

# AN ACT

To amend sections 2151.31, 2151.314, 2151.33, 2151.413, 2151.414, 2151.415, 2151.419, 2151.42, 3107.07, 3107.11, 3107.19, 5104.01, 5104.08, 5104.31, 5104.32, 5104.35, 5104.36, and 5104.38 of the Revised Code to revise the law governing custody in child protection cases, to eliminate the requirement that a copy of an adoption decree be forwarded to the Department of Human Services, and to authorize the use of child day-care providers located in states bordering Ohio for publicly funded child day-care.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2151.31, 2151.314, 2151.33, 2151.413, 2151.414, 2151.415, 2151.419, 2151.42, 3107.07, 3107.11, 3107.19, 5104.01, 5104.08, 5104.31, 5104.32, 5104.35, 5104.36, and 5104.38 of the Revised Code be amended to read as follows:

Sec. 2151.31. (A) A child may be taken into custody in any of the following ways:

- (1) Pursuant to an order of the court under this chapter;
- (2) Pursuant to the laws of arrest;

(3) By a law enforcement officer or duly authorized officer of the court when any of the following conditions are present:

(a) There are reasonable grounds to believe that the child is suffering from illness or injury and is not receiving proper care, as described in section 2151.03 of the Revised Code, and the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

(b) There are reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

(c) There are reasonable grounds to believe that a parent, guardian, custodian, or other household member of the child's household has abused

or neglected another child in the household and to believe that the child is in danger of immediate or threatened physical or emotional harm from that person.

(4) By an enforcement official, as defined in section 4109.01 of the Revised Code, under the circumstances set forth in section 4109.08 of the Revised Code;

(5) By a law enforcement officer or duly authorized officer of the court when there are reasonable grounds to believe that the child has run away from the child's parents, guardian, or other custodian;

(6) By a law enforcement officer or duly authorized officer of the court when any of the following apply:

(a) There are reasonable grounds to believe that the conduct, conditions, or surroundings of the child are endangering the health, welfare, or safety of the child.

(b) A complaint has been filed with respect to the child under section 2151.27 of the Revised Code and there are reasonable grounds to believe that the child may abscond or be removed from the jurisdiction of the court.

(c) The child is required to appear in court and there are reasonable grounds to believe that the child will not be brought before the court when required.

(B)(1) The taking of a child into custody is not and shall not be deemed an arrest except for the purpose of determining its validity under the constitution of this state or of the United States.

(2) Except as provided in division (C) of section 2151.311 of the Revised Code, a child taken into custody shall not be held in any state correctional institution, county, multicounty, or municipal jail or workhouse, or any other place where any adult convicted of crime, under arrest, or charged with crime is held.

(C) A child taken into custody shall not be confined in a place of juvenile detention or placed in shelter care prior to the implementation of the court's final order of disposition, unless detention or shelter care is required to protect the child from immediate or threatened physical or emotional harm, because the child may abscond or be removed from the jurisdiction of the court, because the child has no parents, guardian, or custodian or other person able to provide supervision and care for the child and return the child to the court when required, or because an order for placement of the child in detention or shelter care has been made by the court pursuant to this chapter.

(D) Upon receipt of notice from a person that the person intends to take an alleged abused, neglected, or dependent child into custody pursuant to

division (A)(3) of this section, a juvenile judge or a designated referee may grant by telephone an ex parte emergency order authorizing the taking of the child into custody if there is probable cause to believe that any of the conditions set forth in divisions (A)(3)(a) to (c) of this section are present. The judge or referee shall journalize any ex parte emergency order issued pursuant to this division. If an order is issued pursuant to this division and the child is taken into custody pursuant to the order, a sworn complaint shall be filed with respect to the child before the end of the next business day after the day on which the child is taken into custody and a hearing shall be held pursuant to division (E) of this section and the Juvenile Rules. A juvenile judge or referee shall not grant an emergency order by telephone pursuant to this division until after the judge or referee determines that reasonable efforts have been made to notify the parents, guardian, or custodian of the child that the child may be placed into shelter care and of the reasons for placing the child into shelter care, except that, if the requirement for notification would jeopardize the physical or emotional safety of the child or result in the child being removed from the court's jurisdiction, the judge or referee may issue the order for taking the child into custody and placing the child into shelter care prior to giving notice to the parents, guardian, or custodian of the child.

(E) If a judge or referee pursuant to division (D) of this section issues an ex parte emergency order for taking a child into custody, the court shall hold a hearing to determine whether there is probable cause for the emergency order. The hearing shall be held before the end of the next business day after the day on which the emergency order is issued, except that it shall not be held later than seventy-two hours after the emergency order is issued.

If the court determines at the hearing that there is not probable cause for the issuance of the emergency order issued pursuant to division (D) of this section, it shall order the child released to the custody of the child's parents, guardian, or custodian. If the court determines at the hearing that there is probable cause for the issuance of the emergency order issued pursuant to division (D) of this section, the court shall do ~~both~~ all of the following:

- (1) Ensure that a complaint is filed or has been filed;
- (2) Comply with section 2151.419 of the Revised Code;
- (3) Hold a hearing pursuant to section 2151.314 of the Revised Code to determine if the child should remain in shelter care.

(F) If the court determines at the hearing held pursuant to division (E) of this section that there is probable cause to believe that the child is an abused child, as defined in division (A) of section 2151.031 of the Revised Code, the court may do any of the following:

(1) Upon the motion of any party, the guardian ad litem, the prosecuting attorney, or an employee of the public children services agency, or its own motion, issue reasonable protective orders with respect to the interviewing or deposition of the child;

(2) Order that the child's testimony be videotaped for preservation of the testimony for possible use in any other proceedings in the case;

(3) Set any additional conditions with respect to the child or the case involving the child that are in the best interest of the child.

(G) This section is not intended, and shall not be construed, to prevent any person from taking a child into custody, if taking the child into custody is necessary in an emergency to prevent the physical injury, emotional harm, or neglect of the child.

Sec. 2151.314. (A) When a child is brought before the court or delivered to a place of detention or shelter care designated by the court, the intake or other authorized officer of the court shall immediately make an investigation and shall release the child unless it appears that the child's detention or shelter care is warranted or required under section 2151.31 of the Revised Code.

If the child is not so released, a complaint under section 2151.27 of the Revised Code shall be filed and an informal detention or shelter care hearing held promptly, not later than seventy-two hours after the child is placed in detention or shelter care, to determine whether detention or shelter care is required. Reasonable oral or written notice of the time, place, and purpose of the detention or shelter care hearing shall be given to the child and, if they can be found, to the child's parents, guardian, or custodian. In cases in which the complaint alleges a child to be an abused, neglected, or dependent child, the notice given the parents, guardian, or custodian shall inform them that a case plan may be prepared for the child, the general requirements usually contained in case plans, and the possible consequences of the failure to comply with a journalized case plan.

Prior to the hearing, the court shall inform the parties of their right to counsel and to appointed counsel or to the services of the county public defender or joint county public defender, if they are indigent, of the child's right to remain silent with respect to any allegation of delinquency, and of the name and telephone number of a court employee who can be contacted during the normal business hours of the court to arrange for the prompt appointment of counsel for any party who is indigent. Unless it appears from the hearing that the child's detention or shelter care is required under the provisions of section 2151.31 of the Revised Code, the court shall order the child's release as provided by section 2151.311 of the Revised Code. If a

parent, guardian, or custodian has not been so notified and did not appear or waive appearance at the hearing, upon the filing of an affidavit stating these facts, the court shall rehear the matter without unnecessary delay.

(B) When the court conducts a hearing pursuant to division (A) of this section, ~~both~~ all of the following apply:

(1) The court shall determine whether an alleged abused, neglected, or dependent child should remain or be placed in shelter care;

(2) The court shall determine whether there are any relatives of the child who are willing to be temporary custodians of the child. If any relative is willing to be a temporary custodian, the child would otherwise be placed or retained in shelter care, and the appointment is appropriate, the court shall appoint the relative as temporary custodian of the child, unless the court appoints another relative as temporary custodian. If it determines that the appointment of a relative as custodian would not be appropriate, it shall issue a written opinion setting forth the reasons for its determination and give a copy of the opinion to all parties and to the guardian ad litem of the child.

The court's consideration of a relative for appointment as a temporary custodian does not make that relative a party to the proceedings.

(3) The court shall comply with section 2151.419 of the Revised Code.

(C) If a child is in shelter care following the filing of a complaint pursuant to section 2151.27 of the Revised Code or following a hearing held pursuant to division (A) of this section, any party, including the public children services agency, and the guardian ad litem of the child may file a motion with the court requesting that the child be released from shelter care. The motion shall state the reasons why the child should be released from shelter care and, if a hearing has been held pursuant to division (A) of this section, any changes in the situation of the child or the parents, guardian, or custodian of the child that have occurred since that hearing and that justify the release of the child from shelter care. Upon the filing of the motion, the court shall hold a hearing in the same manner as under division (A) of this section.

(D) Each juvenile court shall designate one court employee to assist persons who are indigent in obtaining appointed counsel. The court shall include in each notice given pursuant to division (A) or (C) of this section and in each summons served upon a party pursuant to this chapter, the name and telephone number at which the designated employee can be contacted during the normal business hours of the court to arrange for prompt appointment of counsel for indigent persons.

Sec. 2151.33. (A) Pending hearing of a complaint filed under section

2151.27 of the Revised Code or a motion filed or made under division (B) of this section and the service of citations, the juvenile court may make any temporary disposition of any child that it considers necessary to protect the best interest of the child and that can be made pursuant to division (B) of this section. Upon the certificate of one or more reputable practicing physicians, the court may summarily provide for emergency medical and surgical treatment that appears to be immediately necessary to preserve the health and well-being of any child concerning whom a complaint or an application for care has been filed, pending the service of a citation upon the child's parents, guardian, or custodian. The court may order the parents, guardian, or custodian, if the court finds the parents, guardian, or custodian able to do so, to reimburse the court for the expense involved in providing the emergency medical or surgical treatment. Any person who disobeys the order for reimbursement may be adjudged in contempt of court and punished accordingly.

If the emergency medical or surgical treatment is furnished to a child who is found at the hearing to be a nonresident of the county in which the court is located and if the expense of the medical or surgical treatment cannot be recovered from the parents, legal guardian, or custodian of the child, the board of county commissioners of the county in which the child has a legal settlement shall reimburse the court for the reasonable cost of the emergency medical or surgical treatment out of its general fund.

(B)(1) After a complaint, petition, writ, or other document initiating a case dealing with an alleged or adjudicated abused, neglected, or dependent child is filed and upon the filing or making of a motion pursuant to division (C) of this section, the court, prior to the final disposition of the case, may issue any of the following temporary orders to protect the best interest of the child:

(a) An order granting temporary custody of the child to a particular party;

(b) An order for the taking of the child into custody pursuant to section 2151.31 of the Revised Code pending the outcome of the adjudicatory and dispositional hearings;

(c) An order granting, limiting, or eliminating visitation rights with respect to the child;

(d) An order requiring a party to vacate a residence that will be lawfully occupied by the child;

(e) An order requiring a party to attend an appropriate counseling program that is reasonably available to that party;

(f) Any other order that restrains or otherwise controls the conduct of

any party which conduct would not be in the best interest of the child.

(2) Prior to the final disposition of a case subject to division (B)(1) of this section, the court shall do both of the following:

(a) Issue an order pursuant to sections 3113.21 to 3113.219 of the Revised Code requiring the parents, guardian, or person charged with the child's support to pay support for the child.

(b) Issue an order requiring the parents, guardian, or person charged with the child's support to continue to maintain any health insurance coverage for the child that existed at the time of the filing of the complaint, petition, writ, or other document, or to obtain health insurance coverage in accordance with section 3113.217 of the Revised Code.

(C)(1) A court may issue an order pursuant to division (B) of this section upon its own motion or if a party files a written motion or makes an oral motion requesting the issuance of the order and stating the reasons for it. Any notice sent by the court as a result of a motion pursuant to this division shall contain a notice that any party to a juvenile proceeding has the right to be represented by counsel and to have appointed counsel if the person is indigent.

(2) If a child is taken into custody pursuant to section 2151.31 of the Revised Code and placed in shelter care, the public children services agency or private child placing agency with which the child is placed in shelter care shall file or make a motion as described in division (C)(1) of this section before the end of the next day immediately after the date on which the child was taken into custody and, at a minimum, shall request an order for temporary custody under division (B)(1)(a) of this section.

(3) A court that issues an order pursuant to division (B)(1)(b) of this section shall comply with section 2151.419 of the Revised Code.

(D) The court may grant an ex parte order upon its own motion or a motion filed or made pursuant to division (C) of this section requesting such an order if it appears to the court that the best interest and the welfare of the child require that the court issue the order immediately. The court, if acting on its own motion, or the person requesting the granting of an ex parte order, to the extent possible, shall give notice of its intent or of the request to the parents, guardian, or custodian of the child who is the subject of the request. If the court issues an ex parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next day after the day on which it is issued, whichever occurs first. The court shall give written notice of the hearing to all parties to the action and shall appoint a guardian ad litem for the child prior to the hearing.

The written notice shall be given by all means that are reasonably likely

to result in the party receiving actual notice and shall include all of the following:

- (1) The date, time, and location of the hearing;
- (2) The issues to be addressed at the hearing;
- (3) A statement that every party to the hearing has a right to counsel and to court-appointed counsel, if the party is indigent;
- (4) The name, telephone number, and address of the person requesting the order;
- (5) A copy of the order, except when it is not possible to obtain it because of the exigent circumstances in the case.

If the court does not grant an ex parte order pursuant to a motion filed or made pursuant to division (C) of this section or its own motion, the court shall hold a shelter care hearing on the motion within ten days after the motion is filed. The court shall give notice of the hearing to all affected parties in the same manner as set forth in the Juvenile Rules.

(E) The court, pending the outcome of the adjudicatory and dispositional hearings, shall not issue an order granting temporary custody of a child to a public children services agency or private child placing agency pursuant to this section, unless the court determines and specifically states in the order that the continued residence of the child in the child's current home will be contrary to the child's best interest and welfare and the court complies with section 2151.419 of the Revised Code.

(F) Each public children services agency and private child placing agency that receives temporary custody of a child pursuant to this section shall maintain in the child's case record written documentation that it has placed the child, to the extent that it is consistent with the best interest, welfare, and special needs of the child, in the most family-like setting available and in close proximity to the home of the parents, custodian, or guardian of the child.

(G) For good cause shown, any court order that is issued pursuant to this section may be reviewed by the court at any time upon motion of any party to the action or upon the motion of the court.

Sec. 2151.413. (A) A public children services agency or private child placing agency that, pursuant to an order of disposition under division (A)(2) of section 2151.353 of the Revised Code or under any version of section 2151.353 of the Revised Code that existed prior to January 1, 1989, is granted temporary custody of a child who is not abandoned or orphaned may file a motion in the court that made the disposition of the child requesting permanent custody of the child.

(B) A public children services agency or private child placing agency

that, pursuant to an order of disposition under division (A)(2) of section 2151.353 of the Revised Code or under any version of section 2151.353 of the Revised Code that existed prior to January 1, 1989, is granted temporary custody of a child who is orphaned may file a motion in the court that made the disposition of the child requesting permanent custody of the child whenever it can show that no relative of the child is able to take legal custody of the child.

(C) A public children services agency or private child placing agency that, pursuant to an order of disposition under division (A)(5) of section 2151.353 of the Revised Code, places a child in a planned permanent living arrangement may file a motion in the court that made the disposition of the child requesting permanent custody of the child.

(D)(1) Except as provided in division (D)(3) of this section, if a child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two month period ending on or after ~~the effective date of this amendment pursuant to an order of disposition that was issued under division (A)(2) of section 2151.353 of the Revised Code or pursuant to an order that extends temporary custody and was issued prior to the effective date of this amendment under division (D) of section 2151.415 of the Revised Code~~ March 18, 1999, the ~~public children services agency or private child placing~~ agency with custody shall file a motion requesting permanent custody of the child. The motion shall be filed in the court that issued the current order of disposition temporary custody. For the purposes of this division, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(2) Except as provided in division (D)(3) of this section, if a court makes a determination pursuant to division (A)(2) of section 2151.419 of the Revised Code, the public children services agency or private child placing agency required to develop the permanency plan for the child under division (K) of section 2151.417 of the Revised Code shall file a motion in the court that made the determination requesting permanent custody of the child.

(3) An agency shall not file a motion for permanent custody under division (D)(1) or (2) of this section if any of the following apply:

(a) The agency documents in the case plan or permanency plan a compelling reason that permanent custody is not in the best interest of the child.

(b) If reasonable efforts to return the child to the child's home are required under section 2151.419 of the Revised Code, ~~The, the~~ agency has not provided the services required by the case plan to the parents of the child or the child to ensure the safe return of the child to the child's home.

(c) The agency has been granted permanent custody of the child.

(d) The child has been returned home pursuant to court order in accordance with division (A)(3) of section 2151.419 of the Revised Code.

(E) Any agency that files a motion for permanent custody under this section shall include in the case plan of the child who is the subject of the motion, a specific plan of the agency's actions to seek an adoptive family for the child and to prepare the child for adoption.

(F) The department of human services may adopt rules pursuant to Chapter 119. of the Revised Code that set forth the time frames for case reviews and for filing a motion requesting permanent custody under division (D)(1) of this section.

Sec. 2151.414. (A)(1) Upon the filing of a motion pursuant to section 2151.413 of the Revised Code for permanent custody of a child, the court shall schedule a hearing and give notice of the filing of the motion and of the hearing, in accordance with section 2151.29 of the Revised Code, to all parties to the action and to the child's guardian ad litem. The notice also shall contain a full explanation that the granting of permanent custody permanently divests the parents of their parental rights, a full explanation of their right to be represented by counsel and to have counsel appointed pursuant to Chapter 120. of the Revised Code if they are indigent, and the name and telephone number of the court employee designated by the court pursuant to section 2151.314 of the Revised Code to arrange for the prompt appointment of counsel for indigent persons.

The court shall conduct a hearing in accordance with section 2151.35 of the Revised Code to determine if it is in the best interest of the child to permanently terminate parental rights and grant permanent custody to the agency that filed the motion. The adjudication that the child is an abused, neglected, or dependent child and any dispositional order that has been issued in the case under section 2151.353 of the Revised Code pursuant to the adjudication shall not be readjudicated at the hearing and shall not be affected by a denial of the motion for permanent custody.

(2) The court shall hold the hearing scheduled pursuant to division (A)(1) of this section not later than one hundred twenty days after the agency files the motion for permanent custody, except that, for good cause shown, the court may continue the hearing for a reasonable period of time beyond the one-hundred-twenty-day deadline. The court shall issue an order

that grants, denies, or otherwise disposes of the motion for permanent custody, and journalize the order, not later than two hundred days after the agency files the motion.

If a motion is made under division (D)(2) of section 2151.413 of the Revised Code and no dispositional hearing has been held in the case, the court may hear the motion in the dispositional hearing required by division (B) of section 2151.35 of the Revised Code. If the court issues an order pursuant to section 2151.353 of the Revised Code granting permanent custody of the child to the agency, the court shall immediately dismiss the motion made under division (D)(2) of section 2151.413 of the Revised Code.

The failure of the court to comply with the time periods set forth in division (A)(2) of this section does not affect the authority of the court to issue any order under this chapter and does not provide any basis for attacking the jurisdiction of the court or the validity of any order of the court.

(B)(1) Except as provided in division (B)(2) of this section, the court may grant permanent custody of a child to a movant if the court determines at the hearing held pursuant to division (A) of this section, by clear and convincing evidence, that it is in the best interest of the child to grant permanent custody of the child to the agency that filed the motion for permanent custody and that any of the following apply:

(a) The child is not abandoned or orphaned or has not been in the temporary custody of a one or more public children services ~~agency~~ agencies or private child placing ~~agency under one or more separate orders of disposition issued under section 2151.353 or 2151.415 of the Revised Code~~ agencies for twelve or more months of a consecutive twenty-two month period ending on or after ~~the effective date of this amendment~~ March 18, 1999, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents.

(b) The child is abandoned.

(c) The child is orphaned, and there are no relatives of the child who are able to take permanent custody.

(d) The child has been in the temporary custody of a one or more public children services ~~agency~~ agencies or private child placing ~~agency under one or more separate orders of disposition issued under section 2151.353 of the Revised Code~~ agencies for twelve or more months of a consecutive twenty-two month period ending on or after ~~the effective date of this amendment~~ March 18, 1999.

For the purposes of division (B)(1) of this section, a child shall be

considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(2) With respect to a motion made pursuant to division (D)(2) of section 2151.413 of the Revised Code, the court shall grant permanent custody of the child to the movant if the court determines in accordance with division (E) of this section that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines in accordance with division (D) of this section that permanent custody is in the child's best interest.

(C) In making the determinations required by this section or division (A)(4) of section 2151.353 of the Revised Code, a court shall not consider the effect the granting of permanent custody to the agency would have upon any parent of the child. A written report of the guardian ad litem of the child shall be submitted to the court prior to or at the time of the hearing held pursuant to division (A) of this section or section 2151.35 of the Revised Code but shall not be submitted under oath.

If the court grants permanent custody of a child to a movant under this division, the court, upon the request of any party, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding. The court shall not deny an agency's motion for permanent custody solely because the agency failed to implement any particular aspect of the child's case plan.

(D) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

(1) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster parents and out-of-home providers, and any other person who may significantly affect the child;

(2) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child;

(3) The custodial history of the child, including whether the child has been in the temporary custody of a one or more public children services agency agencies or private child placing agency under one or more separate orders of disposition issued under section 2151.353 or 2151.415 of the Revised Code agencies for twelve or more months of a consecutive twenty-two month period ending on or after ~~the effective date of this~~

~~amendment~~ March 18, 1999;

(4) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;

(5) Whether any of the factors in divisions (E)(7) to ~~(12)~~(11) of this section apply in relation to the parents and child.

For the purposes of this division, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(E) In determining at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents, the court shall consider all relevant evidence. If the court determines, by clear and convincing evidence, at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code that one or more of the following exist as to each of the child's parents, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent:

(1) Following the placement of the child outside the child's home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home. In determining whether the parents have substantially remedied those conditions, the court shall consider parental utilization of medical, psychiatric, psychological, and other social and rehabilitative services and material resources that were made available to the parents for the purpose of changing parental conduct to allow them to resume and maintain parental duties.

(2) Chronic mental illness, chronic emotional illness, mental retardation, physical disability, or chemical dependency of the parent that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the court holds the hearing pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code;

(3) The parent committed any abuse as described in section 2151.031 of the Revised Code against the child, caused the child to suffer any neglect as

described in section 2151.03 of the Revised Code, or allowed the child to suffer any neglect as described in section 2151.03 of the Revised Code between the date that the original complaint alleging abuse or neglect was filed and the date of the filing of the motion for permanent custody;

(4) The parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the child;

(5) The parent is incarcerated for an offense committed against the child or a sibling of the child;

(6) The parent has been convicted of or pleaded guilty to an offense under division (A) or (C) of section 2919.22 or under section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the Revised Code and the child or a sibling of the child was a victim of the offense or the parent has been convicted of or pleaded guilty to an offense under section 2903.04 of the Revised Code, a sibling of the child was the victim of the offense, and the parent who committed the offense poses an ongoing danger to the child or a sibling of the child.

(7) The parent has been convicted of or pleaded guilty to one of the following:

(a) An offense under section 2903.01, 2903.02, or 2903.03 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense was a sibling of the child or the victim was another child who lived in the parent's household at the time of the offense;

(b) An offense under section 2903.11, 2903.12, or 2903.13 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(c) An offense under division (B)(2) of section 2919.22 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim of the offense;

(d) An offense under section 2907.02, 2907.03, 2907.04, 2907.05, or 2907.06 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(e) A conspiracy or attempt to commit, or complicity in committing, an offense described in division (E)(7)(a) or (d) of this section.

(8) The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food, and, in the case of withheld medical treatment, the parent withheld it for a purpose other than to treat the physical or mental illness or defect of the child by spiritual means through prayer alone in accordance with the tenets of a recognized religious body.

(9) The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued pursuant to section 2151.412 of the Revised Code requiring treatment of the parent was journalized as part of a dispositional order issued with respect to the child or an order was issued by any other court requiring treatment of the parent.

(10) The parent has abandoned the child.

(11) The parent has had parental rights involuntarily terminated pursuant to section 2151.353, 2151.414, or 2151.415 of the Revised Code with respect to a sibling of the child.

(12) The parent is incarcerated at the time of the filing of the motion for permanent custody or the dispositional hearing of the child and will not be available to care for the child for at least eighteen months after the filing of the motion for permanent custody or the dispositional hearing.

(13) The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child.

(14) The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.

(15) The parent has committed abuse as described in section 2151.031 of the Revised Code against the child or caused or allowed the child to suffer neglect as described in section 2151.03 of the Revised Code, and the court determines that the seriousness, nature, or likelihood of recurrence of the abuse or neglect makes the child's placement with the child's parent a

threat to the child's safety.

(16) Any other factor the court considers relevant.

(F) The parents of a child for whom the court has issued an order granting permanent custody pursuant to this section, upon the issuance of the order, cease to be parties to the action. This division is not intended to eliminate or restrict any right of the parents to appeal the granting of permanent custody of their child to a movant pursuant to this section.

Sec. 2151.415. (A) Except for cases in which a motion for permanent custody described in division (D)(1) of section 2151.413 of the Revised Code is required to be made, a public children services agency or private child placing agency that has been given temporary custody of a child pursuant to section 2151.353 of the Revised Code, not later than thirty days prior to the earlier of the date for the termination of the custody order pursuant to division (F) of section 2151.353 of the Revised Code or the date set at the dispositional hearing for the hearing to be held pursuant to this section, shall file a motion with the court that issued the order of disposition requesting that any of the following orders of disposition of the child be issued by the court:

(1) An order that the child be returned home and the custody of the child's parents, guardian, or custodian without any restrictions;

(2) An order for protective supervision;

(3) An order that the child be placed in the legal custody of a relative or other interested individual;

(4) An order permanently terminating the parental rights of the child's parents;

(5) An order that the child be placed in a planned permanent living arrangement;

(6) In accordance with division (D) of this section, an order for the extension of temporary custody.

(B) Upon the filing of a motion pursuant to division (A) of this section, the court shall hold a dispositional hearing on the date set at the dispositional hearing held pursuant to section 2151.35 of the Revised Code, with notice to all parties to the action in accordance with the Juvenile Rules. After the dispositional hearing or at a date after the dispositional hearing that is not later than one year after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care, the court, in accordance with the best interest of the child as supported by the evidence presented at the dispositional hearing, shall issue an order of disposition as set forth in division (A) of this section, except that all orders for permanent custody shall be made in accordance with sections 2151.413

and 2151.414 of the Revised Code. In issuing an order of disposition under this section, the court shall comply with section 2151.42 of the Revised Code.

(C)(1) If an agency pursuant to division (A) of this section requests the court to place a child into a planned permanent living arrangement, the agency shall present evidence to indicate why a planned permanent living arrangement is appropriate for the child, including, but not limited to, evidence that the agency has tried or considered all other possible dispositions for the child. A court shall not place a child in a planned permanent living arrangement, unless it finds, by clear and convincing evidence, that a planned permanent living arrangement is in the best interest of the child and that one of the following exists:

(a) The child, because of physical, mental, or psychological problems or needs, is unable to function in a family-like setting and must remain in residential or institutional care.

(b) The parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child, as determined in accordance with division (D) of section 2151.414 of the Revised Code, and the child retains a significant and positive relationship with a parent or relative;

(c) The child is sixteen years of age or older, has been counseled on the permanent placement options available, is unwilling to accept or unable to adapt to a permanent placement, and is in an agency program preparing for independent living.

(2) If the court issues an order placing a child in ~~long-term foster care~~ a planned permanent living arrangement, both of the following apply:

(a) The court shall issue a finding of fact setting forth the reasons for its finding;

(b) The agency may make any appropriate placement for the child and shall develop a case plan for the child that is designed to assist the child in finding a permanent home outside of the home of the parents.

(D)(1) If an agency pursuant to division (A) of this section requests the court to grant an extension of temporary custody for a period of up to six months, the agency shall include in the motion an explanation of the progress on the case plan of the child and of its expectations of reunifying the child with the child's family, or placing the child in a permanent placement, within the extension period. The court shall schedule a hearing on the motion, give notice of its date, time, and location to all parties and the guardian ad litem of the child, and at the hearing consider the evidence

presented by the parties and the guardian ad litem. The court may extend the temporary custody order of the child for a period of up to six months, if it determines at the hearing, by clear and convincing evidence, that the extension is in the best interest of the child, there has been significant progress on the case plan of the child, and there is reasonable cause to believe that the child will be reunified with one of the parents or otherwise permanently placed within the period of extension. In determining whether to extend the temporary custody of the child pursuant to this division, the court shall comply with section 2151.42 of the Revised Code. If the court extends the temporary custody of the child pursuant to this division, upon request it shall issue findings of fact.

(2) Prior to the end of the extension granted pursuant to division (D)(1) of this section, the agency that received the extension shall file a motion with the court requesting the issuance of one of the orders of disposition set forth in divisions (A)(1) to (5) of this section or requesting the court to extend the temporary custody order of the child for an additional period of up to six months. If the agency requests the issuance of an order of disposition under divisions (A)(1) to (5) of this section or does not file any motion prior to the expiration of the extension period, the court shall conduct a hearing in accordance with division (B) of this section and issue an appropriate order of disposition. In issuing an order of disposition, the court shall comply with section 2151.42 of the Revised Code.

If the agency requests an additional extension of up to six months of the temporary custody order of the child, the court shall schedule and conduct a hearing in the manner set forth in division (D)(1) of this section. The court may extend the temporary custody order of the child for an additional period of up to six months if it determines at the hearing, by clear and convincing evidence, that the additional extension is in the best interest of the child, there has been substantial additional progress since the original extension of temporary custody in the case plan of the child, there has been substantial additional progress since the original extension of temporary custody toward reunifying the child with one of the parents or otherwise permanently placing the child, and there is reasonable cause to believe that the child will be reunified with one of the parents or otherwise placed in a permanent setting before the expiration of the additional extension period. In determining whether to grant an additional extension, the court shall comply with section 2151.42 of the Revised Code. If the court extends the temporary custody of the child for an additional period pursuant to this division, upon request it shall issue findings of fact.

(3) Prior to the end of the extension of a temporary custody order

granted pursuant to division (D)(2) of this section, the agency that received the extension shall file a motion with the court requesting the issuance of one of the orders of disposition set forth in divisions (A)(1) to (5) of this section. Upon the filing of the motion by the agency or, if the agency does not file the motion prior to the expiration of the extension period, upon its own motion, the court, prior to the expiration of the extension period, shall conduct a hearing in accordance with division (B) of this section and issue an appropriate order of disposition. In issuing an order of disposition, the court shall comply with section 2151.42 of the Revised Code.

(4) No court shall grant an agency more than two extensions of temporary custody pursuant to division (D) of this section.

(E) After the issuance of an order pursuant to division (B) of this section, the court shall retain jurisdiction over the child until the child attains the age of eighteen if the child is not mentally retarded, developmentally disabled, or physically impaired, the child attains the age of twenty-one if the child is mentally retarded, developmentally disabled, or physically impaired, or the child is adopted and a final decree of adoption is issued, unless the court's jurisdiction over the child is extended pursuant to division (E) of section 2151.353 of the Revised Code.

(F) The court, on its own motion or the motion of the agency or person with legal custody of the child, the child's guardian ad litem, or any other party to the action, may conduct a hearing with notice to all parties to determine whether any order issued pursuant to this section should be modified or terminated or whether any other dispositional order set forth in divisions (A)(1) to (5) of this section should be issued. After the hearing and consideration of all the evidence presented, the court, in accordance with the best interest of the child, may modify or terminate any order issued pursuant to this section or issue any dispositional order set forth in divisions (A)(1) to (5) of this section. In rendering a decision under this division, the court shall comply with section 2151.42 of the Revised Code.

(G) If the court places a child in a planned permanent living arrangement with a public children services agency or a private child placing agency pursuant to this section, the agency with which the child is placed in a planned permanent living arrangement shall not remove the child from the residential placement in which the child is originally placed pursuant to the case plan for the child or in which the child is placed with court approval pursuant to this division, unless the court and the guardian ad litem are given notice of the intended removal and the court issues an order approving the removal or unless the removal is necessary to protect the child from physical or emotional harm and the agency gives the court notice of

the removal and of the reasons why the removal is necessary to protect the child from physical or emotional harm immediately after the removal of the child from the prior setting.

(H) If the hearing held under this section takes the place of an administrative review that otherwise would have been held under section 2151.416 of the Revised Code, the court at the hearing held under this section shall do all of the following in addition to any other requirements of this section:

(1) Determine the continued necessity for and the appropriateness of the child's placement;

(2) Determine the extent of compliance with the child's case plan;

(3) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating the child's placement in foster care;

(4) Project a likely date by which the child may be returned to the child's home or placed for adoption or legal guardianship;

(5) Approve the permanency plan for the child consistent with section 2151.417 of the Revised Code.

Sec. 2151.419. (A)(1) Except as provided in division (A)(2) of this section, at any hearing held pursuant to section 2151.28, division (E) of section 2151.31, or section 2151.314, 2151.33, or 2151.353 of the Revised Code at which the court removes a child from the child's home or continues the removal of a child from the child's home, the court shall determine whether the public children services agency or private child placing agency that filed the complaint in the case, removed the child from home, has custody of the child, or will be given custody of the child has made reasonable efforts to prevent the removal of the child from the child's home, to eliminate the continued removal of the child from the child's home, or to make it possible for the child to return safely home. The agency shall have the burden of proving that it has made those reasonable efforts. If the agency removed the child from home during an emergency in which the child could not safely remain at home and the agency did not have prior contact with the child, the court is not prohibited, solely because the agency did not make reasonable efforts during the emergency to prevent the removal of the child, from determining that the agency made those reasonable efforts. In determining whether reasonable efforts were made, the child's health and safety shall be paramount.

(2) If any of the following apply, the court shall make a determination that the agency is not required to make reasonable efforts to prevent the removal of the child from the child's home, eliminate the continued removal

of the child from the child's home, and return the child to the child's home:

(a) The parent from whom the child was removed has been convicted of or pleaded guilty to one of the following:

(i) An offense under section 2903.01, 2903.02, or 2903.03 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense was a sibling of the child or the victim was another child who lived in the parent's household at the time of the offense;

(ii) An offense under section 2903.11, 2903.12, or 2903.13 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(iii) An offense under division (B)(2) of section 2919.22 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim of the offense;

(iv) An offense under section 2907.02, 2907.03, 2907.04, 2907.05, or 2907.06 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(v) A conspiracy or attempt to commit, or complicity in committing, an offense described in division (A)(2)(a)(i) or (iv) of this section.

(b) The parent from whom the child was removed has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food. If the parent has withheld medical treatment in order to treat the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body, the court or agency shall comply with the requirements of division (A)(1) of this section.

(c) The parent from whom the child was removed has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued pursuant to section 2151.412 of the Revised Code requiring treatment of the parent was

rnalized as part of a dispositional order issued with respect to the child or an order was issued by any other court requiring such treatment of the parent.

(d) The parent from whom the child was removed has abandoned the child.

(e) The parent from whom the child was removed has had parental rights involuntarily terminated pursuant to section 2151.353, 2151.414, or 2151.415 of the Revised Code with respect to a sibling of the child.

(3) At any hearing in which the court determines whether to return a child to the child's home, the court may issue an order that returns the child in situations in which the conditions described in divisions (A)(2)(a) to (e) of this section are present.

(B)(1) A court that is required to make a determination as described in division (A)(1) or (2) of this section shall issue written findings of fact setting forth the reasons supporting its determination. If the court makes a written determination under division (A)(1) of this section, it shall briefly describe in the findings of fact the relevant services provided by the agency to the family of the child and why those services did not prevent the removal of the child from the child's home or enable the child to return safely home.

(2) If a court issues an order that returns the child to the child's home in situations in which division (A)(2)(a), (b), (c), (d), or (e) of this section applies, the court shall issue written findings of fact setting forth the reasons supporting its determination.

(C) If the court makes a determination pursuant to division (A)(2) of this section, the court shall conduct a review hearing pursuant to section 2151.417 of the Revised Code to approve a permanency plan with respect to the child, unless the court issues an order returning the child home pursuant to division (A)(3) of this section. The hearing to approve the permanency plan may be held immediately following the court's determination pursuant to division (A)(2) of this section and shall be held no later than thirty days following that determination.

Sec. 2151.42. (A) At any hearing in which a court is asked to modify or terminate an order of disposition issued under section 2151.353, 2151.415, or 2151.417 of the Revised Code, the court, in determining whether to return the child to the child's parents, shall consider whether it is in the best interest of the child. ~~If the order of disposition that is the subject of a hearing under this section involves a previous award of legal custody under division (A)(3) of section 2151.353 of the Revised Code and is governed by division (E) of section 3109.04 of the Revised Code, the court shall comply with the requirements of division (E) of section 3109.04 of the Revised Code in its modification or termination of the order of disposition.~~

(B) ~~Additionally, an~~ An order of disposition issued under division (A)(3) of section 2151.353, division (A)(3) of section 2151.415, or section 2151.417 of the Revised Code granting legal custody of a child to a person is intended to be permanent in nature. A court shall not modify or terminate an order ~~issued under either of those divisions or that section~~ granting legal custody of a child ~~to a person~~ unless it finds, based on facts that have arisen since the order was issued or that were unknown to the court at that time, that a change has occurred in the circumstances of the child, ~~the child's parents,~~ or the person who was granted legal custody, and that modification or termination of the order is necessary to serve the best interest of the child.

Sec. 3107.07. Consent to adoption is not required of any of the following:

(A) A parent of a minor, when it is alleged in the adoption petition and the court finds after proper service of notice and hearing, that the parent has failed without justifiable cause to communicate with the minor or to provide for the maintenance and support of the minor as required by law or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner.

(B) The putative father of a minor if either of the following applies:

(1) The putative father fails to register as the minor's putative father with the putative father registry established under section 3107.062 of the Revised Code not later than thirty days after the minor's birth;

(2) The court finds, after proper service of notice and hearing, that any of the following are the case:

(a) The putative father is not the father of the minor;

(b) The putative father has willfully abandoned or failed to care for and support the minor;

(c) The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first.

(C) Except as provided in section 3107.071 of the Revised Code, a parent who has entered into a voluntary permanent custody surrender agreement under division (B) of section 5103.15 of the Revised Code;

(D) A parent whose parental rights have been terminated by order of a juvenile court under Chapter 2151. of the Revised Code;

(E) A parent who is married to the petitioner and supports the adoption;

(F) The father, or putative father, of a minor if the minor is conceived as the result of the commission of rape by the father or putative father and the father or putative father is convicted of or pleads guilty to the commission of

that offense. As used in this division, "rape" means a violation of section 2907.02 of the Revised Code or a similar law of another state.

(G) A legal guardian or guardian ad litem of a parent judicially declared incompetent in a separate court proceeding who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;

(H) Any legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;

(I) The spouse of the person to be adopted, if the failure of the spouse to consent to the adoption is found by the court to be by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances that make it impossible or unreasonably difficult to obtain the consent or refusal of the spouse;

(J) Any parent, legal guardian, or other lawful custodian in a foreign country, if the person to be adopted has been released for adoption pursuant to the laws of the country in which the person resides and the release of such person is in a form that satisfies the requirements of the immigration and naturalization service of the United States department of justice for purposes of immigration to the United States pursuant to section 101(b)(1)(F) of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), as amended or reenacted.

(K) Except as provided in divisions (G) and (H) of this section, a juvenile court, agency, or person given notice of the petition pursuant to division (A)~~(2)~~(1) of section 3107.11 of the Revised Code that fails to file an objection to the petition within fourteen days after proof is filed pursuant to division (B) of that section that the notice was given;

(L) Any guardian, custodian, or other party who has temporary custody of the child.

Sec. 3107.11. (A) After the filing of a petition to adopt an adult or a minor, the court shall fix a time and place for hearing the petition. The hearing may take place at any time more than thirty days after the date on which the minor is placed in the home of the petitioner. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing shall be given by the court to all of the following:

(1) ~~The department of human services;~~

~~(2)~~ Any juvenile court, agency, or person whose consent to the adoption

is required by this chapter but who has not consented;

~~(3)~~(2) A person whose consent is not required as provided by division (A), (G), (H), or (I) of section 3107.07 of the Revised Code and has not consented;

~~(4)~~(3) Any guardian, custodian, or other party who has temporary custody or permanent custody of the child.

~~The notice to the department of human services shall be accompanied by a copy of the petition.~~ Notice shall not be given to a person whose consent is not required as provided by division (B), (C), (D), (E), (F), or (J) of section 3107.07, or section 3107.071, of the Revised Code. Second notice shall not be given to a juvenile court, agency, or person whose consent is not required as provided by division (K) of section 3107.07 of the Revised Code because the court, agency, or person failed to file an objection to the petition within fourteen days after proof was filed pursuant to division (B) of this section that a first notice was given to the court, agency, or person pursuant to division (A)~~(2)~~(1) of this section.

(B) All notices required under this section shall be given as specified in the Rules of Civil Procedure. Proof of the giving of notice shall be filed with the court before the petition is heard.

Sec. 3107.19. ~~Within thirty days after an adoption decree becomes final, the court shall forward a copy of the decree to the department of human services of this state for statistical purposes.~~ If the adopted person was born in this state or outside the United States, the court shall forward all of the following to the department of health at the time of forwarding the decree to the department of human services within thirty days after an adoption decree becomes final:

(A) A copy of the adopted person's certificate of adoption;

(B) The form prescribed under division (A)(1) of section 3107.083 of the Revised Code, if a parent filled out and signed the form pursuant to section 3107.071, 3107.081, or 5103.151 of the Revised Code;

(C) A statement of whether the adopted person is an adopted person as defined in section 3107.39 or 3107.45 of the Revised Code.

If the adopted person was born in another state of the United States, the court shall forward a copy of the adopted person's certificate of adoption to that state's vital statistics office ~~at the time of forwarding the adoption decree to the department of human services~~ within thirty days after an adoption decree becomes final.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may

be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of human services to operate a certified type B family day-care home.

(D) "Border state child day-care provider" means a child day-care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child day-care.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

~~(E)~~(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of human services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child day-care pursuant to this chapter and any rules adopted under it.

~~(F)~~(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

~~(G)~~(H) "Child" includes an infant, toddler, preschool child, or school child.

~~(H)~~(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

~~(I)~~(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation

me from a child's home to a child day camp and from a child day camp to a child's home.

~~(J)~~(K) "Child day-care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

~~(K)~~(L) "Child day-care center" and "center" mean any place in which child day-care or publicly funded child day-care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:

(a) An organized religious body provides the child day-care;

(b) A parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times;

(c) The child day-care is not provided for more than thirty days a year;

(d) The child day-care is provided only for preschool and school children.

~~(L)~~(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.

~~(M)~~(N) "Child day-care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child day-care providers

in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child day-care;

(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;

(4) Recruitment of child day-care providers;

(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child day-care in the community;

(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;

(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;

(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of human services;

(11) Cooperation with the county department of human services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.

~~(N)~~(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

~~(O)~~(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for children on a temporary, irregular basis.

~~(P)~~(Q) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

~~(Q)~~(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

~~(R)~~(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

~~(S)~~(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, or under section 3301.31 of the Revised Code.

~~(T)~~(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

~~(U)~~(V) "Indicator checklist" means an inspection tool, used in ~~(U)~~ "~~Indicator checklist~~" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

~~(V)~~(W) "Infant" means a child who is less than eighteen months of age.

~~(W)~~(X) "In-home aide" means a person certified by a county director of human services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

~~(X)~~(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

~~(Y)~~(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of human services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

~~(Z)~~(AA) "Licensed preschool program" or "licensed school child

program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

~~(AA)~~(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

~~(BB)~~(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

~~(CC)~~(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

~~(DD)~~(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

~~(EE)~~(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for no more than four hours a day for any child.

~~(FF)~~(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

~~(GG)~~(HH) "Preschool child" means a child who is three years old or older but is not a school child.

~~(HH)~~(II) "Protective day-care" means publicly funded child day-care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective day-care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a

ity providing emergency shelter for homeless families or are determined by the county department of human services to be homeless, and are otherwise ineligible for publicly funded child day-care.

~~(H)~~(JJ) "Publicly funded child day-care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including child care block grant act funds, distributed by the department of human services.

~~(H)~~(KK) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

~~(K)~~(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

~~(L)~~(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child day-care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

~~(M)~~(NN) "Special needs day-care" means publicly funded child day-care that is provided for a child who is physically or developmentally handicapped, mentally retarded, or mentally ill.

~~(N)~~(OO) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

~~(O)~~(PP) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

~~(P)~~(QQ) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day-care is

provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" and "type A home" do not include any child day camp.

~~(QQ)~~(RR) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.08. There is hereby created in the department of human services a day-care advisory council to advise and assist the department in the administration of this chapter and in the development of child day-care. The council shall consist of eighteen members appointed by the director of human services with the approval of the governor. The director of human services, the superintendent of public instruction, the director of health, the director of commerce, and the state fire marshal shall serve as nonvoting members of the council.

Six members shall be representatives of child day-care centers subject to licensing, the members to represent a variety of centers, including nonprofit and proprietary, from different geographical areas of the state. At least three members shall be parents, guardians, or custodians of children in a head start program or receiving child day-care or publicly funded child day-care in the child's own home, a center, type A home, certified type B home, or type B home at the time of appointment. Three members shall be representatives of in-home aides, type A homes, certified type B homes, or type B homes or head start programs. At least two members shall represent county departments of human services. The remaining members shall be representatives of the teaching, child development, and health professions,

and other individuals interested in the welfare of children. At least six members of the council shall not be employees or licensees of a child day-care center or type A home, or providers operating a certified type B home or type B home, or in-home aides.

Six of the original appointments shall be for one year, six for two years, and six for three years, and subsequent appointments shall be for three-year terms. Vacancies shall be filled for the unexpired terms.

The council shall advise the director on matters affecting the licensing of centers and type A homes and the certification of type B homes and in-home aides. The council shall make an annual report ~~to the director~~ concerning the licensing, certification, and regulation program, the provision of publicly funded child day-care by border state child day-care providers, and the council's recommendations concerning ~~such~~ the regulation program and border state child day-care providers. Copies of the report shall be provided to the director, governor, speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, made available to the public ~~upon request~~.

Members of the council shall serve without compensation but shall be reimbursed for necessary expenses.

Sec. 5104.31. Publicly funded child day-care may be provided only by a the following:

(A) A child day-care center or type A family day-care home, including a parent cooperative child day-care center or parent cooperative type A family day-care home, licensed by the department of human services pursuant to section 5104.03 of the Revised Code, ~~or a;~~

(B) A type B family day-care home certified by the county department of human services pursuant to section 5104.11 of the Revised Code, ~~or a;~~

(C) A type B family day-care home that has received a limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, ~~or a;~~

(D) An in-home aide who has been certified by the county department of human services pursuant to section 5104.12 of the Revised Code, ~~or a;~~

(E) A child day camp approved pursuant to section 5104.22 of the Revised Code, ~~or a;~~

(F) A licensed preschool program, ~~or a;~~

(G) A licensed school child program;

(H) A border state child day-care provider, except that a border state child day-care provider may provide publicly funded child day-care only to an individual who resides in an Ohio county that borders the state in which the provider is located.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child day-care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, ~~or~~ licensed school child program, or border state child day-care provider and the county department of human services. A county department of human services may enter into a contract with a provider for publicly funded child day-care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child day-care shall be contingent upon the availability of state and federal funds. The department of human services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child day-care, regardless of the source of public funds used to purchase the child day-care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child day-care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds.

(B) Each contract for publicly funded child day-care shall specify at least the following:

(1) Except as provided in division (B)(2) of this section, that the provider of publicly funded child day-care agrees to be paid for rendering services at the lower of the rate customarily charged by the provider for children enrolled for child day-care or the rate of reimbursement established pursuant to section 5104.30 of the Revised Code;

(2) If the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, that the provider is to be paid for rendering services to those caretaker parents at the rate of reimbursement established pursuant to section 5104.30 of the Revised Code regardless of whether that rate is higher than the rate the provider customarily charges for children enrolled for child day-care;

(3) That, if a provider provides child day-care to an individual potentially eligible for publicly funded child day-care who is subsequently determined to be eligible, the county department agrees to pay for all child day-care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(4) Whether the county department of human services, the provider, or a child day-care resource and referral service organization will make eligibility determinations, whether the provider or a child day-care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child day-care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(5) That the provider, other than a border state child day-care provider, shall continue to be licensed, approved, or certified pursuant to this chapter or sections 3301.52 to 3301.59 of the Revised Code and shall comply with all standards and other requirements in this chapter and those sections and in rules adopted pursuant to this chapter or those sections for maintaining the provider's license, approval, or certification;

(6) That, in the case of a border state child day-care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(7) Whether the provider will be paid by the county department of human services or the state department of human services;

~~(7)~~(8) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law, the county department of human services shall give individuals eligible for publicly funded child day-care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child day-care under section 5104.31 of the Revised Code. Providers of publicly funded child day-care may present these certificates for payment for reimbursement in accordance with rules that the department of human services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lower of the rate customarily charged by the provider or the rate of reimbursement established pursuant to section 5104.30 of the Revised Code, unless the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, in which case the value of the certificate for payment for the services to those caretaker parents shall be based on the rate of reimbursement established pursuant to that section regardless of whether that rate is higher than the rate customarily charged by

the provider. The county department may provide the certificates for payment to the individuals or may contract with child day-care providers or child day-care resource and referral service organizations that make determinations of eligibility for publicly funded child day-care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates for payment to individuals whom they determine are eligible for publicly funded child day-care.

Sec. 5104.35. (A) The county department of human services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child day-care services;

(4) Pay to a child day-care center, type A family day-care home, certified type B family day-care home, in-home aide, approved child day camp, licensed preschool program, ~~or~~ licensed school child program, or border state child day-care provider for child day-care services, the amount provided for in division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the county department pays.

(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of human services and the director of budget and management regarding expenditures for the purchase of publicly funded child day-care.

(B) The county department of human services may do any of the following:

(1) To the extent permitted by federal law, use public child day-care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child day-care;

(2) In accordance with rules adopted by the state department of human services, request a waiver of the maximum rate of assistance that is established by the state department of human services pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child day-care based upon the special needs of a child, the special circumstances of a family, or unique child day-care market conditions;

(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child day-care customarily charges all children who receive child day-care from that provider;

(4) To the extent permitted by federal law, pay for up to thirty days of child day-care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty-day period.

Sec. 5104.36. The licensee or administrator of a child day-care center or type A family day-care home, the authorized provider of a certified type B family day-care home, ~~the~~ an in-home aide providing child day-care services, ~~and~~ the director or administrator of an approved child day camp, and a border state child day-care provider shall keep a record for each eligible child, to be made available to the county department of human services or the department of human services on request. The record shall include all of the following:

(A) The name and date of birth of the child;

(B) The name and address of ~~his~~ the child's caretaker parent;

(C) The name and address of the caretaker parent's place of employment or program of education or training;

(D) The hours for which child day-care services have been provided for the child;

(E) Any other information required by the county department of human services or the state department of human services.

Sec. 5104.38. In addition to any other rules adopted under this chapter, the department of human services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child day-care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child day-care that give priority to children of

families with lower incomes and procedures and criteria for eligibility for publicly funded protective day-care. The rules shall specify the maximum amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed one hundred eighty-five per cent of the federal poverty line.

(B) Procedures under which a county department of human services may, if the department, under division (A) of this section, specifies a maximum amount of income a family may have for eligibility for publicly funded child day-care that is less than one hundred eighty-five per cent of the federal poverty line, specify a maximum amount of income a family residing in the county the county department serves may have for initial and continued eligibility for publicly funded child day-care that is higher than the amount specified by the department but does not exceed one hundred eighty-five per cent of the federal poverty line;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child day-care according to income and family size, which shall be uniform for all types of publicly funded child day-care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child day-care from that provider;

(D) A formula based upon a percentage of the county's total expenditures for publicly funded child day-care for determining the maximum amount of state and federal funds appropriated for publicly funded child day-care that a county department may use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child day-care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child day-care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child day-care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child day-care;

(H) Procedures for establishing a child day-care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes

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of division ~~(HH)~~(II)(1) of section 5104.01 of the Revised Code;

(K) Any other rules necessary to carry out sections 5104.30 to 5104.39 of the Revised Code.

SECTION 2. That existing sections 2151.31, 2151.314, 2151.33, 2151.413, 2151.414, 2151.415, 2151.419, 2151.42, 3107.07, 3107.11, 3107.19, 5104.01, 5104.08, 5104.31, 5104.32, 5104.35, 5104.36, and 5104.38 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_