

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**H. B. No. 109**

**Representatives Schmidt, Mathews**

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**A BILL**

To amend sections 2101.16, 2151.3515, 2151.3516, 1  
2151.3517, 2151.3518, 2151.3528, 2151.3532, and 2  
2151.3534; to amend, for the purpose of adopting 3  
a new section number as indicated in 4  
parentheses, section 2151.3534 (2151.3527); to 5  
enact section 2151.3533; and to repeal sections 6  
2151.3529 and 2151.3535 of the Revised Code to 7  
revise the law governing newborn safety 8  
incubators. 9

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

**Section 1.** That sections 2101.16, 2151.3515, 2151.3516, 10  
2151.3517, 2151.3518, 2151.3528, 2151.3532, and 2151.3534 be 11  
amended; section 2151.3534 (2151.3527) be amended for the 12  
purpose of adopting a new section number as indicated in 13  
parentheses; and section 2151.3533 of the Revised Code be 14  
enacted to read as follows: 15

**Sec. 2101.16.** (A) Except as provided in section 2101.164 16  
of the Revised Code, the fees enumerated in this division shall 17  
be charged and collected, if possible, by the probate judge and 18  
shall be in full for all services rendered in the respective 19

proceedings:		20
		21
1	2	3
A	(1) Account, in addition to advertising charges	
B	_____	\$12.00
C	Waivers and proof of notice of hearing on account, per page, minimum one dollar	
D	_____	\$1.00
E	(2) Account of distribution, in addition to advertising charges	
F	_____	\$7.00
G	(3) Adoption of child, petition for	
H	_____	\$20.00
I	(4) Alter or cancel contract for sale or purchase of real property, complaint to	
J	_____	\$20.00
K	(5) Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section	
L	_____	\$5.00

M	(6)	Appropriation suit, per day, hearing in	
N		_____	\$20.00
O	(7)	Birth, application for registration of	
P		_____	\$7.00
Q	(8)	Birth record, application to correct	
R		_____	\$5.00
S	(9)	Bond, application for new or additional	
T		_____	\$5.00
U	(10)	Bond, application for release of surety or reduction of	
V		_____	\$5.00
W	(11)	Bond, receipt for securities deposited in lieu of	
X		_____	\$5.00
Y	(12)	Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	
Z		_____	\$1.00
AA	(13)	Citation and issuing citation, application for	
AB		_____	\$5.00
AC	(14)	Change of name, petition for	
AD		_____	\$20.00

AE	(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	
AF	_____	\$10.00
AG	(16) Claim, application to compromise or settle	
AH	_____	\$10.00
AI	(17) Claim, authority to present	
AJ	_____	\$10.00
AK	(18) Commissioner, appointment of	
AL	_____	\$5.00
AM	(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	
AN	_____	\$5.00
AO	(20) Competency, application to procure adjudication of	
AP	_____	\$20.00
AQ	(21) Complete contract, application to	
AR	_____	\$10.00
AS	(22) Concealment of assets, citation for	
AT	_____	\$10.00
AU	(23) Construction of will, complaint for	

AV	_____	\$20.00
AW	(24) Continue decedent's business, application to	
AX	_____	\$10.00
AY	Monthly reports of operation	
AZ	_____	\$5.00
BA	(25) Declaratory judgment, complaint for	
BB	_____	\$20.00
BC	(26) Deposit of will	
BD	_____	\$5.00
BE	(27) Designation of heir	
BF	_____	\$20.00
BG	(28) Distribution in kind, application, assent, and order for	
BH	_____	\$5.00
BI	(29) Distribution under section 2109.36 of the Revised Code, application for an order of	
BJ	_____	\$7.00
BK	(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars	

BL	_____	\$15.00
BM	(31) Exceptions to any proceeding named in this section, contest of appointment or	
BN	_____	\$10.00
BO	(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	
BP	_____	\$10.00
BQ	(33) Election of surviving spouse under will	
BR	_____	\$5.00
BS	(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of	
BT	_____	\$35.00
BU	(35) Foreign will, application to record	
BV	_____	\$10.00
BW	Record of foreign will, additional, per page	
BX	_____	\$1.00
BY	(36) Forms when supplied by the probate court, not to exceed	
BZ	_____	\$10.00
CA	(37) Heirship, complaint to determine	

CB	_____	\$20.00
CC	(38) Injunction proceedings	
CD	_____	\$20.00
CE	(39) Improve real property, petition to	
CF	_____	\$20.00
CG	(40) Inventory with appraisement	
CH	_____	\$10.00
CI	(41) Inventory without appraisement	
CJ	_____	\$7.00
CK	(42) Investment or expenditure of funds, application for	
CL	_____	\$10.00
CM	(43) Invest in real property, application to	
CN	_____	\$10.00
CO	(44) Lease for oil, gas, coal, or other mineral, petition to	
CP	_____	\$20.00
CQ	(45) Lease or lease and improve real property, petition to	
CR	_____	\$20.00
CS	(46) Marriage license	

CT	_____	\$10.00
CU	Certified abstract of each marriage	
CV	_____	\$2.00
CW	(47) Minor or incompetent person, etc., disposal of estate under twenty-five thousand dollars of	
CX	_____	\$10.00
CY	(48) Mortgage or mortgage and repair or improve real property, complaint to	
CZ	_____	\$20.00
DA	(49) Newly discovered assets, report of	
DB	_____	\$7.00
DC	(50) Nonresident executor or administrator to bar creditors' claims, proceedings by	
DD	_____	\$20.00
DE	(51) Power of attorney or revocation of power, bonding company	
DF	_____	\$10.00
DG	(52) Presumption of death, petition to establish	
DH	_____	\$20.00
DI	(53) Probating will	



DJ	_____	\$15.00
DK	Proof of notice to beneficiaries	
DL	_____	\$5.00
DM	(54) Purchase personal property, application of surviving spouse to	
DN	_____	\$10.00
DO	(55) Purchase real property at appraised value, petition of surviving spouse to	
DP	_____	\$20.00
DQ	(56) Receipts in addition to advertising charges, application and order to record	
DR	_____	\$5.00
DS	Record of those receipts, additional, per page	
DT	_____	\$1.00
DU	(57) Record in excess of fifteen hundred words in any proceeding in the probate court, per page	
DV	_____	\$1.00
DW	(58) Release of estate by mortgagee or other lienholder	
DX	_____	\$5.00
DY	(59) Relieving an estate from administration under section	

2113.03 of the Revised Code or granting an order for a  
summary release from administration under section  
2113.031 of the Revised Code

DZ	_____	\$60.00
EA	(60) Removal of fiduciary, application for	
EB	_____	\$10.00
EC	(61) Requalification of executor or administrator	
ED	_____	\$10.00
EE	(62) Resignation of fiduciary	
EF	_____	\$5.00
EG	(63) Sale bill, public sale of personal property	
EH	_____	\$10.00
EI	(64) Sale of personal property and report, application for	
EJ	_____	\$10.00
EK	(65) Sale of real property, petition for	
EL	_____	\$25.00
EM	(66) Terminate guardianship, petition to	
EN	_____	\$10.00
EO	(67) Transfer of real property, application, entry, and	

	certificate for	
EP	_____	\$7.00
EQ	(68) Unclaimed money, application to invest	
ER	_____	\$7.00
ES	(69) Vacate approval of account or order of distribution, motion to	
ET	_____	\$10.00
EU	(70) Writ of execution	
EV	_____	\$5.00
EW	(71) Writ of possession	
EX	_____	\$5.00
EY	(72) Wrongful death, application and settlement of claim for	
EZ	_____	\$20.00
FA	(73) Year's allowance, petition to review	
FB	_____	\$7.00
FC	(74) Guardian's report, filing and review of	
FD	_____	\$5.00
FE	(75) Person with a mental illness subject to court order, filing of affidavit and proceedings for	

FF

\$25.00

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(B) (1) In relation to an application for the appointment 22  
of a guardian or the review of a report of a guardian under 23  
section 2111.49 of the Revised Code, the probate court, pursuant 24  
to court order or in accordance with a court rule, may direct 25  
that the applicant or the estate pay any or all of the expenses 26  
of an investigation conducted pursuant to section 2111.041 or 27  
division (A) (2) of section 2111.49 of the Revised Code. If the 28  
investigation is conducted by a public employee or investigator 29  
who is paid by the county, the fees for the investigation shall 30  
be paid into the county treasury. If the court finds that an 31  
alleged incompetent or a ward is indigent, the court may waive 32  
the costs, fees, and expenses of an investigation. 33

(2) In relation to the appointment or functioning of a 34  
guardian for a minor or the guardianship of a minor, the probate 35  
court may direct that the applicant or the estate pay any or all 36  
of the expenses of an investigation conducted pursuant to 37  
section 2111.042 of the Revised Code. If the investigation is 38  
conducted by a public employee or investigator who is paid by 39  
the county, the fees for the investigation shall be paid into 40  
the county treasury. If the court finds that the guardian or 41  
applicant is indigent, the court may waive the costs, fees, and 42  
expenses of an investigation. 43

(3) In relation to the filing of an affidavit of mental 44  
illness for a person with a mental illness subject to court 45  
order, the court may waive the fee under division (A) (75) of 46  
this section if the court finds that the affiant is indigent or 47  
for good cause shown. 48

(C) Thirty dollars of the thirty-five-dollar fee collected 49

pursuant to division (A) (34) of this section and twenty dollars 50  
of the sixty-dollar fee collected pursuant to division (A) (59) 51  
of this section shall be deposited by the county treasurer in 52  
the indigent guardianship fund created pursuant to section 53  
2111.51 of the Revised Code. 54

(D) The fees of witnesses, jurors, sheriffs, coroners, and 55  
constables for services rendered in the probate court or by 56  
order of the probate judge shall be the same as provided for 57  
similar services in the court of common pleas. 58

(E) The probate court, by rule, may require an advance 59  
deposit for costs, not to exceed one hundred twenty-five 60  
dollars, at the time application is made for an appointment as 61  
executor or administrator or at the time a will is presented for 62  
probate. 63

(F) (1) The "putative father registry fund" is hereby 64  
created in the state treasury. The department of job and family 65  
services shall use the money in the fund to fund the 66  
department's costs of performing its duties related to the 67  
putative father registry established under section 3107.062 of 68  
the Revised Code. 69

(2) If the department determines that money in the 70  
putative father registry fund is more than is needed for its 71  
duties related to the putative father registry, the department 72  
may use the surplus moneys in the fund as permitted in division 73  
~~(C) (D)~~ of section ~~2151.3534~~, ~~division (B) of section 2151.3535,~~ 74  
2151.3527 or section 5103.155 of the Revised Code. 75

**Sec. 2151.3515.** As used in sections 2151.3515 to ~~2151.3535~~ 76  
2151.3533 of the Revised Code: 77

(A) "Emergency medical service organization," "emergency 78

medical technician-basic," "emergency medical technician- 79  
intermediate," "first responder," and "paramedic" have the same 80  
meanings as in section 4765.01 of the Revised Code. 81

(B) "Emergency medical service worker" means a first 82  
responder, emergency medical technician-basic, emergency medical 83  
technician-intermediate, or paramedic. 84

(C) "Hospital" has the same meaning as in section 3727.01 85  
of the Revised Code. 86

(D) "Hospital employee" means any of the following 87  
persons: 88

(1) A physician who has been granted privileges to 89  
practice at the hospital; 90

(2) A nurse, physician assistant, or nursing assistant 91  
employed by the hospital; 92

(3) An authorized person employed by the hospital who is 93  
acting under the direction of a physician described in division 94  
~~(E) (1)~~ (D) (1) of this section. 95

(E) "Law enforcement agency" means an organization or 96  
entity made up of peace officers. 97

(F) "Nurse" means a person who is licensed under Chapter 98  
4723. of the Revised Code to practice as a registered nurse or 99  
licensed practical nurse. 100

(G) "Nursing assistant" means a person designated by a 101  
hospital as a nurse aide or nursing assistant whose job is to 102  
aid nurses, physicians, and physician assistants in the 103  
performance of their duties. 104

(H) "Peace officer" means a sheriff, deputy sheriff, 105

constable, police officer of a township or joint police 106  
district, marshal, deputy marshal, municipal police officer, or 107  
a state highway patrol trooper. 108

(I) "Peace officer support employee" means an authorized 109  
person employed by a law enforcement agency who is acting under 110  
the direction of a peace officer. 111

(J) "Physician" means an individual authorized under 112  
Chapter 4731. of the Revised Code to practice medicine and 113  
surgery, osteopathic medicine and surgery, or podiatric medicine 114  
and surgery. 115

~~(J)~~ (K) "Physician assistant" means an individual who holds 116  
a current, valid license to practice as a physician assistant 117  
issued under Chapter 4730. of the Revised Code. 118

**Sec. 2151.3516.** A parent may voluntarily deliver ~~his or~~ 119  
~~her~~ the parent's child who is not older than thirty days, 120  
without intent to return for the child, to ~~a~~ any of the 121  
following: 122

(A) An entity or person specified in section 2151.3517 of 123  
the Revised Code ~~or a~~; 124

(B) A peace officer, peace officer support employee, 125  
hospital employee, or emergency medical service worker specified 126  
in section 2151.3517 of the Revised Code, by calling 9-1-1 and 127  
waiting with the child until the officer, support employee, 128  
employee, or worker arrives and takes possession of the child; 129

(C) A newborn safety incubator that is provided by an 130  
entity ~~described~~ specified in that section 2151.3517 of the 131  
Revised Code and that meets the requirements of section 132  
2151.3532 of the Revised Code. 133

**Sec. 2151.3517.** The following entities or persons, while 134  
acting in an official capacity on behalf of any of the entities, 135  
shall take possession of a child delivered in accordance with 136  
section 2151.3516 of the Revised Code: 137

(A) A law enforcement agency ~~or~~, a peace officer employed 138  
by the agency, or a peace officer support employee; 139

(B) A hospital or a person granted the privilege to 140  
practice at, or employed by, the hospital; 141

(C) An emergency medical service organization or an 142  
emergency medical service worker employed by or providing 143  
services to the organization. 144

**Sec. 2151.3518.** (A) On taking possession of a child 145  
pursuant to section 2151.3517 of the Revised Code, a law 146  
enforcement agency, hospital, or emergency medical service 147  
organization shall do all the following: 148

(1) Perform any act necessary to protect the child's 149  
health or safety; 150

(2) Notify the public children services agency of the 151  
county in which the agency, hospital, or organization is located 152  
that the child has been taken into possession; 153

(3) If possible, make available to the parent who 154  
delivered the child forms developed under section ~~2151.3534~~ 155  
2151.3527 of the Revised Code that are designed to gather 156  
medical information concerning the child and the child's 157  
parents; 158

(4) If possible, make available to the parent who 159  
delivered the child written materials developed under section 160  
~~2151.3534~~ 2151.3527 of the Revised Code that describe services 161



available to assist parents and newborns; 162

(5) If the child has suffered a physical or mental wound, 163  
injury, disability, or condition of a nature that reasonably 164  
indicates abuse or neglect of the child, attempt to identify and 165  
pursue the person who delivered the child. 166

(B) An emergency medical service worker who takes 167  
possession of a child shall, in addition to any act performed 168  
under division (A) (1) of this section, perform any medical 169  
service the worker is authorized to perform that is necessary to 170  
protect the physical health or safety of the child. 171

**Sec. ~~2151.3534~~ 2151.3527.** (A) The director of job and 172  
family services shall promulgate forms designed to gather 173  
pertinent medical information concerning a deserted child and 174  
the child's parents. The forms shall clearly and unambiguously 175  
state on each page that the information requested is to 176  
facilitate medical care for the child, that the forms may be 177  
fully or partially completed or left blank, that completing the 178  
forms or parts of the forms is completely voluntary, and that no 179  
adverse legal consequence will result from failure to complete 180  
any part of the forms. 181

(B) The director shall promulgate written materials to be 182  
made available to the parents of a child delivered pursuant to 183  
section 2151.3516 of the Revised Code. The materials shall 184  
describe services available to assist parents and newborns and 185  
shall include information directly relevant to situations that 186  
might cause parents to desert a child and information on the 187  
procedures for a person to follow in order to reunite with a 188  
child the person delivered under section 2151.3516 of the 189  
Revised Code, including notice that the person will be required 190  
to submit to a DNA test, at that person's expense, to prove that 191

the person is the parent of the child. 192

(C) The director of job and family services shall 193  
distribute the medical information forms and written materials 194  
promulgated pursuant to this section to all of the following: 195

(1) Entities permitted to receive a deserted child as 196  
specified in section 2151.3517 of the Revised Code; 197

(2) Public children services agencies; 198

(3) Other public or private agencies that, in the 199  
discretion of the director, are best able to disseminate the 200  
forms and materials to the persons who are most in need of the 201  
forms and materials. 202

(D) If the department of job and family services 203  
determines that money in the putative father registry fund 204  
created under section 2101.16 of the Revised Code is more than 205  
is needed for its duties related to the putative father 206  
registry, the department may use surplus moneys in the fund for 207  
costs related to the development, distribution, and publication 208  
of forms and materials promulgated pursuant to divisions (A) and 209  
(B) of this section. 210

(E) The department of job and family services shall 211  
develop an educational plan, in collaboration with the Ohio 212  
family and children first cabinet council, for informing at-risk 213  
populations who are most likely to voluntarily deliver a child 214  
under section 2151.3516 of the Revised Code concerning the 215  
provisions of sections 2151.3515 to 2151.3533 of the Revised 216  
Code. 217

**Sec. 2151.3528.** ~~A~~ All of the following apply to a parent 218  
who voluntarily delivers a child under section 2151.3516 of the 219  
Revised Code ~~may~~ : 220

(A) The parent may complete all or any part of the medical 221  
information forms made available under ~~division (A) (3) of~~ 222  
section 2151.3518 of the Revised Code. ~~The~~ 223

(B) The parent may deliver the fully or partially 224  
completed forms at the same time as delivering the child or at a 225  
later time. ~~The~~ 226

(C) The parent is not required to complete all or any part 227  
of the forms. 228

(D) The parent may refuse to accept the materials made 229  
available under section 2151.3518 of the Revised Code. 230

**Sec. 2151.3532.** ~~Not later than one hundred eighty days~~ 231  
~~after the effective date of this section, the~~ (A) The director 232  
of ~~the department of~~ health shall adopt rules in accordance with 233  
Chapter 119. of the Revised Code governing newborn safety 234  
incubators provided by entities described in section 2151.3517 235  
of the Revised Code. The rules shall provide for all of the 236  
following: 237

~~(A) Sanitation standards;~~ 238

~~(B) Procedures to provide emergency care for a child~~ 239  
~~delivered to an incubator;~~ 240

~~(C) Manufacturing and manufacturer standards;~~ 241

~~(D)~~ (1) Design and function requirements that include the 242  
following: 243

~~(1)~~ (a) Take into account installation at a facility 244  
operated by a law enforcement agency, a hospital, or an 245  
emergency medical service organization; 246

~~(2)~~ (b) Allow a child to be placed anonymously from 247

outside the facility;	248
<del>(3)</del> <u>(c)</u> Lock the incubator after a child is placed in it	249
so that a person outside the facility is unable to access the	250
child;	251
<del>(4)</del> <u>(d)</u> Provide a controlled environment for the care and	252
protection of the child;	253
<del>(5)</del> <u>(e)</u> Provide notification to a centralized location in	254
the facility within thirty seconds of a child being placed in	255
the incubator;	256
<del>(6)</del> <u>(f)</u> Trigger a 9-1-1 call if a facility does not	257
respond within a reasonable amount of time after a child is	258
placed in the facility's incubator.	259
<del>(E)</del> <u>Operating (2) Manufacturing and manufacturer</u>	260
<u>standards;</u>	261
<u>(3) Installation and installer standards, including:</u>	262
<u>(a) Qualifications for installers, including that</u>	263
<u>installers must maintain appropriate certification and licensing</u>	264
<u>credentials;</u>	265
<u>(b) Procedures and forms for registration of newborn</u>	266
<u>safety incubator installers.</u>	267
<u>(4) Subject to section 2151.3533 of the Revised Code,</u>	268
<u>operating policies, supervision, and maintenance requirements</u>	269
<u>for an incubator, including requirements that only a peace-</u>	270
<u>officer, emergency medical service worker, or hospital employee</u>	271
<u>supervise the incubator and take custody of a child placed in-</u>	272
<u>it;</u>	273
<del>(F)</del> <u>Qualifications for persons to install incubators;</u>	274

<del>(G) Procedures and forms for the registration of qualified incubator installers;</del>	275
	276
<del>(H) (5) Procedures to provide emergency care for a child placed into an incubator;</del>	277
	278
<u>(6) Sanitation standards;</u>	279
<u>(7) Costs for registering and regulating incubators and fees to cover those costs;</u>	280
	281
<del>(I) (8) Creating and posting signs to be placed near or on incubators to provide information about using them;</del>	282
	283
<del>(J) (9) Enforcement of and remedies for violations for failure to comply with the requirements governing incubators;</del>	284
	285
<del>(K) Any other requirement the department considers necessary to ensure the safety and welfare of a child placed in an incubator.</del>	286
	287
	288
<u>(B) Notwithstanding division (A) of section 2151.3526 of the Revised Code, video surveillance is permitted at the facility where the incubator is located. The surveillance footage may be reviewed only when:</u>	289
	290
	291
	292
<u>(1) A child has been surrendered under the circumstances described in division (B) of section 2151.3526 of the Revised Code;</u>	293
	294
	295
<u>(2) There is reason to believe a crime has been committed within view of the video surveillance system.</u>	296
	297
<u>(C) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under division (A) of this section is not subject to sections 121.95 to 121.953 of the Revised Code.</u>	298
	299
	300
	301

Sec. 2151.3533. (A) In adopting the rules described in 302  
division (A) (4) of section 2151.3532 of the Revised Code, the 303  
director of health shall specify that a newborn safety incubator 304  
is deemed to be supervised when either of the following is the 305  
case: 306

(1) A person authorized by section 2151.3517 of the 307  
Revised Code to take possession of a child is present at the 308  
facility where the incubator is located to take possession of a 309  
child placed in the incubator. 310

(2) An alternate peace officer, peace officer support 311  
employee, hospital employee, or emergency medical service worker 312  
is dispatched by a secondary alarm that triggers a 9-1-1 call, 313  
in accordance with division (A) (1) (f) of section 2151.3532 of 314  
the Revised Code, when either of the following is the case: 315

(a) No individual described in division (A) of this 316  
section who is present at the facility responds within a 317  
reasonable amount of time after a child is placed in the 318  
incubator. 319

(b) Every individual described in section 2151.3517 of the 320  
Revised Code who is scheduled to work at the facility when a 321  
parent places a child into the incubator has been dispatched on 322  
an emergency call. 323

(B) A person authorized by section 2151.3517 of the 324  
Revised Code to take possession of a child is not liable in 325  
damages in a civil action for injury, death, or loss to person 326  
or property resulting from the person's failure to respond 327  
within a reasonable amount of time after a child is placed in 328  
the incubator or after the person is dispatched by a secondary 329  
alarm, unless that failure constitutes willful or wanton 330

<u>misconduct.</u>	331
<b>Section 2.</b> That existing sections 2101.16, 2151.3515,	332
2151.3516, 2151.3517, 2151.3518, 2151.3528, 2151.3532, and	333
2151.3534 of the Revised Code are hereby repealed.	334
<b>Section 3.</b> That sections 2151.3529 and 2151.3535 of the	335
Revised Code are hereby repealed.	336
<b>Section 4.</b> Section 2101.16 of the Revised Code is	337
presented in this act as a composite of the section as amended	338
by both H.B. 45 and H.B. 281 of the 134th General Assembly. The	339
General Assembly, applying the principle stated in division (B)	340
of section 1.52 of the Revised Code that amendments are to be	341
harmonized if reasonably capable of simultaneous operation,	342
finds that the composite is the resulting version of the section	343
in effect prior to the effective date of the section as	344
presented in this act.	345