578  
Bar Association, and law schools of this state to more 579  
effectively educate attorneys about the donation of anatomical 580  
gifts and to encourage them to assist their clients in donating 581  
anatomical gifts through anatomical gift declarations, durable 582  
powers of attorney for health care, ~~declarations as defined in~~ 583  
~~section 2133.01 of the Revised Code, wills,~~ and any other 584  
appropriate means; 585

(7) Cooperation with the state medical board, state	586
medical, osteopathic, and ophthalmological associations, and	587
colleges of medicine and osteopathic medicine in this state to	588
more effectively educate physicians about the donation of	589
anatomical gifts and to encourage them to assist their patients	590
in making declarations of anatomical gifts;	591
(8) Development of statewide hospital training programs to	592
encourage and facilitate compliance with sections 2108.14 and	593
2108.15 of the Revised Code;	594
(9) Reimbursement of the bureau of motor vehicles for the	595
administrative costs incurred in the performance of duties under	596
sections 4506.081, 4507.231, and 4507.501 of the Revised Code;	597
(10) Reimbursement of the department of health for	598
administrative costs incurred in the performance of duties under	599
this section and section 2108.35 of the Revised Code;	600
(11) Reimbursement of members of the second chance fund	601
advisory committee for actual and necessary expenses incurred in	602
the performance of official duties.	603
(C) The director shall make the materials developed under	604
division (B) (5) of this section available to other state	605
agencies.	606
(D) The director shall consider recommendations made by	607
the second chance trust fund advisory committee pursuant to	608
section 2108.35 of the Revised Code. The director shall	609
determine the appropriateness of and approve or disapprove	610
projects recommended by the advisory committee for funding and	611
approve or disapprove the disbursement of money from the second	612
chance trust fund.	613
<b>Sec. 2111.10. (A)</b> As used in this section, "developmental	614

disability" has the same meaning as in section 5123.01 of the Revised Code.

(B) Any appointment of a corporation as guardian shall apply to the estate only and not to the person, except that a when either of the following applies:

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

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

**Sec. 2111.50.** (A) (1) At all times, the probate court is the superior guardian of wards who are subject to its

jurisdiction, and all guardians who are subject to the 645  
jurisdiction of the court shall obey all orders of the court 646  
that concern their wards or guardianships. 647

(2) (a) Subject to divisions (A) (2) (b) and (c) of this 648  
section, the control of a guardian over the person, the estate, 649  
or both of the guardian's ward is limited to the authority that 650  
is granted to the guardian by the Revised Code, relevant 651  
decisions of the courts of this state, and orders or rules of 652  
the probate court. 653

(b) Except for the powers specified in division (E) of 654  
this section and unless otherwise provided in or inconsistent 655  
with another section of the Revised Code, the probate court may 656  
confer upon a guardian any power that this section grants to the 657  
probate court in connection with wards. Nothing in this section 658  
is intended to create or imply a duty upon a guardian to apply 659  
for authority to exercise any power authorized in this section. 660  
No inference of impropriety or liability of the guardian or 661  
others associated with the guardian shall arise as a result of a 662  
guardian not applying for authority to exercise a power 663  
authorized in this section. 664

(c) For good cause shown, the probate court may limit or 665  
deny, by order or rule, any power that is granted to a guardian 666  
by a section of the Revised Code or relevant decisions of the 667  
courts of this state. 668

(B) In connection with any person whom the probate court 669  
has found to be an incompetent or a minor subject to 670  
guardianship and for whom the court has appointed a guardian, 671  
the court has, subject to divisions (C) to (E) of this section, 672  
all the powers that relate to the person and estate of the ward 673  
and that the ward could exercise if present and not a minor or 674



under a disability, except the power to make or revoke a will. 675  
These powers include, but are not limited to, the power to do 676  
any of the following: 677

(1) ~~Convey or, release, or disclaim~~ the present, 678  
contingent, or expectant interests in real or personal property 679  
of the ward, including, but not limited to, dower and any right 680  
of survivorship incident to a transfer on death designation, 681  
payable on death designation, survivorship tenancy, joint 682  
tenancy, or tenancy by the entirety; 683

(2) Exercise ~~or, release, or disclaim~~ powers as a trustee, 684  
personal representative, custodian for a minor, guardian, or 685  
donee of a power of appointment; 686

(3) ~~Enter~~ Subject to division (B)(4) of this section, 687  
enter into contracts, or create revocable trusts of property of 688  
the estate of the ward, that may not extend beyond the minority, 689  
disability, or life of the ward; 690

(4) Create, amend, or revoke revocable trusts of property 691  
of the estate of the ward that may extend beyond the minority, 692  
disability, or life of the ward; 693

(5) Exercise options to purchase securities or other 694  
property; 695

~~(5)~~ (6) Exercise rights to elect options under annuities 696  
and insurance policies, including changing beneficiaries of 697  
insurance policies, retirement plans, individual retirement 698  
accounts, and annuities, and to surrender an annuity or 699  
insurance policy for its cash value; 700

~~(6)~~ (7) Exercise the right to an elective share in the 701  
estate of the deceased spouse of the ward pursuant to ~~section~~ 702  
~~2106.08~~ Chapter 2106. of the Revised Code; 703

~~(7)~~ (8) Make gifts, in trust or otherwise, to relatives of 704  
the ward and, consistent with any prior pattern of the ward of 705  
giving to charities or of providing support for friends, to 706  
charities and friends of the ward. 707

(C) Except for the powers specified in division (D) of 708  
this section, all powers of the probate court that are specified 709  
in this chapter and that relate either to any person whom it has 710  
found to be an incompetent or a minor subject to guardianship 711  
and for whom it has appointed a guardian and all powers of a 712  
guardian that relate to the guardian's ward or guardianship as 713  
described in division (A) (2) of this section, shall be exercised 714  
in the best interest, as determined in the court's or guardian's 715  
judgment, of the following: 716

(1) The ward whom the probate court has found to be an 717  
incompetent or a minor subject to guardianship; 718

(2) The dependents of the ward; 719

(3) The members of the household of the ward. 720

(D) If the court is to exercise or direct the exercise, 721  
pursuant to division (B) of this section, of the power to make 722  
gifts in trust or otherwise, the following conditions shall 723  
apply: 724

(1) The exercise of the particular power shall not impair 725  
the financial ability of the estate of the ward whom the probate 726  
court has found to be an incompetent or a minor subject to 727  
guardianship and for whom the court has appointed a guardian, to 728  
provide for the ward's foreseeable needs for maintenance and 729  
care; 730

(2) If applicable, the court shall consider any of the 731  
following: 732

(a) The estate, income, and other tax advantages of the 733  
exercise of a particular power to the estate of a ward whom the 734  
probate court has found to be an incompetent or a minor subject 735  
to guardianship and for whom the court has appointed a guardian; 736

(b) Any pattern of giving of, or any pattern of support 737  
provided by, the ward prior to the ward's incompetence; 738

(c) The disposition of property made by the ward's will or 739  
revocable trust; 740

(d) If there is no knowledge of a will or revocable trust 741  
of the ward, the ward's prospective heirs; 742

(e) Any relevant and trustworthy statements of the ward, 743  
whether established by hearsay or other evidence. 744

(E) (1) The probate court shall cause notice as described 745  
in division (E) (2) of this section to be given and a hearing to 746  
be conducted prior to its exercise or direction of the exercise 747  
of any of the following powers pursuant to division (B) of this 748  
section: 749

(a) The exercise ~~or~~ release, or disclaimer of powers as a 750  
donee of a power of appointment; 751

(b) Unless the amount of the gift is no more than one 752  
thousand dollars, the making of a gift, in trust or otherwise; 753

(c) The power to create, amend, or revoke a revocable 754  
trust as described in division (B) (4) of this section; 755

(d) The power to exercise rights to elect options under 756  
annuities and insurance policies, including changing 757  
beneficiaries of insurance policies, retirement plans, 758  
individual retirement accounts, and annuities, and to surrender 759  
an annuity or insurance policy for its cash value, as described 760

<u>in division (B) (6) of this section.</u>	761
(2) The notice required by division (E) (1) of this section shall be given to the following persons:	762 763
(a) Unless a guardian of a ward has applied for the exercise of a power specified in division (E) (1) of this section, to the guardian;	764 765 766
(b) To the ward whom the probate court has found to be an incompetent or a minor subject to guardianship;	767 768
(c) If known, to a guardian who applied for the exercise of a power specified in division (E) (1) of this section, to the prospective heirs of the ward whom the probate court has found to be an incompetent or a minor subject to guardianship under section 2105.06 of the Revised Code, <u>to the beneficiaries under the last known will of the ward or under an existing revocable trust of the ward,</u> and to any person who has a legal interest in property that may be divested or limited as the result of the exercise of a power specified in division (E) (1) of this section;	769 770 771 772 773 774 775 776 777 778
(d) <u>To all of the following as applicable:</u>	779
<u>(i) The heirs at law and next of kin of the ward;</u>	780
<u>(ii) The beneficiaries under an existing will or revocable trust of the ward;</u>	781 782
<u>(iii) The beneficiaries of any insurance policies, retirement plans, individual retirement accounts, and annuities owned by the ward;</u>	783 784 785
<u>(iv) The beneficiaries under any proposed revocable trust and the proposed beneficiaries under any changes in the designation of beneficiaries of any insurance policies,</u>	786 787 788

retirement plans, individual retirement accounts, or annuities 789  
as described in division (E) (2) (d) (iii) of this section. 790

(e) To any other persons the court orders. 791

(F) When considering any question related to, and issuing 792  
orders for, medical or surgical care or treatment of 793  
incompetents or minors subject to guardianship, the probate 794  
court has full parens patriae powers unless otherwise provided 795  
by a section of the Revised Code. 796

**Sec. 2133.07.** (A) As used in this section+ 797

~~(1) "Anatomical gift" has the same meaning as in section~~ 798  
~~2108.01 of the Revised Code.~~ 799

~~(2),~~ "DNR identification" has the same meaning as in 800  
section 2133.21 of the Revised Code. 801

(B) A printed form of a declaration may be sold or 802  
otherwise distributed in this state for use by adults who are 803  
not advised by an attorney. By use of a printed form of that 804  
nature, a declarant may authorize the use or continuation, or 805  
the withholding or withdrawal, of life-sustaining treatment 806  
should the declarant be in a terminal condition, a permanently 807  
unconscious state, or either a terminal condition or a 808  
permanently unconscious state, may authorize the withholding or 809  
withdrawal of nutrition or hydration should the declarant be in 810  
a permanently unconscious state as described in division (A) (3) 811  
(a) of section 2133.02 of the Revised Code, and may designate 812  
one or more persons who are to be notified by the declarant's 813  
attending physician at any time that life-sustaining treatment 814  
would be withheld or withdrawn pursuant to the declaration. The 815  
printed form shall not be used as an instrument for granting any 816  
other type of authority or for making any other type of 817

designation, except that the printed form may be used as a DNR 818  
identification if the declarant specifies on the form that the 819  
declarant wishes to use it as a DNR identification ~~and except as~~ 820  
~~provided in division (C) of this section.~~ 821

~~(C) A printed form of a declaration under division (B) of~~ 822  
~~this section shall include, before the signature of the~~ 823  
~~declarant or another individual at the direction of the~~ 824  
~~declarant, statements that conform substantially to the~~ 825  
~~following form:~~ 826

~~"ANATOMICAL GIFT (optional)"~~ 827

~~Upon my death, the following are my directions regarding~~ 828  
~~donation of all or part of my body:~~ 829

~~In the hope that I may help others upon my death, I hereby~~ 830  
~~give the following body parts:~~ 831

\_\_\_\_\_ 832

\_\_\_\_\_ 833

~~for any purpose authorized by law: transplantation, therapy,~~ 834  
~~research, or education.~~ 835

~~If I do not indicate a desire to donate all or part of my~~ 836  
~~body by filling in the lines above, no presumption is created~~ 837  
~~about my desire to make or refuse to make an anatomical gift."~~ 838

~~(D)~~ (1) A printed form of a declaration under division (B) 839  
of this section shall include, as a separate page or as a 840  
portion of a page that can be detached from the declaration, a 841  
donor registry enrollment form that permits the donor to be 842  
included in the donor registry created under section 2108.23 of 843  
the Revised Code. 844

(2) The donor registry enrollment form may be in any form 845  
that complies with the requirements of division (B) of section 846  
2108.05 of the Revised Code. On completion, the form shall be 847  
forwarded to the bureau of motor vehicles. 848

**Sec. 2701.10.** (A) Any voluntarily retired judge, or any 849  
judge who is retired under Section 6 of Article IV, Ohio 850  
Constitution, may register with the clerk of any court of common 851  
pleas, municipal court, or county court for the purpose of 852  
receiving referrals for adjudication of civil actions or 853  
proceedings, and submissions for determination of specific 854  
issues or questions of fact or law in any civil action or 855  
proceeding, pending in the court. There is no limitation upon 856  
the number, type, or location of courts with which a retired 857  
judge may register under this division. Upon registration with 858  
the clerk of any court under this division, the retired judge is 859  
eligible to receive referrals and submissions from that court, 860  
in accordance with this section. Each court of common pleas, 861  
municipal court, and county court shall maintain an index of all 862  
retired judges who have registered with the clerk of that court 863  
pursuant to this division and shall make the index available to 864  
any person, upon request. 865

(B) (1) The parties to any civil action or proceeding 866  
pending in any court of common pleas, municipal court, or county 867  
court unanimously may choose to have the action or proceeding in 868  
its entirety referred for adjudication, or to have any specific 869  
issue or question of fact or law in the action or proceeding 870  
submitted for determination, to a judge of their choosing who 871  
has registered with the clerk of that court in accordance with 872  
division (A) of this section. 873

If the parties unanimously do choose to have a referral or 874

submission made to a retired judge pursuant to this section, all 875  
of the parties to the action or proceeding shall enter into a 876  
written agreement with the retired judge that does all of the 877  
following: 878

(a) Designates the retired judge to whom the referral or 879  
submission is to be made; 880

(b) If a submission is to be made, describes in detail the 881  
specific issue or question to be submitted; 882

(c) Indicates either of the following: 883

(i) That the action or proceeding in its entirety is to be 884  
referred to, and is to be tried, determined, and adjudicated by 885  
that retired judge; 886

(ii) Indicates that the issue or question is to be 887  
submitted, and is to be tried and determined by that retired 888  
judge. 889

(d) Indicates that the parties will assume the 890  
responsibility for providing facilities, equipment, and 891  
personnel reasonably needed by the retired judge during ~~his~~ the 892  
retired judge's consideration of the action or proceeding and 893  
will pay all costs arising out of the provision of the 894  
facilities, equipment, and personnel; 895

(e) Identifies an amount of compensation to be paid by the 896  
parties to the retired judge for ~~his~~ the retired judge's 897  
services and the manner of payment of the compensation; 898

(f) Indicates a procedure for terminating the agreement 899  
with the retired judge. 900

(2) In any case described in division (B)(1) of this 901  
section, the agreement shall be filed with the clerk of the 902



court or the judge before whom the action or proceeding is 903  
pending. ~~Upon the filing of the agreement, the~~ The judge before 904  
whom the action or proceeding is pending shall address the 905  
agreement within fourteen days after its filing. That judge, by 906  
journal entry, ~~shall may,~~ at the judge's discretion, order the 907  
referral or submission in accordance with the agreement. No 908  
referral or submission shall be made to a retired judge under 909  
this section, unless the parties to the action or proceeding 910  
unanimously choose to have the referral or submission made, 911  
enter into an agreement of the type described in division (B) (1) 912  
of this section with the retired judge, and file the agreement 913  
in accordance with this division. 914

(C) Upon the entry of an order of referral or submission 915  
in accordance with division (B) (2) of this section, the retired 916  
judge to whom the referral or submission is made, relative to 917  
the action or proceeding referred or the issue or question 918  
submitted, shall have all of the powers, duties, and authority 919  
of an active judge of the court in which the action or 920  
proceeding is pending. The court in which the action or 921  
proceeding is pending is not required to provide the retired 922  
judge with court or other facilities, equipment, or personnel 923  
during ~~his~~ the retired judge's consideration of the action, 924  
proceeding, issue, or question. The retired judge shall not 925  
receive any compensation, other than that agreed to by the 926  
parties and the retired judge, for ~~his~~ the retired judge's 927  
services during ~~his~~ consideration of the action, proceeding, 928  
issue, or question. 929

(D) (1) A retired judge to whom a referral is made under 930  
this section shall try all of the issues in the action or 931  
proceeding, shall prepare relevant findings of fact and 932  
conclusions of law, and shall enter a judgment in the action or 933

proceeding in the same manner as if ~~he~~ the retired judge were an 934  
active judge of the court. A retired judge to whom a submission 935  
is made under this section shall try the specific issue or 936  
question submitted, shall prepare relevant findings of fact or 937  
conclusions of law, shall make a determination on the issue or 938  
question submitted, and shall file the findings, conclusions, 939  
and determination with the clerk of the court in which the 940  
action or proceeding is pending. Any judgment entered, and any 941  
finding of fact, conclusion of law, or determination of an issue 942  
or question made, by a retired judge in accordance with this 943  
section shall have the same force and effect as if it had been 944  
entered or made by an active judge of the court, and any appeal 945  
from the judgment, finding, conclusion, or determination shall 946  
be made as if the judgment had been entered, or the finding, 947  
conclusion, or determination had been made, by an active judge 948  
of the court. 949

(2) Upon conclusion of the referred action or proceeding 950  
or determination of the submitted issue or question, 951  
jurisdiction is returned to the referring judge. 952

(E) Any judge who registers with any court in accordance 953  
with division (A) of this section may have ~~his~~ the judge's name 954  
removed from the index of registered retired judges maintained 955  
by that court at any time after the registration. On and after 956  
the date of removal of the name of a retired judge from the 957  
index of a court, the retired judge is not eligible under this 958  
section to receive referrals or submissions from that court. 959

(F) This section does not affect, and shall not be 960  
construed as affecting, the provisions of section 141.16 of the 961  
Revised Code. This section does not apply to any action or 962  
proceeding pending in a small claims division of a municipal 963

court or county court. 964

Sec. 2717.01. As used in this chapter: 965

(A) "Application" means, as context requires, an 966  
application under section 2717.02, 2717.04, or 2717.13 of the 967  
Revised Code. 968

(B) "Applicant" means, as context requires, a person who 969  
makes the filing under section 2717.02 or 2717.04 of the Revised 970  
Code, or the minor on whose behalf a filing is made under 971  
section 2717.13 of the Revised Code. 972

(C) "Conform" means to make a person's legal name 973  
consistent in all official identity documents by correcting a 974  
misspelling, inconsistency, or other error in an official 975  
identity document. 976

(D) "Official identity document" means a birth record, 977  
marriage record, divorce decree, driver's license, state issued 978  
identification card, social security card with the social 979  
security number redacted, passport, or any other official 980  
government-issued document required or commonly used to verify a 981  
person's identity. 982

(E) "Sexually oriented offense" and "child-victim oriented 983  
offense" have the same meanings as in section 2950.01 of the 984  
Revised Code. 985

Sec. 2717.01-2717.02. (A)(1) A person desiring a to change 986  
of the person's name may file an application in the probate 987  
court of the county in which the person resides. The application 988  
shall set forth that the applicant has been a bona fide resident 989  
of that county for at least one year prior to the filing of the 990  
application, the cause for which the change of name is sought, 991  
and the requested new name. The application shall require the 992

~~applicant to state whether the applicant has been convicted of, 993  
pleaded guilty to, or been adjudicated a delinquent child for 994  
identity fraud or has a duty to comply with section 2950.04 or 995  
2950.041 of the Revised Code because the applicant was convicted 996  
of, pleaded guilty to, or was adjudicated a delinquent child for 997  
having committed a sexually oriented offense or a child victim 998  
oriented offense. 999~~

~~(2) Except as provided in division (A) (4) of this section, 1000  
notice of the application shall be given once by publication in 1001  
a newspaper of general circulation in the county at least thirty 1002  
days before the hearing on the application. The notice shall set 1003  
forth the court in which the application was filed, the case 1004  
number, and the date and time of the hearing. 1005~~

~~(3) Except as provided by division (C) of this section, 1006  
upon proof that proper notice was given or that notice was 1007  
waived under division (A) (4) of this section and proof that the 1008  
facts set forth in the application show reasonable and proper 1009  
cause for changing the name of the applicant, the court may 1010  
order the change of name. 1011~~

~~(4) If an applicant for a change of name submits to the 1012  
court, along with the application described in division (A) (1) 1013  
of this section, satisfactory proof that the publication of the 1014  
notice under division (A) (2) of this section would jeopardize 1015  
the applicant's personal safety, both of the following apply: 1016~~

~~(a) The court shall waive the notice requirement. 1017~~

~~(b) If the court orders the change of name under division 1018  
(A) (3) of this section, the court shall order the records of the 1019  
change of name proceeding to be sealed and to be opened only by 1020  
order of the court for good cause shown or at the request of the 1021~~

~~applicant for any reason.~~ 1022

~~(B) An application for change of name may be made on behalf of a minor by either of the minor's parents, a legal guardian, or a guardian ad litem. When application is made on behalf of a minor, in addition to the notice and proof required pursuant to division (A) of this section, the consent of both living, legal parents of the minor shall be filed, or notice of the hearing shall be given to the parent or parents not consenting by certified mail, return receipt requested. If there is no known father of the minor, the notice shall be given to the person who the mother of the minor alleges to be the father. If no father is so alleged, or if either parent or the address of either parent is unknown, notice pursuant to division (A) of this section shall be sufficient as to the father or parent.~~ 1023  
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~~Any additional notice required by this division may be waived in writing by any person entitled to the notice.~~ 1036  
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~~(C) (1) The court shall not order a change of name under division (A) of this section if the person applying for a change of name or for whom the application for a change of name is made has a duty to comply with section 2950.04 or 2950.041 of the Revised Code because the applicant or the person on whose behalf the application for a change of name is made was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child victim-oriented offense.~~ 1038  
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~~(2) The court shall not order a change of name under division (A) of this section if the person applying for a change of name or for whom the application for a change of name is made has pleaded guilty to, been convicted of, or been adjudicated a delinquent child for committing a violation of section 2913.49-~~ 1047  
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~~of the Revised Code unless the guilty plea, conviction, or  
adjudication has been reversed on appeal.~~ 1052  
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~~(3) As used in this division, "sexually oriented offense"  
and "child-victim oriented offense" have the same meanings as in  
section 2950.01 of the Revised Code.~~ 1054  
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Sec. 2717.03. Subject to sections 2717.07 and 2717.19 of 1057  
the Revised Code, an application for a change of name shall set 1058  
forth all of the following: 1059

(A) That the applicant has been a bona fide resident of 1060  
the county for at least sixty days prior to the filing of the 1061  
application. 1062

(B) The reason for which the change of name is sought. 1063

(C) The requested new name. 1064

Sec. 2717.04. A person desiring to conform the person's 1065  
legal name on an official identity document may file an 1066  
application in the probate court of the county in which the 1067  
person resides. 1068

Sec. 2717.05. Subject to sections 2717.07 and 2717.19 of 1069  
the Revised Code, an application to conform a legal name shall 1070  
set forth all of the following: 1071

(A) That the applicant has been a bona fide resident of 1072  
the county where the applicant is filing for at least sixty days 1073  
prior to the filing of the application. 1074

(B) An explanation of the misspelling, inconsistency, or 1075  
other error in the name. 1076

(C) A description of the correction sought to conform the 1077  
name on all official identity documents. 1078

Sec. 2717.06. (A) An application shall be supported by an affidavit verifying all of the following: 1079  
1080

(1) The applicant's residency in the county for a period of at least sixty days; 1081  
1082

(2) That the application is not made for the purpose of evading any creditors or other obligations; 1083  
1084

(3) That the applicant is not a debtor in any currently pending bankruptcy proceeding; 1085  
1086

(4) That all of the documentary evidence submitted under section 2717.07 of the Revised Code with the application is true, accurate, and complete; 1087  
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(5) Any other information the court may require. 1090

(B) The affidavit supporting a legal name change application shall also verify that the applicant has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for identity fraud or does not have a duty to comply with section 2950.04 or 2950.041 of the Revised Code because the applicant was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim oriented offense. 1091  
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Sec. 2717.07. A probate court by local rule or order may require an applicant to submit a copy of any or all of the applicant's official identity documents or other documentary evidence relating to the applicant's identity that the court deems relevant to the application. 1099  
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Sec. 2717.08. The probate court may hold a hearing on an application. Except as provided in sections 2717.11 and 2717.14 of the Revised Code, if the court requires a hearing, it shall 1104  
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set the manner, scope, and content of the hearing notice the 1107  
applicant must serve. 1108

Sec. 2717.09. Except as provided under section 2717.16 of 1109  
the Revised Code, upon proof that the facts set forth in the 1110  
application show reasonable and proper cause for changing the 1111  
name of the applicant and, if applicable, upon proof that proper 1112  
notice was served, the court may order the change of name. 1113

Sec. 2717.10. Upon proof that the facts set forth in the 1114  
application show that a misspelling, inconsistency, or other 1115  
error of the applicant's legal name on an official identity 1116  
document exists, and that reasonable and proper cause exists for 1117  
issuing an order that resolves the discrepancy and conforms the 1118  
applicant's legal name, the court may issue an order to conform 1119  
the name of the person. 1120

Sec. 2717.11. If an applicant submits to the court, along 1121  
with the application, satisfactory proof that open records of 1122  
the name change or conformity, or publication of the hearing 1123  
notice under section 2717.08 of the Revised Code, would 1124  
jeopardize the applicant's personal safety, both of the 1125  
following apply: 1126

(A) The court shall waive the hearing notice requirement. 1127

(B) If the court orders the change of name under section 1128  
2717.09 of the Revised Code or the name conformity under section 1129  
2717.10 of the Revised Code, the court shall order the records 1130  
of the proceeding to be sealed and to be opened only by order of 1131  
the court for good cause shown or at the request of the 1132  
applicant for any reason. 1133

Sec. 2717.13. An application for change of name under 1134  
section 2717.02 of the Revised Code or to conform a name under 1135



section 2717.04 of the Revised Code may be made on behalf of a 1136  
minor by either of the minor's parents, a legal guardian, a 1137  
legal custodian, or a guardian ad litem. 1138

**Sec. 2717.14.** (A) When an application is made on behalf of 1139  
a minor, in addition to the proof required under sections 1140  
2717.03 or 2717.05 of the Revised Code and, if applicable, proof 1141  
of the notice given under section 2717.08 of the Revised Code, 1142  
the consent of both living, legal parents of the minor shall be 1143  
filed, or notice of the hearing shall be given to the parent or 1144  
parents not consenting by certified mail, return receipt 1145  
requested. 1146

(B) If there is no known father of the minor, the notice 1147  
shall be given to the person who the mother of the minor alleges 1148  
to be the father. 1149

(C) If no father is so alleged, or if either parent or the 1150  
address of either parent is unknown, notice by publication in a 1151  
newspaper of general circulation in the county at least thirty 1152  
days before the hearing shall be sufficient as to the father or 1153  
parent. 1154

(D) Any additional notice required by this section may be 1155  
waived in writing by any person entitled to the notice. 1156

**Sec. 2717.16.** (A) The court shall not order a change of 1157  
name under section 2717.09 of the Revised Code if the person 1158  
applying for a change of name has a duty to comply with section 1159  
2950.04 or 2950.041 of the Revised Code because the applicant 1160  
was convicted of, pleaded guilty to, or was adjudicated a 1161  
delinquent child for having committed a sexually oriented 1162  
offense or a child-victim oriented offense. 1163

(B) The court shall not order a change of name under 1164

section 2717.09 of the Revised Code if the person applying for a 1165  
change of name has pleaded guilty to, been convicted of, or been 1166  
adjudicated a delinquent child for committing a violation of 1167  
section 2913.49 of the Revised Code unless the guilty plea, 1168  
conviction, or adjudication has been reversed on appeal. 1169

**Sec. 2717.18.** An action to conform the legal name of a 1170  
person under section 2717.04 of the Revised Code shall not be 1171  
permitted in lieu of either of the following: 1172

(A) Correction of a birth record under section 3705.15 of 1173  
the Revised Code; 1174

(B) Changing a legal name to a name that is not used in 1175  
any existing official identity documents. 1176

**Sec. 2717.19.** (A) On receipt of an application, the 1177  
probate court may order a criminal records check. 1178

(B) Any fee required for the criminal records check shall 1179  
be paid by the applicant. 1180

**Sec. 5122.15.** (A) Full hearings shall be conducted in a 1181  
manner consistent with this chapter and with due process of law. 1182  
The hearings shall be conducted by a judge of the probate court 1183  
or a referee designated by a judge of the probate court and may 1184  
be conducted in or out of the county in which the respondent is 1185  
held. Any referee designated under this division shall be an 1186  
attorney. 1187

(1) With the consent of the respondent, the following 1188  
shall be made available to counsel for the respondent: 1189

(a) All relevant documents, information, and evidence in 1190  
the custody or control of the state or prosecutor; 1191

(b) All relevant documents, information, and evidence in 1192

the custody or control of the hospital in which the respondent 1193  
currently is held, or in which the respondent has been held 1194  
pursuant to this chapter; 1195

(c) All relevant documents, information, and evidence in 1196  
the custody or control of any hospital, facility, or person not 1197  
included in division (A) (1) (a) or (b) of this section. 1198

(2) The respondent has the right to attend the hearing and 1199  
to be represented by counsel of the respondent's choice. The 1200  
right to attend the hearing may be waived only by the respondent 1201  
or counsel for the respondent after consultation with the 1202  
respondent. 1203

(3) If the respondent is not represented by counsel, is 1204  
absent from the hearing, and has not validly waived the right to 1205  
counsel, the court shall appoint counsel immediately to 1206  
represent the respondent at the hearing, reserving the right to 1207  
tax costs of appointed counsel to the respondent, unless it is 1208  
shown that the respondent is indigent. If the court appoints 1209  
counsel, or if the court determines that the evidence relevant 1210  
to the respondent's absence does not justify the absence, the 1211  
court shall continue the case. 1212

(4) The respondent shall be informed that the respondent 1213  
may retain counsel and have independent expert evaluation. If 1214  
the respondent is unable to obtain an attorney, the respondent 1215  
shall be represented by court-appointed counsel. If the 1216  
respondent is indigent, court-appointed counsel and independent 1217  
expert evaluation shall be provided as an expense under section 1218  
5122.43 of the Revised Code. 1219

(5) The hearing shall be closed to the public, unless 1220  
counsel for the respondent, with the permission of the 1221

respondent, requests that the hearing be open to the public. 1222

(6) If the hearing is closed to the public, the court, for 1223  
good cause shown, may admit persons who have a legitimate 1224  
interest in the proceedings. If the respondent, the respondent's 1225  
counsel, or the designee of the director or of the chief 1226  
clinical officer objects to the admission of any person, the 1227  
court shall hear the objection and any opposing argument and 1228  
shall rule upon the admission of the person to the hearing. 1229

(7) The affiant under section 5122.11 of the Revised Code 1230  
shall be subject to subpoena by either party. 1231

(8) The court shall examine the sufficiency of all 1232  
documents filed and shall inform the respondent, if present, and 1233  
the respondent's counsel of the nature and content of the 1234  
documents and the reason for which the respondent is being 1235  
detained, or for which the respondent's placement is being 1236  
sought. 1237

(9) The court shall receive only reliable, competent, and 1238  
material evidence. 1239

(10) Unless proceedings are initiated pursuant to section 1240  
5120.17 or 5139.08 of the Revised Code, an attorney that the 1241  
board designates shall present the case demonstrating that the 1242  
respondent is a mentally ill person subject to court order. The 1243  
attorney shall offer evidence of the diagnosis, prognosis, 1244  
record of treatment, if any, and less restrictive treatment 1245  
plans, if any. In proceedings pursuant to section 5120.17 or 1246  
5139.08 of the Revised Code, the attorney general shall 1247  
designate an attorney who shall present the case demonstrating 1248  
that the respondent is a mentally ill person subject to court 1249  
order. The attorney shall offer evidence of the diagnosis, 1250

prognosis, record of treatment, if any, and less restrictive 1251  
treatment plans, if any. 1252

(11) The respondent or the respondent's counsel has the 1253  
right to subpoena witnesses and documents and to examine and 1254  
cross-examine witnesses. 1255

(12) The respondent has the right, but shall not be 1256  
compelled, to testify, and shall be so advised by the court. 1257

(13) On motion of the respondent or the respondent's 1258  
counsel for good cause shown, or on the court's own motion, the 1259  
court may order a continuance of the hearing. 1260

(14) If the respondent is represented by counsel and the 1261  
respondent's counsel requests a transcript and record, or if the 1262  
respondent is not represented by counsel, the court shall make 1263  
and maintain a full transcript and record of the proceeding. If 1264  
the respondent is indigent and the transcript and record is 1265  
made, a copy shall be provided to the respondent upon request 1266  
and be treated as an expense under section 5122.43 of the 1267  
Revised Code. 1268

(15) To the extent not inconsistent with this chapter, the 1269  
Rules of Civil Procedure are applicable. 1270

(B) Unless, upon completion of the hearing the court finds 1271  
by clear and convincing evidence that the respondent is a 1272  
mentally ill person subject to court order, it shall order the 1273  
respondent's discharge immediately. 1274

(C) If, upon completion of the hearing, the court finds by 1275  
clear and convincing evidence that the respondent is a mentally 1276  
ill person subject to court order, the court shall order the 1277  
respondent for a period not to exceed ninety days to any of the 1278  
following: 1279

(1) A hospital operated by the department of mental health and addiction services if the respondent is committed pursuant to section 5139.08 of the Revised Code;	1280 1281 1282
(2) A nonpublic hospital;	1283
(3) The veterans' administration or other agency of the United States government;	1284 1285
(4) A board of alcohol, drug addiction, and mental health services or services provider the board designates;	1286 1287
(5) Receive private psychiatric or psychological care and treatment;	1288 1289
(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent. A jail or other local correctional facility is not a suitable facility.	1290 1291 1292 1293
(D) Any order made pursuant to division (C) (2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent and may include a requirement that a person or entity described in division (C) (2), (3), (5), or (6) of this section inform the board of alcohol, drug addiction, and mental health services or community mental health services provider the board designates about the progress of the respondent with the treatment plan.	1294 1295 1296 1297 1298 1299 1300 1301 1302
(E) In determining the entity or person to which the respondent is to be committed under division (C) of this section, the court shall consider <del>the</del> <u>all of the following:</u>	1303 1304 1305
<u>(1) The respondent's diagnosis, and prognosis, made by a psychiatrist, licensed clinical psychologist, clinical nurse</u>	1306 1307

specialist who is certified as a psychiatric-mental health 1308  
clinical nurse specialist by the American nurses credentialing 1309  
center, or certified nurse practitioner who is certified as a 1310  
psychiatric-mental health nurse practitioner by the American 1311  
nurses credentialing center; 1312

(2) The respondent's preferences of the respondent and 1313  
the; 1314

(3) The respondent's projected treatment plan for the 1315  
respondent and. 1316

The court shall order the implementation of the least 1317  
restrictive alternative available and consistent with treatment 1318  
goals. If the court determines that the least restrictive 1319  
alternative available that is consistent with treatment goals is 1320  
inpatient hospitalization, the court's order shall so state. 1321

(F) During the ninety-day period the entity or person 1322  
shall examine and treat the respondent. If the respondent is 1323  
receiving treatment in an outpatient setting, or receives 1324  
treatment in an outpatient setting during a subsequent period of 1325  
continued commitment under division (H) of this section, the 1326  
entity or person to whom the respondent is committed shall 1327  
determine the appropriate outpatient treatment for the 1328  
respondent. If, at any time prior to the expiration of the 1329  
ninety-day period, it is determined by the entity or person that 1330  
the respondent's treatment needs could be equally well met in an 1331  
available and appropriate less restrictive setting, both of the 1332  
following apply: 1333

(1) The respondent shall be released from the care of the 1334  
entity or person immediately and shall be referred to the court 1335  
together with a report of the findings and recommendations of 1336

the entity or person; 1337

(2) The entity or person shall notify the respondent's 1338  
counsel or the attorney designated by a board of alcohol, drug 1339  
addiction, and mental health services or, if the respondent was 1340  
committed to a board or a services provider designated by the 1341  
board, it shall place the respondent in the least restrictive 1342  
setting available consistent with treatment goals and notify the 1343  
court and the respondent's counsel of the placement. 1344

The court shall dismiss the case or order placement in the 1345  
least restrictive setting. 1346

(G) (1) Except as provided in division (G) (2) of this 1347  
section, any person for whom proceedings for treatment have been 1348  
commenced pursuant to section 5122.11 of the Revised Code, may 1349  
apply at any time for voluntary admission or treatment to the 1350  
entity or person to which the person was committed. Upon 1351  
admission as a voluntary patient the chief clinical officer of 1352  
the entity or the person immediately shall notify the court, the 1353  
patient's counsel, and the attorney designated by the board, if 1354  
the attorney has entered the proceedings, in writing of that 1355  
fact, and, upon receipt of the notice, the court shall dismiss 1356  
the case. 1357

(2) A person who is found incompetent to stand trial or 1358  
not guilty by reason of insanity and who is committed pursuant 1359  
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 1360  
Revised Code shall not voluntarily commit the person pursuant to 1361  
this section until after the final termination of the 1362  
commitment, as described in division (J) of section 2945.401 of 1363  
the Revised Code. 1364

(H) If, at the end of the first ninety-day period or any 1365



subsequent period of continued commitment, there has been no 1366  
disposition of the case, either by discharge or voluntary 1367  
admission or treatment, the entity or person shall discharge the 1368  
patient immediately, unless at least ten days before the 1369  
expiration of the period the attorney the board designates or 1370  
the prosecutor files with the court an application for continued 1371  
commitment. The application of the attorney or the prosecutor 1372  
shall include a written report containing the diagnosis, 1373  
prognosis, past treatment, a list of alternative treatment 1374  
settings and plans, and identification of the treatment setting 1375  
that is the least restrictive consistent with treatment needs. 1376  
The attorney the board designates or the prosecutor shall file 1377  
the written report at least three days prior to the full 1378  
hearing. A copy of the application and written report shall be 1379  
provided to the respondent's counsel immediately. 1380

The court shall hold a full hearing on applications for 1381  
continued commitment at the expiration of the first ninety-day 1382  
period and at least every two years after the expiration of the 1383  
first ninety-day period. 1384

Hearings following any application for continued 1385  
commitment are mandatory and may not be waived. 1386

For a respondent who is ordered to receive treatment in an 1387  
outpatient setting, if at any time after the first ninety-day 1388  
period the entity or person to whom the respondent was ordered 1389  
determines that the respondent has demonstrated voluntary 1390  
consent for treatment, that entity or person shall immediately 1391  
notify the respondent, the respondent's counsel, the attorney 1392  
designated by the board, and the court. The entity or person 1393  
shall submit to the court a report of the findings and 1394  
recommendations. The court may dismiss the case upon review of 1395

the facts. 1396

Upon request of a person who is involuntarily committed 1397  
under this section, or the person's counsel, that is made more 1398  
than one hundred eighty days after the person's last full 1399  
hearing, mandatory or requested, the court shall hold a full 1400  
hearing on the person's continued commitment. Upon the 1401  
application of a person involuntarily committed under this 1402  
section, supported by an affidavit of a psychiatrist or licensed 1403  
clinical psychologist, alleging that the person no longer is a 1404  
mentally ill person subject to court order, the court for good 1405  
cause shown may hold a full hearing on the person's continued 1406  
commitment prior to the expiration of one hundred eighty days 1407  
after the person's last full hearing. Section 5122.12 of the 1408  
Revised Code applies to all hearings on continued commitment. 1409

If the court, after a hearing for continued commitment 1410  
finds by clear and convincing evidence that the respondent is a 1411  
mentally ill person subject to court order, the court may order 1412  
continued commitment at places or to persons specified in 1413  
division (C) of this section. 1414

(I) Unless the admission is pursuant to section 5120.17 or 1415  
5139.08 of the Revised Code, the chief clinical officer of the 1416  
entity admitting a respondent pursuant to a judicial proceeding, 1417  
within ten working days of the admission, shall make a report of 1418  
the admission to the board of alcohol, drug addiction, and 1419  
mental health services serving the respondent's county of 1420  
residence. 1421

(J) A referee appointed by the court may make all orders 1422  
that a judge may make under this section and sections 5122.11 1423  
and 5122.141 of the Revised Code, except an order of contempt of 1424  
court. The orders of a referee take effect immediately. Within 1425

fourteen days of the making of an order by a referee, a party 1426  
may file written objections to the order with the court. The 1427  
filed objections shall be considered a motion, shall be 1428  
specific, and shall state their grounds with particularity. 1429  
Within ten days of the filing of the objections, a judge of the 1430  
court shall hold a hearing on the objections and may hear and 1431  
consider any testimony or other evidence relating to the 1432  
respondent's mental condition. At the conclusion of the hearing, 1433  
the judge may ratify, rescind, or modify the referee's order. 1434

(K) An order of the court under division (C), (H), or (J) 1435  
of this section is a final order. 1436

(L) Before a board, or a services provider the board 1437  
designates, may place an unconsenting respondent in an inpatient 1438  
setting from a less restrictive placement, the board or services 1439  
provider shall do all of the following: 1440

(1) Determine that the respondent is in immediate need of 1441  
treatment in an inpatient setting because the respondent 1442  
represents a substantial risk of physical harm to the respondent 1443  
or others if allowed to remain in a less restrictive setting; 1444

(2) On the day of placement in the inpatient setting or on 1445  
the next court day, file with the court a motion for transfer to 1446  
an inpatient setting or communicate to the court by telephone 1447  
that the required motion has been mailed; 1448

(3) Ensure that every reasonable and appropriate effort is 1449  
made to take the respondent to the inpatient setting in the 1450  
least conspicuous manner possible; 1451

(4) Immediately notify the board's designated attorney and 1452  
the respondent's attorney. 1453

At the respondent's request, the court shall hold a 1454

hearing on the motion and make a determination pursuant to 1455  
division (E) of this section within five days of the placement. 1456

(M) Before a board, or a services provider the board 1457  
designates, may move a respondent from one residential placement 1458  
to another, the board or services provider shall consult with 1459  
the respondent about the placement. If the respondent objects to 1460  
the placement, the proposed placement and the need for it shall 1461  
be reviewed by a qualified mental health professional who 1462  
otherwise is not involved in the treatment of the respondent. 1463

(N) The entity or person to whom the respondent was 1464  
ordered for treatment in an outpatient setting may submit a 1465  
report to the court indicating that the respondent has either 1466  
failed to comply with the treatment plan or begun to demonstrate 1467  
signs of decompensation that may be grounds for hospitalization. 1468  
On receipt of the report, the court shall promptly schedule a 1469  
hearing to review the case. The court shall conduct the hearing 1470  
in a manner consistent with this chapter and due process of law. 1471  
The board shall receive notice of the hearing and the board and 1472  
entity or person treating the respondent shall submit a report 1473  
to the court with a plan for appropriate alternative treatment, 1474  
if any, or recommend that the court discontinue the court- 1475  
ordered treatment. The court shall consider available and 1476  
appropriate alternative placements but shall not impose criminal 1477  
sanctions that result in confinement in a jail or other local 1478  
correctional facility based on the respondent's failure to 1479  
comply with the treatment plan. The court may not order the 1480  
respondent to a more restrictive placement unless the criteria 1481  
specified in division (L) of this section are met and may not 1482  
order the respondent to an inpatient setting unless the court 1483  
determines by clear and convincing evidence presented by the 1484  
board that the respondent meets the criteria specified in 1485

divisions (A) and (B) (1), (2), (3), or (4) of section 5122.01 of 1486  
the Revised Code. 1487

**Sec. 5804.11.** (A) If upon petition the court finds that 1488  
the settlor and all beneficiaries consent to the modification or 1489  
termination of a noncharitable irrevocable trust, that all 1490  
consents, including any given by representatives under Chapter 1491  
5803. of the Revised Code, are valid, and that all parties 1492  
giving consent are competent to do so, the court shall enter an 1493  
order approving the modification or termination even if the 1494  
modification or termination is inconsistent with a material 1495  
purpose of the trust. An agent under a power of attorney may 1496  
exercise a settlor's power to consent to a trust's modification 1497  
or termination only to the extent expressly authorized by both 1498  
the power of attorney and the terms of the trust. The settlor's 1499  
guardian of the estate may exercise a settlor's power to consent 1500  
to a trust's modification or termination with the approval of 1501  
the court supervising the guardianship if an agent is not so 1502  
authorized. The guardian of the settlor's person may exercise a 1503  
settlor's power to consent to a trust's modification or 1504  
termination with the approval of the court supervising the 1505  
guardianship if an agent is not so authorized and a guardian of 1506  
the estate has not been appointed. This division does not apply 1507  
to a noncharitable irrevocable trust described in 42 U.S.C. 1508  
1396p(d) (4). 1509

(B) A noncharitable irrevocable trust may be terminated 1510  
upon consent of all of the beneficiaries if the court concludes 1511  
that continuance of the trust is not necessary to achieve any 1512  
material purpose of the trust. A noncharitable irrevocable trust 1513  
may be modified, but not to remove or replace the currently 1514  
serving trustee, upon consent of all of the beneficiaries if the 1515  
court concludes that modification is not inconsistent with a 1516

material purpose of the trust. A spendthrift provision in the 1517  
terms of the trust may, but is not presumed to, constitute a 1518  
material purpose of the trust. In determining what constitutes a 1519  
material purpose of a trust, a court may but is not required to 1520  
consider extrinsic evidence indicating a settlor's intent at the 1521  
time the instrument was executed. 1522

(C) Upon termination of a trust under division (A) or (B) 1523  
of this section, the trustee shall distribute the trust property 1524  
as agreed by the beneficiaries. 1525

(D) If not all of the beneficiaries consent to a proposed 1526  
modification or termination of the trust under division (A) or 1527  
(B) of this section, the court may approve the modification or 1528  
termination if the court is satisfied of both of the following: 1529

(1) That if all of the beneficiaries had consented, the 1530  
trust could have been modified or terminated under this section; 1531

(2) That the interests of a beneficiary who does not 1532  
consent will be adequately protected. 1533

**Sec. 5805.06.** (A) Whether or not the terms of a trust 1534  
contain a spendthrift provision, all of the following apply: 1535

(1) During the lifetime of the settlor, the property of a 1536  
revocable trust is subject to claims of the settlor's creditors. 1537

(2) Except to the extent that a trust is established 1538  
pursuant to, or otherwise is wholly or partially governed by or 1539  
subject to Chapter 5816. of the Revised Code, with respect to an 1540  
irrevocable trust, a creditor or assignee of the settlor may 1541  
reach the maximum amount that can be distributed to or for the 1542  
settlor's benefit. If an irrevocable trust has more than one 1543  
settlor, the amount distributable to or for a settlor's benefit 1544  
that the creditor or assignee of a particular settlor may reach 1545

may not exceed that settlor's interest in the portion of the 1546  
trust attributable to that settlor's contribution. The right of 1547  
a creditor or assignee to reach a settlor's interest in an 1548  
irrevocable trust shall be subject to Chapter 5816. of the 1549  
Revised Code to the extent that that chapter applies to that 1550  
trust. 1551

(3) With respect to a trust described in 42 U.S.C. section 1552  
1396p(d) (4) (A) or (C), the court may limit the award of a 1553  
settlor's creditor under division (A) (1) or (2) of this section 1554  
to the relief that is appropriate under the circumstances, 1555  
considering among any other factors determined appropriate by 1556  
the court, the supplemental needs of the beneficiary. 1557

(B) For purposes of this section, all of the following 1558  
apply: 1559

(1) The holder of a power of withdrawal is treated in the 1560  
same manner as the settlor of a revocable trust to the extent of 1561  
the property subject to the power during the period the power 1562  
may be exercised. 1563

~~(2) Upon the lapse, release, or waiver of the power of 1564  
withdrawal, the holder is treated as the settlor of the trust 1565  
only to the extent the value of the property affected by the 1566  
lapse, release, or waiver exceeds the greatest of the following 1567  
amounts: 1568~~

~~(a) The amount specified in section 2041(b) (2) or 2514(e) 1569  
of the Internal Revenue Code; 1570~~

~~(b) If the donor of the property subject to the holder's 1571  
power of withdrawal is not married at the time of the transfer 1572  
of the property to the trust, the amount specified in section 1573  
2503(b) of the Internal Revenue Code; 1574~~

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

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

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

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

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

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

(A) (1) "Advisor" means a person to whom both of the



following apply: 1604

(a) The person satisfies the eligibility criteria 1605  
specified in division (A) of section 5816.11 of the Revised 1606  
Code. 1607

(b) The person is given the authority by the terms of a 1608  
legacy trust to remove or appoint one or more trustees of the 1609  
trust or to direct, consent to, or disapprove a trustee's actual 1610  
or proposed investment, distribution, or other decisions. 1611

(2) Any person to whom division (A) (1) of this section 1612  
applies is considered an advisor even if that person is 1613  
denominated by another title, such as protector. 1614

(B) "Asset" means property of a transferor but does not 1615  
include any of the following: 1616

(1) Property to the extent it is encumbered by a valid 1617  
lien; 1618

(2) Property to the extent it is exempt at the time of a 1619  
qualified disposition under any applicable nonbankruptcy law, 1620  
including, but not limited to, section 2329.66 of the Revised 1621  
Code; 1622

(3) Property held in the form of a tenancy by the 1623  
entireties to the extent that, under the law governing the 1624  
entireties estate at the time of a qualified disposition, it is 1625  
not subject to process by a creditor holding a claim against 1626  
only one tenant; 1627

(4) Any property transferred from a nonlegacy trust to a 1628  
legacy trust to the extent that the property would not be 1629  
subject to attachment under the applicable nonbankruptcy law 1630  
governing that nonlegacy trust. 1631

(C) "Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. Chapter 11, as amended.	1632 1633
(D) "Beneficiary" has the same meaning as in section 5801.01 of the Revised Code.	1634 1635
(E) "Claim" means a right to payment, whether or not the right is reduced to judgment or is liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.	1636 1637 1638 1639
(F) "Creditor" means a person who has a claim against a transferor and any transferee or assignee of, or successor to, that claim.	1640 1641 1642
(G) "Debt" means a liability on a claim.	1643
(H) "Disposition" means a <u>direct or indirect</u> transfer, conveyance, or assignment of property, including, but not limited to, a partial, contingent, undivided, or co-ownership interest in property. "Disposition" includes the exercise of a general power so as to cause a transfer of property to a trustee or trustees but does not include any of the following:	1644 1645 1646 1647 1648 1649
(1) The release or relinquishment of an interest in property that, until the release or relinquishment, was the subject of a qualified disposition;	1650 1651 1652
(2) The exercise of a limited power so as to cause a transfer of property to a trustee or trustees;	1653 1654
(3) A disclaimer of an interest in a trust, bequest, devise, or inheritance.	1655 1656
(I) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended.	1657 1658

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

(K) (1) "Legacy trust" means a trust evidenced by a written trust instrument to which all of the following apply:

(a) The trust has, names, or appoints at least one qualified trustee for or in connection with the property that is the subject of a qualified disposition.

(b) The trust expressly incorporates the laws of this state to wholly or partially govern its validity, construction, and administration.

(c) The trust expressly states that it is irrevocable.

(d) The trust has a spendthrift provision applicable to the interests of any beneficiary in the trust property, including any interests of a transferor in the trust property.

(2) A trust that satisfies the criteria specified in division (K) (1) of this section is considered a legacy trust even if the trust instrument also allows for one or more nonqualified trustees and regardless of the language used to satisfy those criteria.

(L) "Lien" has the same meaning as in section 1336.01 of the Revised Code.

(M) "Nonlegacy trust" means any trust other than a legacy trust.

(N) "Nonqualified trustee" means any trustee other than a qualified trustee.

(O) "Person" has the same meaning as in section 5801.01 of the Revised Code. 1686  
1687

(P) "Property" has the same meaning as in section 5801.01 of the Revised Code. 1688  
1689

(Q) "Qualified affidavit" means an affidavit that meets the requirements of section 5816.06 of the Revised Code. 1690  
1691

(R) "Qualified disposition" means a disposition by or from a transferor to any trustee of a trust that is, was, or becomes a legacy trust. 1692  
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(S) "Qualified trustee" means a person who is not a transferor and to whom both of the following apply: 1695  
1696

(1) (a) The person, if a natural person, is a resident of this state. 1697  
1698

(b) The person, if not a natural person, is authorized by the law of this state or by a court of competent jurisdiction of this state to act as a trustee and ~~whose~~ either of the following applies: 1699  
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1701  
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(i) The activities of that person are subject to supervision by the Ohio superintendent of ~~banks~~ financial institutions, the federal deposit insurance corporation, the comptroller of the currency, or the office of thrift supervision or a successor of any of them. 1703  
1704  
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(ii) That person is a "family trust company," as defined in section 1112.01 of the Revised Code, and that family trust company may be licensed or unlicensed for purposes of Chapter 1112. of the Revised Code, provided that all of the following also apply regardless of the family trust company's licensing status: 1708  
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(I) The family trust company shall maintain an office in this state, on either an exclusive basis or on a shared basis with one or more other persons. 1714  
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(II) The family trust company shall open and maintain at least one bank or brokerage account in this state. 1717  
1718

(III) The family trust company shall maintain in this state, on an exclusive or nonexclusive basis, electronic or physical records for the legacy trust. 1719  
1720  
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(IV) The family trust company shall satisfy all of the requirements imposed by divisions (B), (C), (D), and (E) (1) of section 1112.14 of the Revised Code. 1722  
1723  
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(V) No beneficiary of a legacy trust, when acting for or on behalf of a family trust company, or when acting as an officer, manager, director, employee, or other agent or representative of a family trust company, may have any vote or authority regarding any decision to make or withhold any distribution from such legacy trust to or for the benefit of that beneficiary. 1725  
1726  
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Nothing in division (S) (1) (b) (ii) of this section shall prohibit a beneficiary from exercising any rights, powers, privileges, or authority granted to that beneficiary by or in any trust instrument governing a legacy trust. 1732  
1733  
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(2) The person maintains or arranges for custody in this state of some or all of the property that is the subject of the qualified disposition, maintains electronic or physical records for the legacy trust on an exclusive or nonexclusive basis, prepares or arranges for the preparation of required income tax returns for the legacy trust, or otherwise materially participates in the administration of the legacy trust. 1736  
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(T) "Spendthrift provision" has the same meaning as in section 5801.01 of the Revised Code.	1743 1744
(U) "Spouse" and "former spouse" means only the person to whom a transferor was married on or before a qualified disposition is made.	1745 1746 1747
(V) "Transferor" means a person who directly or indirectly makes a disposition.	1748 1749
(W) "Valid lien" has the same meaning as in section 1336.01 of the Revised Code.	1750 1751
<b>Sec. 5816.05.</b> A legacy trust may allow or provide for any or all of the following rights, powers, interests, or provisions, none of which grants, or is considered to be, either alone or in any combination, a right or power to revoke a trust or to voluntarily or involuntarily transfer an interest in that trust:	1752 1753 1754 1755 1756 1757
(A) A provision that, upon the happening of a defined event <u>or a stated contingency</u> , results in the termination of a transferor's right to mandatory income or principal;	1758 1759 1760
(B) The power of a transferor to veto a distribution from the trust;	1761 1762
(C) A power of appointment, other than a power to appoint to a transferor, a creditor of the transferor, the estate of the transferor, or a creditor of the transferor's estate, that is exercisable by will or by other written instrument of a transferor effective upon the death of the transferor or during the lifetime of the transferor;	1763 1764 1765 1766 1767 1768
(D) The right of a transferor to receive trust income as set forth in the trust instrument.	1769 1770

(E) Both of the following:	1771
(1) A transferor's potential or actual receipt of income	1772
or principal from a charitable remainder unitrust or charitable	1773
remainder annuity trust as those terms are defined in section	1774
664 of the Internal Revenue Code;	1775
(2) The transferor's right, at any time and from time to	1776
time by written instrument delivered to the trustee, to release	1777
the transferor's retained interest in that unitrust or annuity	1778
trust, in whole or in part, in favor of one or more charitable	1779
organizations that have a succeeding beneficial interest in that	1780
unitrust or annuity trust;	1781
(F) The power of a transferor to consume, invade, or	1782
appropriate property of the trust, but only if limited in each	1783
calendar year to five per cent of the value of the trust	1784
principal at the time of the exercise of the power;	1785
(G) A transferor's potential or actual receipt or use of	1786
principal or income of the trust if the potential or actual	1787
receipt or use is or would be the result of any of the following	1788
that applies with respect to one or more of the qualified	1789
trustees:	1790
(1) A qualified trustee's acting in the trustee's	1791
discretion. For purposes of division (G) (1) of this section, a	1792
qualified trustee shall have discretion with respect to the	1793
distribution or use of principal or income unless the discretion	1794
is expressly denied to the trustee by the terms of the trust	1795
instrument.	1796
(2) A qualified trustee's acting pursuant to a standard in	1797
the trust instrument that governs the distribution or use of	1798
principal or income;	1799

(3) A qualified trustee's acting at the direction of an 1800  
advisor who is acting in the advisor's discretion or pursuant to 1801  
a standard in the trust instrument that governs the distribution 1802  
or use of principal or income. If an advisor is authorized to 1803  
direct that distribution or use, the advisor's authority shall 1804  
be discretionary unless otherwise expressly stated in the trust 1805  
instrument. 1806

(H) The right of a transferor to remove any advisor and 1807  
appoint a new advisor who satisfies the eligibility criteria set 1808  
forth in division (A) of section 5816.11 of the Revised Code; 1809

(I) The right of a transferor to remove any trustee and 1810  
appoint a new trustee; 1811

(J) A transferor's potential or actual use of real 1812  
property or tangible personal property, including, but not 1813  
limited to, property held under a qualified personal residence 1814  
trust as described in section 2702(c) of the Internal Revenue 1815  
Code and regulations promulgated under that section, or a 1816  
transferor's possession and enjoyment of a qualified interest as 1817  
defined in section 2702(b) of the Internal Revenue Code; 1818

(K) Any provision requiring or permitting the potential or 1819  
actual use of trust income or principal to pay, in whole or in 1820  
part, income taxes due on the income of the trust, including, 1821  
but not limited to, any provision permitting that use in the 1822  
discretion of any one or more of the qualified trustees acting 1823  
in the qualified trustee's discretion or at the direction of an 1824  
advisor who is acting in the advisor's discretion; 1825

(L) The ability of a qualified trustee, whether pursuant 1826  
to the qualified trustee's discretion or the terms of the legacy 1827  
trust instrument or at the direction of an advisor, to pay after 1828



the death of a transferor all or any part of the debts of the 1829  
transferor outstanding on or before the transferor's death, the 1830  
expenses of administering the transferor's estate, or any 1831  
estate, gift, generation skipping transfer, or inheritance tax; 1832

(M) Any provision that pours back after the death of a 1833  
transferor all or part of the trust property to the transferor's 1834  
estate or any trust; 1835

(N) A power held by a transferor allowing the transferor, 1836  
while acting in a nonfiduciary capacity, to substitute property 1837  
of equivalent value for any property that is part of the 1838  
principal of the legacy trust; 1839

(O) Any other rights, powers, interests, or provisions 1840  
permitted or allowed by any other section of this chapter. 1841

**Sec. 5816.06.** (A) Except as otherwise provided in this 1842  
section, a transferor shall sign a qualified affidavit before or 1843  
substantially contemporaneously with making a qualified 1844  
disposition. 1845

(B) A qualified affidavit shall be notarized and shall 1846  
contain all of the following statements under oath: 1847

(1) The property being transferred to the trust was not 1848  
derived from unlawful activities. 1849

(2) The transferor has full right, title, and authority to 1850  
transfer the property to the legacy trust. 1851

(3) The transferor will not be rendered insolvent 1852  
immediately after the transfer of the property to the legacy 1853  
trust. 1854

(4) The transferor does not intend to defraud any creditor 1855  
by transferring the property to the legacy trust. 1856

(5) There are no pending or threatened court actions 1857  
against the transferor, except for any court action identified 1858  
by the affidavit or an attachment to the affidavit. 1859

(6) The transferor is not involved in any administrative 1860  
proceeding, except for any proceeding identified by the 1861  
affidavit or an attachment to the affidavit. 1862

(7) The transferor does not contemplate at the time of the 1863  
transfer the filing for relief under the Bankruptcy Code. 1864

(C) A qualified affidavit is considered defective if it 1865  
materially fails to meet the requirements set forth in division 1866  
(B) of this section, but a qualified affidavit is not considered 1867  
defective due to any one or more of the following: 1868

(1) Any nonsubstantive variances from the language set 1869  
forth in division (B) of this section; 1870

(2) Any statements or representations in addition to those 1871  
set forth in division (B) of this section if the statements or 1872  
representations do not materially contradict the statements or 1873  
representations required by that division; 1874

(3) Any technical errors in the form, substance, or method 1875  
of administering an oath if those errors were not the fault of 1876  
the affiant, and the affiant reasonably relied upon another 1877  
person to prepare or administer the oath. 1878

(D) (1) A qualified affidavit is not required from a 1879  
transferor who is not a beneficiary of the legacy trust that 1880  
receives the disposition. 1881

(2) A subsequent qualified affidavit is not required in 1882  
connection with any qualified disposition made after the 1883  
execution of an earlier qualified affidavit if that disposition 1884

is a part of, is required by, or is the direct result of, a 1885  
prior qualified disposition that was made in connection with 1886  
that earlier qualified affidavit. 1887

(E) If a qualified affidavit is required by this section 1888  
and a transferor fails to timely sign a qualified affidavit or 1889  
signs a defective qualified affidavit, then, subject to the 1890  
normal rules of evidence, that failure or defect may be 1891  
considered as evidence in any proceeding commenced pursuant to 1892  
section 5816.07 of the Revised Code, but the legacy trust or the 1893  
validity of any attempted qualified disposition shall not be 1894  
affected in any other way due to that failure or defect. 1895

**Sec. 5816.09.** Any successor or replacement trustees of a 1896  
legacy trust shall be determined or selected in the following 1897  
manners: 1898

(A) (1) Division (A) (2) of this section applies if in any 1899  
action involving a legacy trust or any trustee of the legacy 1900  
trust a court ~~takes an action~~ enters or issues any order in 1901  
which or by which the court declines to apply the law of this 1902  
state in determining any of the following matters: 1903

(a) The validity, construction, or administration of the 1904  
trust; 1905

(b) The effect of any term or condition of the trust, 1906  
including, but not limited to, a spendthrift provision; 1907

(c) The rights and remedies of any creditor or other 1908  
suitor in connection with a qualified disposition. 1909

(2) Immediately upon the court's ~~action under entry or~~ 1910  
issuance of an order referred to in division (A) (1) of this 1911  
section, and without the need for any other order of any court, 1912  
any qualified trustee who is a party to that action shall cease 1913

in all respects to be a trustee of the legacy trust, and the 1914  
position of trustee shall be occupied in accordance with the 1915  
terms of the trust instrument that governed the legacy trust 1916  
immediately before that cessation, or, if the terms of the trust 1917  
instrument do not provide for another trustee and the trust 1918  
would otherwise be without a trustee, any court of this state, 1919  
upon the application of any beneficiary of the legacy trust, 1920  
shall appoint a successor qualified trustee upon the terms and 1921  
conditions that it determines to be consistent with the purposes 1922  
of the trust and this chapter. Upon a qualified trustee ceasing 1923  
to be a trustee pursuant to division (A) (2) of this section, 1924  
that qualified trustee shall have no power or authority other 1925  
than to convey trust property to any other trustee that is 1926  
appointed, installed, or serving in accordance with that 1927  
division. 1928

(3) For purposes of division (A) of this section, ~~"court":~~ 1929

(a) "Court" includes a judicial tribunal, an 1930  
administrative tribunal, or other adjudicative body or panel. 1931

(b) "Order" includes any order, writ, judgment, entry, 1932  
edict, mandate, directive, instruction, or decree issued or 1933  
entered by any court. 1934

(B) In all cases other than the situation described in 1935  
division (A) of this section, both of the following apply: 1936

(1) If a legacy trust ceases to have at least one 1937  
qualified trustee, the vacancy in the qualified trusteeship 1938  
shall be filled pursuant to section 5807.04 of the Revised Code 1939  
except to the extent that the legacy trust expressly provides 1940  
otherwise. 1941

(2) If a legacy trust ceases to have at least one trustee, 1942

the vacancy in the trusteeship shall be filled pursuant to 1943  
section 5807.04 of the Revised Code, and the successor trustee 1944  
shall be a qualified trustee unless the legacy trust instrument 1945  
expressly provides otherwise. 1946

**Sec. 5816.10.** (A) In the event of any conflict between any 1947  
provision of this chapter and any provision of Chapter 1336. of 1948  
the Revised Code or any other provision of law similar to any 1949  
provision of Chapter 1336. of the Revised Code, including, but 1950  
not limited to, any similar provision of law adopted, 1951  
promulgated, or enacted by a jurisdiction other than this state, 1952  
the provision of this chapter shall control and prevail to the 1953  
maximum extent permitted by the Ohio Constitution and the United 1954  
States Constitution. When determining whether a provision of law 1955  
is similar to any provision of Chapter 1336. of the Revised 1956  
Code, a court shall be liberal in finding that such similarity 1957  
exists. 1958

(B) A statement in a trust instrument stating that it 1959  
"shall be governed by the laws of Ohio" or other statement to 1960  
similar effect or of similar import is considered to expressly 1961  
incorporate the laws of this state to govern the validity, 1962  
construction, and administration of that trust instrument and to 1963  
satisfy division (K) (1) (b) of section 5816.02 of the Revised 1964  
Code. 1965

(C) A disposition by a nonqualified trustee to a qualified 1966  
trustee shall not be treated as other than a qualified 1967  
disposition solely because the nonqualified trustee is a trustee 1968  
of a nonlegacy trust. 1969

(D) A disposition to any nonqualified trustee of a legacy 1970  
trust shall be treated as a qualified disposition if at the time 1971  
of the disposition any of the following applies: 1972

(1) There is at least one qualified trustee serving pursuant to the terms of that legacy trust.	1973 1974
(2) There is no qualified trustee serving but the circumstances require the appointment or installation of a qualified trustee pursuant to division (A)(2) of section 5816.09 of the Revised Code.	1975 1976 1977 1978
(3) There is no qualified trustee serving but within one hundred eighty days after the date of disposition a qualified trustee fills the vacancy in the qualified trusteeship or an application to appoint a qualified trustee is filed pursuant to division (B) of section 5816.09 of the Revised Code.	1979 1980 1981 1982 1983
(E) If a disposition is made by a trustee of a nonlegacy trust to a trustee of a legacy trust, both of the following apply:	1984 1985 1986
(1) Except to the extent expressly stated otherwise by the terms of that disposition, the disposition shall be considered a qualified disposition for the benefit of all of the persons who are the beneficiaries of both the nonlegacy trust and the legacy trust.	1987 1988 1989 1990 1991
(2) The date of the disposition to the legacy trust shall be considered to be the date on which the property that was part of the nonlegacy trust was first continuously subject to any law of a jurisdiction other than this state that is similar to this chapter. <del>A court shall liberally construe and apply division (E)(2) of this section</del> <u>When applying division (E)(2) of this section, a court shall be liberal in finding that such</u> continuity and similarity exist.	1992 1993 1994 1995 1996 1997 1998 1999
(F) A legacy trust may contain any terms or conditions that provide for changes in or to the place of administration,	2000 2001

situs, governing law, trustees or advisors, or the terms or 2002  
conditions of the legacy trust or for other changes permitted by 2003  
law. 2004

(G) Any valid lien attaching to property before a 2005  
disposition of that property to a trustee of a legacy trust 2006  
shall survive the disposition, and the trustee shall take title 2007  
to the property subject to the valid lien and subject to any 2008  
agreements that created or perfected the valid lien. Nothing in 2009  
this chapter shall be construed to authorize any disposition 2010  
that is prohibited by the terms of any agreements, notes, 2011  
guaranties, mortgages, indentures, instruments, undertakings, or 2012  
other documents. In the event of any conflict between this 2013  
division and any other provision of this chapter, this division 2014  
shall control. 2015

(H) To the maximum extent permitted by the Ohio 2016  
Constitution and the United States Constitution, the courts of 2017  
this state shall exercise jurisdiction over any legacy trust,  2018  
any legacy trust matter, or any qualified disposition and shall 2019  
adjudicate any case or controversy brought before them 2020  
regarding, arising out of, or related to, any legacy trust, any 2021  
legacy trust matter, or any qualified disposition if that case 2022  
or controversy is otherwise within the subject matter 2023  
jurisdiction of the court. Subject to the Ohio Constitution and 2024  
the United States Constitution, no court of this state shall 2025  
dismiss or otherwise decline to adjudicate any case or 2026  
controversy described in this division on the ground that a 2027  
court of another jurisdiction has acquired or may acquire proper 2028  
jurisdiction over, or may provide proper venue for, that case or 2029  
controversy or the parties to the case or controversy. Nothing 2030  
in this division shall be construed to do either of the 2031  
following: 2032

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

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

(I) (1) If any disposition is made by a trustee of a legacy  
trust, referred to in division (I) of this section as the "first  
legacy trust," to a trustee of a second legacy trust, referred  
to in division (I) of this section as the "second legacy trust,"  
whether pursuant to section 5808.18 of the Revised Code or any  
other applicable law, then all of the following apply to any  
property involved in such disposition:

(a) Except to the extent expressly stated otherwise by the  
terms of that disposition, the disposition shall be considered a  
qualified disposition for the benefit of all persons who are the  
beneficiaries of both the first legacy trust and the second  
legacy trust.

(b) An item of property shall be treated as having been  
transferred to a trustee of the second legacy trust on the  
earlier of any of the following:

(i) The date of the original qualified disposition of the  
item to a trustee of the first legacy trust;

(ii) If, before being held by the trustee of the first  
legacy trust, the item previously was held by a trustee of a  
predecessor legacy trust, or by one or more trustees of a  
consecutive and uninterrupted series of predecessor legacy  
trusts, then the date of the original qualified disposition to  
the first trustee to hold that item as part of any such  
predecessor legacy trust;



(iii) If, before being held by the trustee of the first legacy trust, that item was held by a trustee of a nonlegacy trust referred to in division (E) (2) of this section, then the date determined pursuant to that division; 2062  
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(iv) The earliest date determined by any combination of divisions (I) (1) (b) (i) to (iii) of this section. 2066  
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(2) For purposes of division (I) (1) (b) of this section, any reference to an item of property shall include any proceeds of or substitutes for that item. 2068  
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(3) Notwithstanding division (S) of section 5816.02 of the Revised Code, a qualified trustee of the first legacy trust may serve as a qualified trustee of the second legacy trust. 2071  
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(4) The dispositions covered by division (I) of this section include, but are not limited to, any disposition that is made by a trustee of the first legacy trust acting pursuant to a direction issued by a person having the power to direct a distribution of trust property pursuant to the trust instrument governing the first legacy trust, including, but not limited to, a power to direct as provided in division (G) of section 5808.18 of the Revised Code. 2074  
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(J) Any reference in this chapter to an "action" or a "proceeding" shall be broadly construed to encompass any suit or proceeding in any jurisdiction or before any judicial tribunal, administrative tribunal, or other adjudicative body or panel. 2082  
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(K) This chapter and its provisions reflect and embody the strong public policy of this state. 2086  
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**Sec. 5816.14.** This chapter applies to qualified 2088  
dispositions made on or after ~~the effective date of this section~~ 2089  
March 27, 2013, except that division (S) (1) (b) (ii) of section 2090

5816.02 of the Revised Code applies to any legacy trust settled 2091  
or administered on or after the effective date of this 2092  
amendment. 2093

**Section 2.** That existing sections 1721.21, 2101.15, 2094  
2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2108.34, 2095  
2111.10, 2111.50, 2133.07, 2701.10, 2717.01, 5122.15, 5804.11, 2096  
5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5816.10, and 2097  
5816.14 of the Revised Code are hereby repealed. 2098

**Section 3.** That section 2133.16 of the Revised Code is 2099  
hereby repealed. 2100