

As Introduced

**124th General Assembly
Regular Session
2001-2002**

H. B. No. 180

REPRESENTATIVES Young, Callender, Latell

A B I L L

To amend sections 2151.28 and 2151.31 of the Revised Code to permit confinement of a child who is a danger or threat to others, to generally require the adjudicatory hearing for a confined child to be held within 15 days after the complaint is filed, and to amend the versions of sections 2151.28 and 2151.31 of the Revised Code that are scheduled to take effect January 1, 2002, to continue the provisions of this act on and after that effective date.

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

Section 1. That sections 2151.28 and 2151.31 of the Revised Code be amended to read as follows:

Sec. 2151.28. (A) No later than seventy-two hours after the complaint is filed, the court shall fix a time for an adjudicatory hearing. The court shall conduct the adjudicatory hearing within one of the following periods of time:

(1) If the complaint alleged that the child violated section 2151.87 of the Revised Code or is a delinquent or unruly child or a juvenile traffic offender and the child is not in detention or shelter care, the adjudicatory hearing shall be held and may be

continued in accordance with the Juvenile Rules. 21

(2) If the complaint alleged that the child is an abused, 22
neglected, or dependent child, the adjudicatory hearing shall be 23
held no later than thirty days after the complaint is filed, 24
except that, for good cause shown, the court may continue the 25
adjudicatory hearing for either of the following periods of time: 26

(a) For ten days beyond the thirty-day deadline to allow any 27
party to obtain counsel; 28

(b) For a reasonable period of time beyond the thirty-day 29
deadline to obtain service on all parties or any necessary 30
evaluation, except that the adjudicatory hearing shall not be held 31
later than sixty days after the date on which the complaint was 32
filed. 33

(3) If the child who is the subject of the complaint is in 34
detention or shelter care, the hearing shall be held not later 35
than fifteen days after the filing of the complaint. Upon a 36
showing of good cause, the adjudicatory hearing may be continued 37
and detention or shelter care extended. 38

(B) At an adjudicatory hearing held pursuant to division 39
(A)(2) of this section, the court, in addition to determining 40
whether the child is an abused, neglected, or dependent child, 41
shall determine whether the child should remain or be placed in 42
shelter care until the dispositional hearing. When the court makes 43
the shelter care determination, all of the following apply: 44

(1) The court shall determine whether there are any relatives 45
of the child who are willing to be temporary custodians of the 46
child. If any relative is willing to be a temporary custodian, the 47
child otherwise would remain or be placed in shelter care, and the 48
appointment is appropriate, the court shall appoint the relative 49
as temporary custodian of the child, unless the court appoints 50
another relative as custodian. If it determines that the 51

appointment of a relative as custodian would not be appropriate, 52
it shall issue a written opinion setting forth the reasons for its 53
determination and give a copy of the opinion to all parties and 54
the guardian ad litem of the child. 55

The court's consideration of a relative for appointment as a 56
temporary custodian does not make that relative a party to the 57
proceedings. 58

(2) The court shall comply with section 2151.419 of the 59
Revised Code. 60

(3) The court shall schedule the date for the dispositional 61
hearing to be held pursuant to section 2151.35 of the Revised 62
Code. The parents of the child have a right to be represented by 63
counsel; however, in no case shall the dispositional hearing be 64
held later than ninety days after the date on which the complaint 65
was filed. 66

(C)(1) The court shall direct the issuance of a summons 67
directed to the child except as provided by this section, the 68
parents, guardian, custodian, or other person with whom the child 69
may be, and any other persons that appear to the court to be 70
proper or necessary parties to the proceedings, requiring them to 71
appear before the court at the time fixed to answer the 72
allegations of the complaint. The summons shall contain the name 73
and telephone number of the court employee designated by the court 74
pursuant to section 2151.314 of the Revised Code to arrange for 75
the prompt appointment of counsel for indigent persons. A child 76
alleged to be an abused, neglected, or dependent child shall not 77
be summoned unless the court so directs. A summons issued for a 78
child who is under fourteen years of age and who is alleged to be 79
a delinquent child, unruly child, or a juvenile traffic offender 80
shall be served on the parent, guardian, or custodian of the child 81
in the child's behalf. 82

If the person who has physical custody of the child, or with whom the child resides, is other than the parent or guardian, then the parents and guardian also shall be summoned. A copy of the complaint shall accompany the summons.

(2) In lieu of appearing before the court at the time fixed in the summons and prior to the date fixed for appearance in the summons, a child who is alleged to have violated section 2151.87 of the Revised Code and that child's parent, guardian, or custodian may sign a waiver of appearance before the clerk of the juvenile court and pay a fine of one hundred dollars. If the child and that child's parent, guardian, or custodian do not waive the court appearance, the court shall proceed with the adjudicatory hearing as provided in this section.

(D) If the complaint contains a prayer for permanent custody, temporary custody, whether as the preferred or an alternative disposition, or a planned permanent living arrangement in a case involving an alleged abused, neglected, or dependent child, the summons served on the parents shall contain as is appropriate an explanation that the granting of permanent custody permanently divests the parents of their parental rights and privileges, an explanation that an adjudication that the child is an abused, neglected, or dependent child may result in an order of temporary custody that will cause the removal of the child from their legal custody until the court terminates the order of temporary custody or permanently divests the parents of their parental rights, or an explanation that the issuance of an order for a planned permanent living arrangement will cause the removal of the child from the legal custody of the parents if any of the conditions listed in divisions (A)(5)(a) to (c) of section 2151.353 of the Revised Code are found to exist.

(E)(1) Except as otherwise provided in division (E)(2) of this section, the court may endorse upon the summons an order

directing the parents, guardian, or other person with whom the
child may be to appear personally at the hearing and directing the
person having the physical custody or control of the child to
bring the child to the hearing.

115
116
117
118

(2) In cases in which the complaint alleges that a child is
an unruly or delinquent child for being an habitual or chronic
truant and that the parent, guardian, or other person having care
of the child has failed to cause the child's attendance at school,
the court shall endorse upon the summons an order directing the
parent, guardian, or other person having care of the child to
appear personally at the hearing and directing the person having
the physical custody or control of the child to bring the child to
the hearing.

119
120
121
122
123
124
125
126
127

(F)(1) The summons shall contain a statement advising that
any party is entitled to counsel in the proceedings and that the
court will appoint counsel or designate a county public defender
or joint county public defender to provide legal representation if
the party is indigent.

128
129
130
131
132

(2) In cases in which the complaint alleges a child to be an
abused, neglected, or dependent child and no hearing has been
conducted pursuant to division (A) of section 2151.314 of the
Revised Code with respect to the child or a parent, guardian, or
custodian of the child does not attend the hearing, the summons
also shall contain a statement advising that a case plan may be
prepared for the child, the general requirements usually contained
in case plans, and the possible consequences of failure to comply
with a journalized case plan.

133
134
135
136
137
138
139
140
141

(G) If it appears from an affidavit filed or from sworn
testimony before the court that the conduct, condition, or
surroundings of the child are endangering the child's health or
welfare or those of others, that the child may abscond or be
removed from the jurisdiction of the court, or that the child will

142
143
144
145
146

not be brought to the court, notwithstanding the service of the summons, the court may endorse upon the summons an order that a law enforcement officer serve the summons and take the child into immediate custody and bring the child forthwith to the court.

147
148
149
150

(H) A party, other than the child, may waive service of summons by written stipulation.

151
152

(I) Before any temporary commitment is made permanent, the court shall fix a time for hearing in accordance with section 2151.414 of the Revised Code and shall cause notice by summons to be served upon the parent or guardian of the child and the guardian ad litem of the child, or published, as provided in section 2151.29 of the Revised Code. The summons shall contain an explanation that the granting of permanent custody permanently divests the parents of their parental rights and privileges.

153
154
155
156
157
158
159
160

(J) Any person whose presence is considered necessary and who is not summoned may be subpoenaed to appear and testify at the hearing. Anyone summoned or subpoenaed to appear who fails to do so may be punished, as in other cases in the court of common pleas, for contempt of court. Persons subpoenaed shall be paid the same witness fees as are allowed in the court of common pleas.

161
162
163
164
165
166

(K) The failure of the court to hold an adjudicatory hearing within any time period set forth in division (A)(2) of this section does not affect the ability 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.

167
168
169
170
171
172

(L) If the court, at an adjudicatory hearing held pursuant to division (A) of this section upon a complaint alleging that a child is an abused, neglected, dependent, delinquent, or unruly child or a juvenile traffic offender, determines that the child is a dependent child, the court shall incorporate that determination

173
174
175
176
177

into written findings of fact and conclusions of law and enter 178
those findings of fact and conclusions of law in the record of the 179
case. The court shall include in those findings of fact and 180
conclusions of law specific findings as to the existence of any 181
danger to the child and any underlying family problems that are 182
the basis for the court's determination that the child is a 183
dependent child. 184

Sec. 2151.31. (A) A child may be taken into custody in any of 185
the following ways: 186

(1) Pursuant to an order of the court under this chapter or 187
pursuant to an order of the court upon a motion filed pursuant to 188
division (B) of section 2930.05 of the Revised Code; 189

(2) Pursuant to the laws of arrest; 190

(3) By a law enforcement officer or duly authorized officer 191
of the court when any of the following conditions are present: 192

(a) There are reasonable grounds to believe that the child is 193
suffering from illness or injury and is not receiving proper care, 194
as described in section 2151.03 of the Revised Code, and the 195
child's removal is necessary to prevent immediate or threatened 196
physical or emotional harm; 197

(b) There are reasonable grounds to believe that the child is 198
in immediate danger from the child's surroundings and that the 199
child's removal is necessary to prevent immediate or threatened 200
physical or emotional harm; 201

(c) There are reasonable grounds to believe that a parent, 202
guardian, custodian, or other household member of the child's 203
household has abused or neglected another child in the household 204
and to believe that the child is in danger of immediate or 205
threatened physical or emotional harm from that person. 206

(4) By an enforcement official, as defined in section 4109.01 207

of the Revised Code, under the circumstances set forth in section 208
4109.08 of the Revised Code; 209

(5) By a law enforcement officer or duly authorized officer 210
of the court when there are reasonable grounds to believe that the 211
child has run away from the child's parents, guardian, or other 212
custodian; 213

(6) By a law enforcement officer or duly authorized officer 214
of the court when any of the following apply: 215

(a) There are reasonable grounds to believe that the conduct, 216
conditions, or surroundings of the child are endangering the 217
health, welfare, or safety of the child. 218

(b) A complaint has been filed with respect to the child 219
under section 2151.27 of the Revised Code and there are reasonable 220
grounds to believe that the child may abscond or be removed from 221
the jurisdiction of the court. 222

(c) The child is required to appear in court and there are 223
reasonable grounds to believe that the child will not be brought 224
before the court when required. 225

(B)(1) The taking of a child into custody is not and shall 226
not be deemed an arrest except for the purpose of determining its 227
validity under the constitution of this state or of the United 228
States. 229

(2) Except as provided in division (C) of section 2151.311 of 230
the Revised Code, a child taken into custody shall not be held in 231
any state correctional institution, county, multicounty, or 232
municipal jail or workhouse, or any other place where any adult 233
convicted of crime, under arrest, or charged with crime is held. 234

(C) A child taken into custody shall not be confined in a 235
place of juvenile detention or placed in shelter care prior to the 236
implementation of the court's final order of disposition, unless 237

detention or shelter care is required to protect the child from 238
immediate or threatened physical or emotional harm, because the 239
child is a danger or threat to one or more other persons, because 240
the child may abscond or be removed from the jurisdiction of the 241
court, because the child has no parents, guardian, or custodian or 242
other person able to provide supervision and care for the child 243
and return the child to the court when required, or because an 244
order for placement of the child in detention or shelter care has 245
been made by the court pursuant to this chapter. 246

(D) Upon receipt of notice from a person that the person 247
intends to take an alleged abused, neglected, or dependent child 248
into custody pursuant to division (A)(3) of this section, a 249
juvenile judge or a designated referee may grant by telephone an 250
ex parte emergency order authorizing the taking of the child into 251
custody if there is probable cause to believe that any of the 252
conditions set forth in divisions (A)(3)(a) to (c) of this section 253
are present. The judge or referee shall journalize any ex parte 254
emergency order issued pursuant to this division. If an order is 255
issued pursuant to this division and the child is taken into 256
custody pursuant to the order, a sworn complaint shall be filed 257
with respect to the child before the end of the next business day 258
after the day on which the child is taken into custody and a 259
hearing shall be held pursuant to division (E) of this section and 260
the Juvenile Rules. A juvenile judge or referee shall not grant an 261
emergency order by telephone pursuant to this division until after 262
the judge or referee determines that reasonable efforts have been 263
made to notify the parents, guardian, or custodian of the child 264
that the child may be placed into shelter care and of the reasons 265
for placing the child into shelter care, except that, if the 266
requirement for notification would jeopardize the physical or 267
emotional safety of the child or result in the child being removed 268
from the court's jurisdiction, the judge or referee may issue the 269

order for taking the child into custody and placing the child into 270
shelter care prior to giving notice to the parents, guardian, or 271
custodian of the child. 272

(E) If a judge or referee pursuant to division (D) of this 273
section issues an ex parte emergency order for taking a child into 274
custody, the court shall hold a hearing to determine whether there 275
is probable cause for the emergency order. The hearing shall be 276
held before the end of the next business day after the day on 277
which the emergency order is issued, except that it shall not be 278
held later than seventy-two hours after the emergency order is 279
issued. 280

If the court determines at the hearing that there is not 281
probable cause for the issuance of the emergency order issued 282
pursuant to division (D) of this section, it shall order the child 283
released to the custody of the child's parents, guardian, or 284
custodian. If the court determines at the hearing that there is 285
probable cause for the issuance of the emergency order issued 286
pursuant to division (D) of this section, the court shall do all 287
of the following: 288

(1) Ensure that a complaint is filed or has been filed; 289

(2) Comply with section 2151.419 of the Revised Code; 290

(3) Hold a hearing pursuant to section 2151.314 of the 291
Revised Code to determine if the child should remain in shelter 292
care. 293

(F) If the court determines at the hearing held pursuant to 294
division (E) of this section that there is probable cause to 295
believe that the child is an abused child, as defined in division 296
(A) of section 2151.031 of the Revised Code, the court may do any 297
of the following: 298

(1) Upon the motion of any party, the guardian ad litem, the 299
prosecuting attorney, or an employee of the public children 300

services agency, or its own motion, issue reasonable protective 301
orders with respect to the interviewing or deposition of the 302
child; 303

(2) Order that the child's testimony be videotaped for 304
preservation of the testimony for possible use in any other 305
proceedings in the case; 306

(3) Set any additional conditions with respect to the child 307
or the case involving the child that are in the best interest of 308
the child. 309

(G) This section is not intended, and shall not be construed, 310
to prevent any person from taking a child into custody, if taking 311
the child into custody is necessary in an emergency to prevent the 312
physical injury, emotional harm, or neglect of the child. 313
314

Section 2. That existing sections 2151.28 and 2151.31 of the 315
Revised Code are hereby repealed. 316

Section 3. That the versions of sections 2151.28 and 2151.31 317
of the Revised Code that are scheduled to take effect on January 318
1, 2002, be amended to read as follows: 319

Sec. 2151.28. (A) No later than seventy-two hours after the 320
complaint is filed, the court shall fix a time for an adjudicatory 321
hearing. The court shall conduct the adjudicatory hearing within 322
one of the following periods of time: 323

(1) Subject to division (D) of section 2152.13 of the Revised 324
Code, if the complaint alleged that the child violated section 325
2151.87 of the Revised Code or is a delinquent or unruly child or 326
a juvenile traffic offender and the child is not in detention or 327
shelter care, the adjudicatory hearing shall be held and may be 328
continued in accordance with the Juvenile Rules. 329

(2) If the complaint alleged that the child is an abused, neglected, or dependent child, the adjudicatory hearing shall be held no later than thirty days after the complaint is filed, except that, for good cause shown, the court may continue the adjudicatory hearing for either of the following periods of time:

(a) For ten days beyond the thirty-day deadline to allow any party to obtain counsel;

(b) For a reasonable period of time beyond the thirty-day deadline to obtain service on all parties or any necessary evaluation, except that the adjudicatory hearing shall not be held later than sixty days after the date on which the complaint was filed.

(3) If the child who is the subject of the complaint is in detention or shelter care, the hearing shall be held not later than fifteen days after the filing of the complaint. Upon a showing of good cause, the adjudicatory hearing may be continued and detention or shelter care extended.

(B) At an adjudicatory hearing held pursuant to division (A)(2) of this section, the court, in addition to determining whether the child is an abused, neglected, or dependent child, shall determine whether the child should remain or be placed in shelter care until the dispositional hearing. When the court makes the shelter care determination, all of the following apply:

(1) 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 otherwise would remain or be placed 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 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
the guardian ad litem of the child.

361
362
363

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

364
365
366

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

367
368

(3) The court shall schedule the date for the dispositional
hearing to be held pursuant to section 2151.35 of the Revised
Code. The parents of the child have a right to be represented by
counsel; however, in no case shall the dispositional hearing be
held later than ninety days after the date on which the complaint
was filed.

369
370
371
372
373
374

(C)(1) The court shall direct the issuance of a summons
directed to the child except as provided by this section, the
parents, guardian, custodian, or other person with whom the child
may be, and any other persons that appear to the court to be
proper or necessary parties to the proceedings, requiring them to
appear before the court at the time fixed to answer the
allegations of the complaint. The summons shall contain 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. A child
alleged to be an abused, neglected, or dependent child shall not
be summoned unless the court so directs. A summons issued for a
child who is under fourteen years of age and who is alleged to be
a delinquent child, unruly child, or a juvenile traffic offender
shall be served on the parent, guardian, or custodian of the child
in the child's behalf.

375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390

If the person who has physical custody of the child, or with

391

whom the child resides, is other than the parent or guardian, then
the parents and guardian also shall be summoned. A copy of the
complaint shall accompany the summons.

392
393
394

(2) In lieu of appearing before the court at the time fixed
in the summons and prior to the date fixed for appearance in the
summons, a child who is alleged to have violated section 2151.87
of the Revised Code and that child's parent, guardian, or
custodian may sign a waiver of appearance before the clerk of the
juvenile court and pay a fine of one hundred dollars. If the child
and that child's parent, guardian, or custodian do not waive the
court appearance, the court shall proceed with the adjudicatory
hearing as provided in this section.

395
396
397
398
399
400
401
402
403

(D) If the complaint contains a prayer for permanent custody,
temporary custody, whether as the preferred or an alternative
disposition, or a planned permanent living arrangement in a case
involving an alleged abused, neglected, or dependent child, the
summons served on the parents shall contain as is appropriate an
explanation that the granting of permanent custody permanently
divests the parents of their parental rights and privileges, an
explanation that an adjudication that the child is an abused,
neglected, or dependent child may result in an order of temporary
custody that will cause the removal of the child from their legal
custody until the court terminates the order of temporary custody
or permanently divests the parents of their parental rights, or an
explanation that the issuance of an order for a planned permanent
living arrangement will cause the removal of the child from the
legal custody of the parents if any of the conditions listed in
divisions (A)(5)(a) to (c) of section 2151.353 of the Revised Code
are found to exist.

404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420

(E)(1) Except as otherwise provided in division (E)(2) of
this section, the court may endorse upon the summons an order
directing the parents, guardian, or other person with whom the

421
422
423

child may be to appear personally at the hearing and directing the
person having the physical custody or control of the child to
bring the child to the hearing.

424
425
426

(2) In cases in which the complaint alleges that a child is
an unruly or delinquent child for being an habitual or chronic
truant and that the parent, guardian, or other person having care
of the child has failed to cause the child's attendance at school,
the court shall endorse upon the summons an order directing the
parent, guardian, or other person having care of the child to
appear personally at the hearing and directing the person having
the physical custody or control of the child to bring the child to
the hearing.

427
428
429
430
431
432
433
434
435

(F)(1) The summons shall contain a statement advising that
any party is entitled to counsel in the proceedings and that the
court will appoint counsel or designate a county public defender
or joint county public defender to provide legal representation if
the party is indigent.

436
437
438
439
440

(2) In cases in which the complaint alleges a child to be an
abused, neglected, or dependent child and no hearing has been
conducted pursuant to division (A) of section 2151.314 of the
Revised Code with respect to the child or a parent, guardian, or
custodian of the child does not attend the hearing, the summons
also shall contain a statement advising that a case plan may be
prepared for the child, the general requirements usually contained
in case plans, and the possible consequences of failure to comply
with a journalized case plan.

441
442
443
444
445
446
447
448
449

(G) If it appears from an affidavit filed or from sworn
testimony before the court that the conduct, condition, or
surroundings of the child are endangering the child's health or
welfare or those of others, that the child may abscond or be
removed from the jurisdiction of the court, or that the child will
not be brought to the court, notwithstanding the service of the

450
451
452
453
454
455

summons, the court may endorse upon the summons an order that a law enforcement officer serve the summons and take the child into immediate custody and bring the child forthwith to the court.

456
457
458

(H) A party, other than the child, may waive service of summons by written stipulation.

459
460

(I) Before any temporary commitment is made permanent, the court shall fix a time for hearing in accordance with section 2151.414 of the Revised Code and shall cause notice by summons to be served upon the parent or guardian of the child and the guardian ad litem of the child, or published, as provided in section 2151.29 of the Revised Code. The summons shall contain an explanation that the granting of permanent custody permanently divests the parents of their parental rights and privileges.

461
462
463
464
465
466
467
468

(J) Any person whose presence is considered necessary and who is not summoned may be subpoenaed to appear and testify at the hearing. Anyone summoned or subpoenaed to appear who fails to do so may be punished, as in other cases in the court of common pleas, for contempt of court. Persons subpoenaed shall be paid the same witness fees as are allowed in the court of common pleas.

469
470
471
472
473
474

(K) The failure of the court to hold an adjudicatory hearing within any time period set forth in division (A)(2) of this section does not affect the ability 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.

475
476
477
478
479
480

(L) If the court, at an adjudicatory hearing held pursuant to division (A) of this section upon a complaint alleging that a child is an abused, neglected, dependent, delinquent, or unruly child or a juvenile traffic offender, determines that the child is a dependent child, the court shall incorporate that determination into written findings of fact and conclusions of law and enter

481
482
483
484
485
486

those findings of fact and conclusions of law in the record of the case. The court shall include in those findings of fact and conclusions of law specific findings as to the existence of any danger to the child and any underlying family problems that are the basis for the court's determination that the child is a dependent child.

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 or pursuant to an order of the court upon a motion filed pursuant to division (B) of section 2930.05 of the Revised Code;

(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; 517

(5) By a law enforcement officer or duly authorized officer 518
of the court when there are reasonable grounds to believe that the 519
child has run away from the child's parents, guardian, or other 520
custodian; 521

(6) By a law enforcement officer or duly authorized officer 522
of the court when any of the following apply: 523

(a) There are reasonable grounds to believe that the conduct, 524
conditions, or surroundings of the child are endangering the 525
health, welfare, or safety of the child. 526

(b) A complaint has been filed with respect to the child 527
under section 2151.27 or 2152.021 of the Revised Code or the child 528
has been indicted under division (A) of section 2152.13 of the 529
Revised Code or charged by information as described in that 530
section and there are reasonable grounds to believe that the child 531
may abscond or be removed from the jurisdiction of the court. 532

(c) The child is required to appear in court and there are 533
reasonable grounds to believe that the child will not be brought 534
before the court when required. 535

(d) There are reasonable grounds to believe that the child 536
committed a delinquent act and that taking the child into custody 537
is necessary to protect the public interest and safety. 538

(B)(1) The taking of a child into custody is not and shall 539
not be deemed an arrest except for the purpose of determining its 540
validity under the constitution of this state or of the United 541
States. 542

(2) Except as provided in division (C) of section 2151.311 of 543
the Revised Code, a child taken into custody shall not be held in 544
any state correctional institution, county, multicounty, or 545
municipal jail or workhouse, or any other place where any adult 546

convicted of crime, under arrest, or charged with crime is held. 547

(C)(1) Except as provided in division (C)(2) of this section, 548
a child taken into custody shall not be confined in a place of 549
juvenile detention or placed in shelter care prior to the 550
implementation of the court's final order of disposition, unless 551
detention or shelter care is required to protect the child from 552
immediate or threatened physical or emotional harm, because the 553
child is a danger or threat to one or more other persons, because 554
the child may abscond or be removed from the jurisdiction of the 555
court, because the child has no parents, guardian, or custodian or 556
other person able to provide supervision and care for the child 557
and return the child to the court when required, or because an 558
order for placement of the child in detention or shelter care has 559
been made by the court pursuant to this chapter. 560

(2) A child alleged to be a delinquent child who is taken 561
into custody may be confined in a place of juvenile detention 562
prior to the implementation of the court's final order of 563
disposition if the confinement is authorized under section 2152.04 564
of the Revised Code or if the child is alleged to be a serious 565
youthful offender under section 2152.13 of the Revised Code and is 566
not released on bond. 567

(D) Upon receipt of notice from a person that the person 568
intends to take an alleged abused, neglected, or dependent child 569
into custody pursuant to division (A)(3) of this section, a 570
juvenile judge or a designated referee may grant by telephone an 571
ex parte emergency order authorizing the taking of the child into 572
custody if there is probable cause to believe that any of the 573
conditions set forth in divisions (A)(3)(a) to (c) of this section 574
are present. The judge or referee shall journalize any ex parte 575
emergency order issued pursuant to this division. If an order is 576
issued pursuant to this division and the child is taken into 577
custody pursuant to the order, a sworn complaint shall be filed 578

with respect to the child before the end of the next business day 579
after the day on which the child is taken into custody and a 580
hearing shall be held pursuant to division (E) of this section and 581
the Juvenile Rules. A juvenile judge or referee shall not grant an 582
emergency order by telephone pursuant to this division until after 583
the judge or referee determines that reasonable efforts have been 584
made to notify the parents, guardian, or custodian of the child 585
that the child may be placed into shelter care and of the reasons 586
for placing the child into shelter care, except that, if the 587
requirement for notification would jeopardize the physical or 588
emotional safety of the child or result in the child being removed 589
from the court's jurisdiction, the judge or referee may issue the 590
order for taking the child into custody and placing the child into 591
shelter care prior to giving notice to the parents, guardian, or 592
custodian of the child. 593

(E) If a judge or referee pursuant to division (D) of this 594
section issues an ex parte emergency order for taking a child into 595
custody, the court shall hold a hearing to determine whether there 596
is probable cause for the emergency order. The hearing shall be 597
held before the end of the next business day after the day on 598
which the emergency order is issued, except that it shall not be 599
held later than seventy-two hours after the emergency order is 600
issued. 601

If the court determines at the hearing that there is not 602
probable cause for the issuance of the emergency order issued 603
pursuant to division (D) of this section, it shall order the child 604
released to the custody of the child's parents, guardian, or 605
custodian. If the court determines at the hearing that there is 606
probable cause for the issuance of the emergency order issued 607
pursuant to division (D) of this section, the court shall do all 608
of the following: 609

(1) Ensure that a complaint is filed or has been filed; 610

(2) Comply with section 2151.419 of the Revised Code; 611

(3) Hold a hearing pursuant to section 2151.314 of the 612
Revised Code to determine if the child should remain in shelter 613
care. 614

(F) If the court determines at the hearing held pursuant to 615
division (E) of this section that there is probable cause to 616
believe that the child is an abused child, as defined in division 617
(A) of section 2151.031 of the Revised Code, the court may do any 618
of the following: 619

(1) Upon the motion of any party, the guardian ad litem, the 620
prosecuting attorney, or an employee of the public children 621
services agency, or its own motion, issue reasonable protective 622
orders with respect to the interviewing or deposition of the 623
child; 624

(2) Order that the child's testimony be videotaped for 625
preservation of the testimony for possible use in any other 626
proceedings in the case; 627

(3) Set any additional conditions with respect to the child 628
or the case involving the child that are in the best interest of 629
the child. 630

(G) This section is not intended, and shall not be construed, 631
to prevent any person from taking a child into custody, if taking 632
the child into custody is necessary in an emergency to prevent the 633
physical injury, emotional harm, or neglect of the child. 634
635

Section 4. That the existing versions of sections 2151.28 and 636
2151.31 that are scheduled to take effect on January 1, 2002, are 637
hereby repealed. 638

Section 5. Sections 4 and 5 of this act shall take effect on 639

January 1, 2002. 640

Section 6. The General Assembly hereby requests the Supreme 641
Court to promptly modify Rule 29 of the Rules of Juvenile 642
Procedure pursuant to its authority under the Ohio Constitution to 643
make that rule consistent with the amendments of this act to 644
section 2151.28 of the Revised Code. 645

The General Assembly further requests the Supreme Court to 646
promptly modify Rule 7 of the Rules of Juvenile Procedure pursuant 647
to its authority under the Ohio Constitution to make that rule 648
consistent with the amendments of this act to section 2151.31 of 649
the Revised Code. 650

Section 7. (A) Section 2151.31 of the Revised Code is 652
presented in Section 1 of this act as a composite of the section 653
as amended by both Sub. H.B. 3 and Sub. H.B. 176 of the 123rd 654
General Assembly. The General Assembly, applying the principle 655
stated in division (B) of section 1.52 of the Revised Code that 656
amendments are to be harmonized if reasonably capable of 657
simultaneous operation, finds that the composite is the resulting 658
version of the section in effect prior to the effective date of 659
the section as presented in Section 1 of this act. 660

(B) Section 2151.28 of the Revised Code is presented in 661
Section 3 of this act as a composite of the section as amended by 662
both Am. Sub. S.B. 179 and Sub. S.B. 218 of the 123rd General 663
Assembly. The General Assembly, applying the principle stated in 664
division (B) of section 1.52 of the Revised Code that amendments 665
are to be harmonized if reasonably capable of simultaneous 666
operation, finds that the composite is the resulting version of 667
the section in effect prior to the effective date of the section 668
as presented in Section 3 of this act. 669