

As Introduced

124th General Assembly
Regular Session
2001-2002

H. B. No. 405

REPRESENTATIVE Peterson

A BILL

To amend sections 5111.872, 5123.046, 5123.048, 1
5123.049, 5123.0411, 5126.01, 5126.02, 5126.021, 2
5126.022, 5126.033, 5126.035, 5126.036, 5126.042, 3
5126.046, 5126.05, 5126.054, 5126.055, 5126.06, 4
5126.14, 5126.15, 5126.17, 5126.18, 5126.19, 5
5126.221, 5126.357, and 5705.44; to amend, for the 6
purpose of adopting a new section number as 7
indicated in parentheses, section 5126.056 8
(5126.057); and to enact new section 5126.056 of 9
the Revised Code and to amend Section 75.02 of Am. 10
Sub. H.B. 94 of the 124th General Assembly to 11
revise provisions of Am. Sub. H.B. 94 of the 124th 12
General Assembly regarding services for persons 13
with mental retardation or other developmental 14
disabilities, to revise the law governing 15
membership of county boards of mental retardation 16
and developmental disabilities, and to declare an 17
emergency. 18

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

Section 1. That sections 5111.872, 5123.046, 5123.048, 19
5123.049, 5123.0411, 5126.01, 5126.02, 5126.021, 5126.022, 20
5126.033, 5126.035, 5126.036, 5126.042, 5126.046, 5126.05, 21

5126.054, 5126.055, 5126.06, 5126.14, 5126.15, 5126.17, 5126.18, 22
5126.19, 5126.221, 5126.357, and 5705.44 be amended, section 23
5126.056 (5126.057) be amended for the purpose of adopting a new 24
section number as indicated in parentheses, and new section 25
5126.056 of the Revised Code be enacted to read as follows: 26

Sec. 5111.872. When the department of mental retardation and 27
developmental disabilities allocates enrollment numbers to a 28
county board of mental retardation and developmental disabilities 29
for home and community-based services provided under the component 30
of the medicaid program that the department administers under 31
section 5111.871 of the Revised Code, the department shall 32
consider all of the following: 33

(A) The number of individuals with mental retardation or 34
other developmental disability who are on a waiting list the 35
county board establishes under division (C) of section 5126.042 of 36
the Revised Code for those services and are given priority on the 37
waiting list pursuant to division (D) of that section; 38

(B) The implementation component required by division 39
(A)~~(3)~~(4) of section 5126.054 of the Revised Code of the county 40
board's plan approved under section 5123.046 of the Revised Code; 41

(C) Anything else the department considers necessary to 42
enable county boards to provide those services to individuals in 43
accordance with the priority requirements of division (D) of 44
section 5126.042 of the Revised Code. 45

Sec. 5123.046. The department of mental retardation and 46
developmental disabilities shall review each component of the 47
three-calendar year plan it receives from a county board of mental 48
retardation and developmental disabilities under section 5126.054 49
of the Revised Code and, in consultation with the department of 50
job and family services and office of budget and management, 51

approve each plan component that includes all the information and 52
conditions specified in that section. ~~A The fourth component of~~ 53
~~the plan~~ shall be approved or disapproved not later than 54
forty-five days after the ~~last of the plan's components are~~ fourth 55
component is submitted to the department under division (B)(3) of 56
section 5126.054 of the Revised Code. If the department approves 57
all four components of the plan, the plan is approved. Otherwise, 58
the plan is disapproved. If the plan is disapproved, the 59
department shall take action against the county board under 60
division (B) of section 5126.056 of the Revised Code. 61

In approving plans under this section, the department shall 62
ensure that the aggregate of all plans provide for the increased 63
enrollment into home and community-based services during each 64
state fiscal year of at least five hundred individuals who did not 65
receive residential services, supported living, or home and 66
community-based services the prior state fiscal year if the 67
department has enough additional enrollment available for this 68
purpose. 69

~~If a county board fails to submit all the components of the~~ 70
~~plan to the department within the time required by division (B) of~~ 71
~~section 5126.054 of the Revised Code or the department disapproves~~ 72
~~a county board's plan, the department may withhold all or part of~~ 73
~~any funds the department would otherwise allocate to the county~~ 74
~~board. The department may not withhold any funds the department~~ 75
~~allocates to the county board prior to the date the last of the~~ 76
~~plan's components are due or the department disapproves the plan.~~ 77

The department shall establish protocols that the department 78
shall use to determine whether a county board is complying with 79
the programmatic and financial accountability mechanisms and 80
achieving outcomes specified in its approved plan. If the 81
department determines that a county board is not in compliance 82
with the mechanisms or achieving the outcomes specified in its 83

approved plan, the department may take action under division (G)
of section 5126.055 of the Revised Code.

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Sec. 5123.048. (A) For state fiscal year 2002, the department
of mental retardation and developmental disabilities shall assign
to a county board of mental retardation and developmental
disabilities the nonfederal share of medicaid expenditures for
habilitation center services that a private habilitation center
provides if all of the following apply:

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(1) The individuals who receive the services also received
the services from the center pursuant to a contract the center had
with the department in state fiscal year 2001;

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(2) The county board determined under section 5126.041 of the
Revised Code that the individuals who receive the services are
eligible for county board services;

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(3) The county board contracts with the center to provide the
services after the center's contract with the department ends.

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(B) The department shall also make the assignment under
division (A) of this section for each successive state fiscal year
that the county board contracts with the private habilitation
center to provide the habilitation center services to the
individuals who received the services pursuant to the contract the
department had with the center in state fiscal year 2001.

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(C) The amount the department shall assign under divisions
(A) and (B) of this section shall ~~be adequate to ensure that the~~
~~habilitation center services the individuals receive are~~
~~comparable in scope to the habilitation center services they~~
~~received when the private habilitation center was under contract~~
~~with the department. The amount that the department assigns shall~~
not be less than the amount the department paid the private
habilitation center for the individuals under each individual who

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received the habilitation center services pursuant to the contract 114
the department had with the center in fiscal year 2001. If the 115
contract the department had with the private habilitation center 116
in fiscal year 2001 was for less than the entire fiscal year, the 117
amount the department shall assign shall be not less than the 118
amount the department would have paid the center for each 119
individual who received the services pursuant to the contract had 120
the contract been for the entire fiscal year. 121

(D) A county board shall use the assignment it receives under 122
divisions (A) and (B) of this section to pay the nonfederal share 123
of the medicaid expenditures for the habilitation center services 124
the county board is required by division (D) of section 5111.041 125
of the Revised Code to pay. 126

Sec. 5123.049. The director of mental retardation and 127
developmental disabilities shall adopt rules in accordance with 128
Chapter 119. of the Revised Code governing the authorization and 129
payment of home and community-based services, medicaid case 130
management services, and habilitation center services. The rules 131
shall provide for private providers of the services to receive one 132
hundred per cent of the medicaid allowable payment amount and for 133
government providers of the services to receive the federal share 134
of the medicaid allowable payment, less the amount withheld as a 135
fee under section 5123.0412 of the Revised Code and any amount 136
that may be required by rules adopted under section 5123.0413 of 137
the Revised Code to be deposited into the state MR/DD risk fund. 138
The rules shall establish the process by which county boards of 139
mental retardation and developmental disabilities shall certify 140
and provide the nonfederal share of medicaid expenditures that the 141
county board is required by division (A) of section ~~5126.056~~ 142
5126.057 of the Revised Code to pay. The process shall require a 143
county board to certify that the county board has funding 144
available at one time for two months costs for those expenditures. 145

The process may permit a county board to certify that the county board has funding available at one time for more than two months costs for those expenditures.

Sec. 5123.0411. The department of mental retardation and developmental disabilities may bring a mandamus action against a county board of mental retardation and developmental disabilities that fails to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section ~~5126.056~~ 5126.057 of the Revised Code to pay. The department may bring the mandamus action in the court of common pleas of the county served by the county board or in the Franklin county court of common pleas.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;	176
(d) Sheltered employment;	177
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports-	178 179 180 181 182 183 184
(3) "Adult services" does not include community or;	185
<u>(f) Community employment services and supported employment services.</u>	186 187
(B)(1) "Adult day habilitation services" means adult services that do the following:	188 189
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	190 191 192 193 194 195 196 197
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	198 199 200 201
(2) "Adult day habilitation services" includes all of the following:	202 203
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services,	204 205

educational services, community activities, and any other adult day habilitation services;	206 207
(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;	208 209 210 211
(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;	212 213 214 215 216 217 218
(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;	219 220 221
(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;	222 223 224 225 226
(f) Transportation necessary to access adult day habilitation services;	227 228
(g) Habilitation management, as described in section 5126.14 of the Revised Code.	229 230
(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.	231 232 233
(C) "Community employment services" or "supported employment services" means job training and other services related to	234 235

employment outside a sheltered workshop. "Community employment
services" or "supported employment services" include all of the
following:

(1) Job training resulting in the attainment of competitive
work, supported work in a typical work environment, or
self-employment;

(2) Supervised work experience through an employer paid to
provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage
commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the
supervision.

(D) As used in this division, "substantial functional
limitation," "developmental delay," and "established risk" have
the meanings established pursuant to section 5123.011 of the
Revised Code.

"Developmental disability" means a severe, chronic disability
that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or
a combination of mental and physical impairments, other than a
mental or physical impairment solely caused by mental illness as
defined in division (A) of section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one
developmental delay or an established risk;

(b) In the case of a person at least age three but under age
six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(E) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

(F)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(G) "Family support services" means the services provided 296
under a family support services program operated under section 297
5126.11 of the Revised Code. 298

(H) "Habilitation" means the process by which the staff of 299
the facility or agency assists an individual with mental 300
retardation or other developmental disability in acquiring and 301
maintaining those life skills that enable the individual to cope 302
more effectively with the demands of the individual's own person 303
and environment, and in raising the level of the individual's 304
personal, physical, mental, social, and vocational efficiency. 305
Habilitation includes, but is not limited to, programs of formal, 306
structured education and training. 307

(I) "Habilitation center services" means services provided by 308
a habilitation center certified by the department of mental 309
retardation and developmental disabilities under section 5123.041 310
of the Revised Code and covered by the medicaid program pursuant 311
to rules adopted under section 5111.041 of the Revised Code. 312

(J) "Home and community-based services" means medicaid-funded 313
home and community-based services provided under a medicaid 314
component the department of mental retardation and developmental 315
disabilities administers pursuant to section 5111.871 of the 316
Revised Code. 317

(K) "Medicaid" has the same meaning as in section 5111.01 of 318
the Revised Code. 319

(L) "Medicaid case management services" means case management 320
services provided to an individual with mental retardation or 321
other developmental disability that the state medicaid plan 322
requires. 323

(M) "Mental retardation" means a mental impairment manifested 324
during the developmental period characterized by significantly 325
subaverage general intellectual functioning existing concurrently 326

with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(N) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

(O) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(P) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.

(Q)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for

support animals, adaptive beds, supine boards, prone boards, 358
wedges, sand bags, sidelayers, bolsters, adaptive electrical 359
switches, hand-held shower heads, air conditioners, humidifiers, 360
emergency response systems, folding shopping carts, vehicle lifts, 361
vehicle hand controls, other adaptations of vehicles for 362
accessibility, and repair of the equipment received. 363

(b) Nondisposable items not covered by medicaid that are 364
intended to assist an individual in activities of daily living or 365
instrumental activities of daily living. 366

(R) "Supportive home services" means a range of services to 367
families of individuals with mental retardation or other 368
developmental disabilities to develop and maintain increased 369
acceptance and understanding of such persons, increased ability of 370
family members to teach the person, better coordination between 371
school and home, skills in performing specific therapeutic and 372
management techniques, and ability to cope with specific 373
situations. 374

(S)(1) "Supported living" means services provided for as long 375
as twenty-four hours a day to an individual with mental 376
retardation or other developmental disability through any public 377
or private resources, including moneys from the individual, that 378
enhance the individual's reputation in community life and advance 379
the individual's quality of life by doing the following: 380

(a) Providing the support necessary to enable an individual 381
to live in a residence of the individual's choice, with any number 382
of individuals who are not disabled, or with not more than three 383
individuals with mental retardation and developmental disabilities 384
unless the individuals are related by blood or marriage; 385

(b) Encouraging the individual's participation in the 386
community; 387

(c) Promoting the individual's rights and autonomy; 388

(d) Assisting the individual in acquiring, retaining, and 389
improving the skills and competence necessary to live successfully 390
in the individual's residence. 391

(2) "Supported living" includes the provision of all of the 392
following: 393

(a) Housing, food, clothing, habilitation, staff support, 394
professional services, and any related support services necessary 395
to ensure the health, safety, and welfare of the individual 396
receiving the services; 397

(b) A combination of life-long or extended-duration 398
supervision, training, and other services essential to daily 399
living, including assessment and evaluation and assistance with 400
the cost of training materials, transportation, fees, and 401
supplies; 402

(c) Personal care services and homemaker services; 403

(d) Household maintenance that does not include modifications 404
to the physical structure of the residence; 405

(e) Respite care services; 406

(f) Program management, as described in section 5126.14 of 407
the Revised Code. 408

Sec. 5126.02. (A) As used in this section, "relative" means a 409
spouse, parent, parent-in-law, sibling, sibling-in-law, child, 410
child-in-law, grandparent, aunt, or uncle. 411

(B)(1) There is hereby created in each county a county board 412
of mental retardation and developmental disabilities consisting of 413
seven members, five of whom shall be appointed by the board of 414
county commissioners of the county, and two of whom shall be 415
appointed by the probate judge of the county. Each member shall be 416
a resident of the county. The membership of the board shall, as 417

nearly as possible, reflect the composition of the population of 418
the county. 419

All board members shall be persons interested and 420
knowledgeable in the field of mental retardation and other allied 421
fields. All board members shall be citizens of the United States. 422
Of the members appointed by the board of county commissioners, at 423
least two shall be relatives ~~by blood or marriage~~ of persons 424
eligible for ~~and currently receiving~~ services provided by the 425
county board of mental retardation and developmental disabilities, 426
and, whenever possible, one shall be a relative of a person 427
eligible for ~~and currently receiving~~ adult services, and the other 428
shall be a relative of a person eligible for ~~and currently~~ 429
~~receiving~~ early intervention services or services for pre-school 430
or school-age children. Of the two members appointed by the 431
probate judge, at least one shall be a relative ~~by blood or~~ 432
~~marriage~~ of a person eligible for ~~or currently receiving~~ 433
residential services ~~in a public or private residential facility~~ 434
~~subject to regulation or licensure by the director of mental~~ 435
~~retardation and developmental disabilities under sections 5123.19~~ 436
~~and 5123.20 of the Revised Code~~ or supported living. 437

Both the board of county commissioners and the probate judge 438
shall appoint under this section, to the maximum extent possible, 439
members who fulfill any applicable requirements of this section 440
for appointment and who also have professional training and 441
experience in business management, finance, law, health care 442
practice, personnel administration, or government service. 443

(2) All appointments shall be for terms of four years. The 444
membership of a person appointed as a relative of a recipient of 445
services shall not be terminated because the services are no 446
longer received. 447

Members may be reappointed, except as provided in division 448
(A)(B)(3) of this section and section 5126.022 of the Revised 449

Code. Prior to making a reappointment, the appointing authority shall ascertain, through written communication with the board, that the member being considered for reappointment meets the requirements of this section and section 5126.022 of the Revised Code.

(3) A member who has served during each of ~~two~~ three consecutive terms shall not be reappointed for a subsequent term until ~~one year~~ two years after ceasing to be a member of the board, except that a member who has served for ~~six~~ ten years or less within ~~two~~ three consecutive terms may be reappointed for a subsequent term before becoming ineligible for reappointment for ~~one year~~ two years.

(4) Within sixty days after a vacancy occurs, it shall be filled by the appointing authority for the unexpired term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Appointment other than appointment to fill a vacancy shall be made no later than the last day of November of each year, and the term of office shall commence on the date of the stated annual organizational meeting in January.

(5) Board members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the conduct of board business, including those incurred within the county of residence.

~~(B)~~(C) Each year each board member shall attend at least one in-service training session provided by or approved by the department of mental retardation and developmental disabilities. These training sessions shall not be considered regularly scheduled meetings of the board.

~~(C)~~(D) A county board of mental retardation and developmental disabilities shall be operated as a separate administrative and

service entity. The board's functions shall not be combined with 482
the functions of any other entity of county government. 483

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Sec. 5126.021. (A) As used in this section, ~~"immediate:~~ 485

(1) "Contract agency" means a person or government entity 486
that is a provider as defined in section 5126.035 of the Revised 487
Code. 488

(2) "Immediate family" means parents, brothers, sisters, 489
spouses, sons, daughters, mothers-in-law, fathers-in-law, 490
brothers-in-law, sisters-in-law, sons-in-law, and 491
daughters-in-law. 492

~~(A)(3)~~ "Individual service plan participant" means a person 493
or government entity, including a school district or educational 494
service center, that is a signatory to, or participant in the 495
process of developing, an individual service plan for an 496
individual with mental retardation or other developmental 497
disability. "Individual service plan participant" does not include 498
an immediate family member of an individual with mental 499
retardation or other developmental disability who is a signatory 500
to, or participant in the process of developing, the individual 501
service plan for the individual with mental retardation or other 502
developmental disability. 503

(B) The following individuals shall not serve as members of a 504
county ~~boards~~ board of mental retardation and developmental 505
disabilities: 506

~~(1) Elected public officials, except for those excluded from 507
the definition of public official or employee in division (B) of 508
section 102.01~~ An employee of the county board; 509

(2) A former county board employee within one calendar year 510
of the termination of employment with the county board on which 511

<u>the former employee would serve;</u>	512
<u>(3) An appointed official or employee of a government entity</u>	513
<u>responsible for determining the eligibility of an individual with</u>	514
<u>mental retardation or other developmental disability for services</u>	515
<u>or providing or overseeing the provision of services to such an</u>	516
<u>individual or the county board, including both of the following:</u>	517
<u>(a) All of the following government entities that serve the</u>	518
<u>county that the county board serves:</u>	519
<u>(i) The board of county commissioners;</u>	520
<u>(ii) The office of county treasurer;</u>	521
<u>(iii) The office of county auditor;</u>	522
<u>(iv) The office of county prosecuting attorney;</u>	523
<u>(v) The county board of elections;</u>	524
<u>(vi) The public children services agency;</u>	525
<u>(vii) The county family and children first council;</u>	526
<u>(viii) The county department of job and family services;</u>	527
<u>(ix) The county board of alcohol, drug addiction, and mental</u>	528
<u>health services;</u>	529
<u>(x) A school district or educational service center.</u>	530
<u>(b) The following state departments:</u>	531
<u>(i) The department of mental retardation and developmental</u>	532
<u>disabilities;</u>	533
<u>(ii) The department of job and family services;</u>	534
<u>(iii) The department of mental health;</u>	535
<u>(iv) The department of alcohol and drug addiction services;</u>	536
<u>(v) The department of education.</u>	537
<u>(4) An individual elected or appointed to an elective</u>	538

<u>government office, other than any of the following offices:</u>	539
<u>(a) A board of township trustees;</u>	540
<u>(b) The office of township clerk;</u>	541
<u>(c) The office of presidential elector;</u>	542
<u>(d) The office of national convention delegate;</u>	543
<u>(e) A precinct, ward, or district committee provided for</u> <u>under section 3517.03 of the Revised Code;</u>	544 545
(2) Members.	546
<u>(5) An individual service plan participant;</u>	547
<u>(6) A member of the immediate family of another a member of</u> <u>the county board member;</u>	548 549
(3) Board employees and members of the immediate family of board employees;	550 551
(4) Former board employees within one calendar year of the termination of employment with the board on which the former employee would serve or an individual ineligible to serve on the <u>county board pursuant to division (B) of this section.</u>	552 553 554 555
(B) <u>(C)</u> A person may not serve as a member of a county board of mental retardation and developmental disabilities when either the person or a member of the person's immediate family is a board member of a contract agency of that county board unless there is no conflict of interest. In no circumstance shall a member of a county board vote on any matter before the <u>county</u> board concerning a contract agency of which the member or a member of the member's immediate family is also a board member or an employee. All questions relating to the existence of a conflict of interest shall be submitted to the local prosecuting attorney and the Ohio ethics commission for resolution.	556 557 558 559 560 561 562 563 564 565 566
(C) No <u>(D)(1) Except as provided in division (D)(2) of this</u>	567

~~section, a person may not serve as a member or employee of a
county board of mental retardation and developmental disabilities
if the person is an employee of an a contract agency contracting
with a of that county board of mental retardation and
developmental disabilities or member of the immediate family of
such an employee shall serve as a board member or an employee of
the county board except that a.~~

(2) A county board may, pursuant to a resolution adopted by
the county board, employ a member of the immediate family of an
employee of an a contract agency contracting with the of that
county board.

~~(D)~~(E) No person shall serve as a member or employee of a
county board of mental retardation and developmental disabilities
if a member of the person's immediate family serves as a county
commissioner of the county served by the board unless the person
was a member or employee prior to October 31, 1980.

~~(E)~~(F) A county board of mental retardation and developmental
disabilities shall not contract with an agency whose board
includes a county commissioner of the county served by the county
board or an employee of the same county board.

Sec. 5126.022. (A) Each county board of mental retardation
and developmental disabilities shall hold an organizational
meeting no later than the thirty-first day of January of each year
and shall elect its officers, which shall include a president,
vice-president, and recording secretary. After its annual
organizational meeting, the board shall meet in such manner and at
such times as prescribed by rules adopted by the board, but the
board shall meet at least ten times annually in regularly
scheduled sessions in accordance with section 121.22 of the
Revised Code, not including in-service training sessions. A
majority of the board constitutes a quorum. The board shall adopt

rules for the conduct of its business and a record shall be kept 599
of board proceedings, which shall be open for public inspection. 600

(B) A board member shall be removed from the board by the 601
appointing authority for ~~neglect~~ any of the following reasons: 602

(1) Neglect of duty, misconduct, malfeasance, failure; 603

(2) Misconduct; 604

(3) Malfeasance; 605

(4) Failure to attend at least one in-service training 606
session each year, ~~a violation of section 5126.021 of the Revised~~ 607
~~Code, or upon the;~~ 608

(5) The absence of a member within one year from either four 609
regularly scheduled board meetings or from two regularly scheduled 610
board meetings if the member gave no prior notice of the member's 611
absence. ~~This~~ 612

The removal provision specified in division (B)(5) of this 613
section does not apply to absences from special meetings or work 614
sessions. ~~The~~ 615

The board shall supply the board member and the member's 616
appointing authority with written notice of the charges against 617
the member under this division. The appointing authority shall 618
afford the member an opportunity for a hearing, in accordance with 619
procedures it adopts, and shall, upon determining that the charges 620
are accurate, remove the member and appoint another person to 621
complete the member's term. 622

(C) The appointing authority shall remove a member if the 623
appointing authority receives written notice from any source that 624
reasonably demonstrates that the member is ineligible to serve on 625
the board pursuant to section 5126.021 of the Revised Code. A 626
resident of the county that the county board serves or the 627
director of mental retardation and developmental disabilities may 628

bring mandamus proceedings in the Franklin county court of appeals 629
or the court of appeals of the county that the county board serves 630
against an appointing authority that fails to remove a member in 631
accordance with this division. 632

(D) A member removed from the board is ineligible for 633
reappointment for not less than one year. When a member is 634
removed, the appointing authority shall specify the time during 635
which the member is ineligible for reappointment. If the member is 636
removed for failing to attend in-service training, the board also 637
shall specify the training the member must complete prior to being 638
eligible for reappointment. 639

Sec. 5126.033. (A) A county board of mental retardation and 640
developmental disabilities shall not enter into a direct services 641
contract unless the contract is limited either to the actual 642
amount of the expenses or to a reasonable and allowable amount 643
projected by the board. 644

(B) A county board shall not enter into a direct services 645
contract that would result in payment to a board member, former 646
board member, employee, former employee, or member of the 647
immediate family of a board member, former board member, employee, 648
or former employee if the person who would receive services under 649
the contract stands to receive any preferential treatment or any 650
unfair advantage over other eligible persons. 651

(C) A county board shall not enter into a direct services 652
contract for services provided in accordance with section 5126.11 653
or sections 5126.40 to 5126.46 of the Revised Code under which an 654
individual, agency, or other entity will employ a professional or 655
service employee, as defined in section 5126.20 of the Revised 656
Code, who is also an employee of that board unless all of the 657
following conditions are met: 658

(1) The employee is not in a capacity to influence the award 659

of the contract.

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(2) The employee has not attempted in any manner to secure the contract on behalf of the individual, agency, or other entity.

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(3) The employee is in management level two or three according to rules adopted by the director of mental retardation and developmental disabilities.

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~~(4) The employee does is not hold any administrative or supervisory position in the employ of~~ employed by the board, ~~did not hold such a position~~ during the period when the contract ~~was~~ is developed, as an administrator or supervisor responsible for approving or supervising services to be provided under the contract and agrees not to take such a position while the contract is in effect, regardless of whether the position is related to the services provided under the contract.

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~~(4)(5)~~ The employee has not taken any actions that create the need for the services to be provided under the contract.

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~~(5)(6)~~ The individual, agency, or other entity seeks the services of the employee because of the employee's expertise and familiarity with the care and condition of one or more eligible persons and other individuals with such expertise and familiarity are unavailable, or an eligible person has requested to have the services provided by that employee.

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The superintendent of the county board shall notify the employee and the individual, agency, or other entity that seeks the employee's services of the ethics council's determination under section 5126.032 of the Revised Code regarding the contract. The council's determination shall be binding on all parties.

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The employee who is the subject of the contract shall inform the superintendent of the county board of any employment the employee has outside the county board that is with any individual, agency, or other entity that has a contract with the county board.

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Sec. 5126.035. (A) As used in this section: 691

(1) "Provider" means a person or government entity that 692
provides services to an individual with mental retardation or 693
other developmental disability pursuant to a service contract. 694

(2) "Service contract" means a contract between a county 695
board of mental retardation and developmental disabilities and a 696
provider under which the provider is to provide services to an 697
individual with mental retardation or other developmental 698
disability. 699

(B) Each service contract that a county board of mental 700
retardation and developmental disabilities enters into with a 701
provider shall do all of the following: 702

(1) Comply with rules adopted under division (E) of this 703
section; 704

(2) If the provider is to provide home and community-based 705
services, medicaid case management services, or habilitation 706
center services, comply with all applicable statewide medicaid 707
requirements; 708

(3) Include a general operating agreement component and an 709
individual service needs addendum. 710

(C) The general operating agreement component shall include 711
all of the following: 712

(1) The roles and responsibilities of the county board 713
regarding services for individuals with mental retardation or 714
other developmental disability who reside in the county the county 715
board serves; 716

(2) The roles and responsibilities of the provider as 717
specified in the individual service needs addendum; 718

(3) Procedures for the county board to monitor the provider's 719

services;	720
(4) Procedures for the county board to evaluate the quality of care and cost effectiveness of the provider's services;	721 722
(5) Procedures for payment of eligible claims;	723
(6) If the provider is to provide home and community-based services, medicaid case management services, or habilitation center services, both of the following:	724 725 726
(a) Procedures for reimbursement that conform to the statewide reimbursement process and the county board's plan submitted under section 5126.054 of the Revised Code;	727 728 729
(b) Procedures that ensure that the county board pays the nonfederal share of the medicaid expenditures that the county board is required by division (A) of section 5126.056 <u>5126.057</u> of the Revised Code to pay.	730 731 732 733
(7) Procedures for the county board to perform service utilization reviews and the implementation of required corrective actions;	734 735 736
(8) Procedures for the provider to submit claims for payment for a service no later than three hundred thirty days after the date the service is provided;	737 738 739
(9) Procedures for rejecting claims for payment that are submitted after the time required by division (B)(9) of this section;	740 741 742
(10) Procedures for developing, modifying, and executing initial and subsequent service plans. The procedures shall provide for the provider's participation.	743 744 745
(11) Procedures for affording individuals due process protections;	746 747
(12) General staffing, training, and certification	748

requirements that are consistent with state requirements and	749
compensation arrangements that are necessary to attract, train,	750
and retain competent personnel to deliver the services pursuant to	751
the individual service needs addendum;	752
(13) Methods to be used to document services provided and	753
procedures for submitting reports the county board requires;	754
(14) Methods for authorizing and documenting within	755
seventy-two hours changes to the individual service needs	756
addendum. The methods shall allow for changes to be initially	757
authorized verbally and subsequently in writing.	758
(15) Procedures for modifying the individual service needs	759
addendum in accordance with changes to the recipient's	760
individualized service plan;	761
(16) Procedures for terminating the individual service needs	762
addendum within thirty days of a request made by the recipient;	763
(17) A requirement that all parties to the contract accept	764
the contract's terms and conditions;	765
(18) A designated contact person and the method of contacting	766
the designated person to respond to medical or behavioral problems	767
and allegations of major unusual incidents or unusual incidents;	768
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(19) Procedures for ensuring the health and welfare of the	770
recipient;	771
(20) Procedures for ensuring fiscal accountability and the	772
collection and reporting of programmatic data;	773
(21) Procedures for implementing the mediation and	774
arbitration process under section 5126.036 of the Revised Code;	775
(22) Procedures for amending or terminating the contract,	776
including as necessary to make the general operating agreement	777
component consistent with any changes made to the individual	778

service needs addendum;	779
(23) Anything else allowable under federal and state law that the county board and provider agree to.	780 781
(D) The individual service needs addendum shall be consistent with the general operating agreement component and include all of the following:	782 783 784
(1) The name of the individual with mental retardation or other developmental disability who is to receive the services from the provider and any information about the recipient that the provider needs to be able to provide the services;	785 786 787 788
(2) A clear and complete description of the services that the recipient is to receive as determined using statewide assessment tools;	789 790 791
(3) A copy of the recipient's assessment and individualized service plan;	792 793
(4) A clear and complete description of the provider's responsibilities to the recipient and county board in providing appropriate services in a coordinated manner with other providers and in a manner that contributes to and ensures the recipient's health, safety, and welfare.	794 795 796 797 798
(E) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing service contracts. A service contract does not negate the requirement that a provider of home and community-based services, medicaid case management services, or habilitation center services have a medicaid provider agreement with the department of job and family services.	799 800 801 802 803 804 805
Sec. 5126.036. (A) As used in this section:	806
(1) "Aggrieved party" means any of the following:	807

(a) The party to a service contract that is aggrieved by an 808
action the other party has taken or not taken under the service 809
contract; 810

(b) A person or government entity aggrieved by the refusal of 811
a county board of mental retardation and developmental 812
disabilities to enter into a service contract with the person or 813
government entity; 814

(c) A person or government entity aggrieved by termination by 815
a county board of mental retardation and development disabilities 816
of a service contract between the person or government entity and 817
the county board. 818

(2) "Mediator/arbitrator" means either of the following: 819

(a) An attorney at law licensed to practice law in this state 820
who is mutually selected by the parties under division (B)(4) of 821
this section to conduct mediation and arbitration; 822

(b) A retired judge who is selected under division (B)(4) of 823
this section to conduct mediation and arbitration. 824

(3) "Other party" means any of the following: 825

(a) The party to a service contract that has taken or not 826
taken an action under the service contract that causes the 827
aggrieved party to be aggrieved; 828

(b) A county board of mental retardation and developmental 829
disabilities that refuses to enter into a service contract with a 830
person or government entity; 831

(c) A county board of mental retardation and developmental 832
disabilities that terminates a service contract. 833

(4) "Parties" mean either of the following: 834

(a) A county board of mental retardation and developmental 835
disabilities and a provider that have or had a service contract 836

with each other;

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(b) A person or government entity that seeks a service contract with a county board of mental retardation and developmental disabilities and the county board that refuses to enter into the service contract with the person or government entity.

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(5) "Provider" means a person or government entity that provides services to an individual with mental retardation or other developmental disability pursuant to a service contract.

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(6) "Service contract" means a contract between a county board of mental retardation and developmental disabilities and a provider under which the provider is to provide services to an individual with mental retardation or other developmental disability.

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(B) An aggrieved party that seeks to require the other party to take or cease an action under a service contract that causes the aggrieved party to be aggrieved, a person or government entity aggrieved by the refusal of a county board of mental retardation and developmental disabilities to enter into a service contract with the person or government entity, or a person or government entity aggrieved by a county board's termination of a service contract between the person or government entity and the county board and the other party shall follow the following mediation and arbitration procedures:

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(1) No later than thirty days after first notifying the other party that the aggrieved party is aggrieved, the aggrieved party shall file a written notice of mediation and arbitration with the department of mental retardation and developmental disabilities and provide a copy of the written notice to the other party. The written notice shall include an explanation of why the aggrieved party is aggrieved. The department of mental retardation and

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developmental disabilities shall provide the department of job and family services a copy of the notice.

(2) In the case of parties that have a current service contract with each other and unless otherwise agreed to by both parties, the parties shall continue to operate under the contract in the manner they have been operating until the mediation and arbitration process, including an appeal under division (B)(9) of this section, if any, is completed.

(3) During the thirty days following the date the aggrieved party files the written notice of mediation and arbitration under division (B)(1) of this section, the parties may attempt to resolve the conflict informally. If the parties are able to resolve the conflict informally within this time, the aggrieved party shall rescind the written notice of mediation and arbitration filed under division (B)(1) of this section.

(4) No later than thirty days after the date the aggrieved party files the written notice of mediation and arbitration under division (B)(1) of this section, the parties shall mutually select an attorney at law licensed to practice law in this state to conduct the mediation and arbitration and schedule the first meeting of the mediation unless the parties informally resolve the conflict under division (B)(3) of this section. If the parties fail to select an attorney to conduct the mediation and arbitration within the required time, the parties shall request that the chief justice of the supreme court of Ohio provide the parties a list of five retired judges who are willing to perform the mediation and arbitration duties. The chief justice shall create such a list and provide it to the parties. To select the retired judge to conduct the mediation and arbitration, the parties shall take turns, beginning with the aggrieved party, striking retired judges from the list. The retired judge remaining on the list after both parties have each stricken two retired

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judges from the list shall perform the mediation and arbitration
duties, including scheduling the first meeting of mediation if the
parties are unable to agree on a date for the first meeting.

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(5) A stenographic record or tape recording and transcript of
each mediation and arbitration meeting shall be maintained as part
of the mediation and arbitration's official records. The parties
shall share the cost of the mediation and arbitration, including
the cost of the mediator/arbitrator's services but excluding the
cost of representation.

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(6) The first mediation meeting shall be held no later than
sixty days after the date the aggrieved party files the written
notice of mediation and arbitration under division (B)(1) of this
section unless the parties informally resolve the conflict under
division (B)(3) of this section or the parties mutually agree to
hold the first meeting at a later time. The mediation shall be
conducted in the manner the parties mutually agree. If the parties
are unable to agree on how the mediation is to be conducted, the
mediator/arbitrator selected under division (B)(4) of this section
shall determine how it is to be conducted. The rules of evidence
may be used. The mediator/arbitrator shall attempt to resolve the
conflict through the mediation process. The mediator/arbitrator's
resolution of the conflict may be applied retroactively.

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(7) If the conflict is not resolved through the mediation
process, the mediator/arbitrator shall arbitrate the conflict. The
parties shall present evidence to the mediator/arbitrator in the
manner the mediator/arbitrator requires. The mediator/arbitrator
shall render a written recommendation within thirty days of the
conclusion of the last arbitration meeting based on the service
contract, applicable law, and the preponderance of the evidence
presented during the arbitration. The mediator/arbitrator's

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recommendation may be applied retroactively. If the parties agree,
the mediator/arbitrator may continue to attempt to resolve the
conflict through mediation while the mediator/arbitrator
arbitrates the conflict.

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(8) No later than thirty days after the mediator/arbitrator
renders a recommendation in an arbitration, the
mediator/arbitrator shall provide the parties with a written
recommendation and forward a copy of the written recommendation,
transcripts from each arbitration meeting, and a copy of all
evidence presented to the mediator/arbitrator during the
arbitration to the departments of mental retardation and
developmental disabilities and job and family services.

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(9) No later than thirty days after the department of mental
retardation and developmental disabilities receives the
mediator/arbitrator's recommendation and the materials required by
division (B)(8) of this section, the department shall adopt,
reject, or modify the mediator/arbitrator's recommendation
consistent with the mediator/arbitrator's findings of fact and
conclusions of law or remand any portion of the recommendation to
the mediator/arbitrator for further findings on a specific factual
or legal issue. The mediator/arbitrator shall complete the further
findings and provide the parties and the department with a written
response to the remand within sixty days of the date the
mediator/arbitrator receives the remand. On receipt of the
mediator/arbitrator's response to the remand, the department,
within thirty days, unless the parties agree otherwise, shall
adopt, reject, or modify the mediator/arbitrator's response. The
department's actions regarding the mediator/arbitrator's
recommendation and response are a final adjudication order subject
to appeal to the court of common pleas of Franklin county under
section 119.12 of the Revised Code, except that the court shall
consider only whether the conclusions of law the department adopts

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are in accordance with the law. 964

(10) If the department of job and family services, in 965
consultation with the department of mental retardation and 966
developmental disabilities, determines no later than thirty days 967
following the date the department of mental retardation and 968
developmental disabilities receives the mediator/arbitrator's 969
recommendation and the materials required by division (B)(8) of 970
this section, or, if the recommendation is remanded under division 971
(B)(9) of this section, thirty days following the date the 972
department receives the response to the remand, that any aspect of 973
the conflict between the parties affects the medicaid program, the 974
department of mental retardation and developmental disabilities 975
shall take all actions under division (B)(9) of this section in 976
consultation with the department of job and family services. 977

(C) If the department of mental retardation and developmental 978
disabilities is aware of a conflict between a county board of 979
mental retardation and developmental disabilities and a person or 980
government entity that provides or seeks to provide services to an 981
individual with mental retardation or other developmental 982
disability to which the mediation and arbitration procedures 983
established by this section may be applied and that the aggrieved 984
party has not filed a written notice of mediation and arbitration 985
within the time required by division (B)(1) of this section, the 986
department may require that the parties implement the mediation 987
and arbitration procedures. 988

(D) Each service contract shall provide for the parties to 989
follow the mediation and arbitration procedures established by 990
this section if a party takes or does not take an action under the 991
service contract that causes the aggrieved party to be aggrieved 992
or if the provider is aggrieved by the county board's termination 993
of the service contract. 994

Sec. 5126.042. (A) As used in this section:	995
(1) "Emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations:	996 997 998 999 1000
(a) Loss of present residence for any reason, including legal action;	1001 1002
(b) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;	1003 1004 1005 1006
(c) Abuse, neglect, or exploitation of the individual;	1007
(d) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;	1008 1009
(e) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.	1010 1011 1012
(2) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.	1013 1014
(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists according to an individual's emergency status and shall establish priorities in accordance with division (D) of this section.	1015 1016 1017 1018 1019 1020 1021 1022 1023

The individuals who may be placed on a waiting list include 1024
individuals with a need for services on an emergency basis and 1025
individuals who have requested services for which resources are 1026
not available. 1027

Except for an individual who is to receive priority for 1028
services pursuant to division (D)(3) of this section, an 1029
individual who currently receives a service but would like to 1030
change to another service shall not be placed on a waiting list 1031
but shall be placed on a service substitution list. The board 1032
shall work with the individual, service providers, and all 1033
appropriate entities to facilitate the change in service as 1034
expeditiously as possible. The board may establish priorities for 1035
making placements on its service substitution lists according to 1036
an individual's emergency status. 1037

In addition to maintaining waiting lists and service 1038
substitution lists, a board shall maintain a long-term service 1039
planning registry for individuals who wish to record their 1040
intention to request in the future a service they are not 1041
currently receiving. The purpose of the registry is to enable the 1042
board to document requests and to plan appropriately. The board 1043
may not place an individual on the registry who meets the 1044
conditions for receipt of services on an emergency basis. 1045

(C) A county board shall establish a separate waiting list 1046
for each of the following categories of services, and may 1047
establish separate waiting lists within the waiting lists: 1048

(1) Early childhood services; 1049

(2) Educational programs for preschool and school age 1050
children; 1051

(3) Adult services; 1052

(4) ~~service~~ Service and support administration; 1053

(5) Residential services and supported living;	1054
(6) Transportation services;	1055
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	1056 1057 1058
(8) Family support services provided under section 5126.11 of the Revised Code.	1059 1060
(D) Except as provided in division (E) (F) of this section, a county board shall do, <u>as priorities</u> , all of the following in accordance with the <u>assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan approved developed</u> under section 5123.046 <u>5126.054</u> of the Revised Code as priorities :	1061 1062 1063 1064 1065 1066
(1) For the purpose of obtaining additional federal medicaid funds for home and community-based services, medicaid case management services, and habilitation center services, do both of the following:	1067 1068 1069 1070
(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:	1071 1072 1073 1074 1075 1076
(i) Is twenty-two years of age or older;	1077
(ii) Receives supported living or family support services.	1078
(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:	1079 1080 1081 1082 1083

- (i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services; 1084
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- (ii) Receives adult services from the county board. 1087
- (2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section ~~other than an individual given priority under division (D)(1) of this section:~~ 1088
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- (a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older; 1095
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- (b) Is less than twenty-two years of age, ~~does not receive residential services or supported living, resides in the home of the individual's family,~~ and has at least one of the following service needs that are unusual in scope or intensity: 1099
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- (i) Severe behavior problems for which a behavior support plan is needed; 1103
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- (ii) An emotional disorder for which anti-psychotic medication is needed; 1105
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- (iii) A medical condition that leaves the individual dependent on life-support medical technology; 1107
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- (iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed; 1109
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- (v) A condition the county board determines to be comparable in severity to any condition described in division (D)(1) 1112
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(2)(b)(i) to (iv) of this section and places the individual at 1114
significant risk of institutionalization. 1115

(c) Is twenty-two years of age or older, does not receive 1116
residential services or supported living, and is determined by the 1117
county board to have intensive needs for ~~residential~~ home and 1118
community-based services on an in-home or out-of-home basis. 1119

(3) In fiscal years 2002 and 2003, give an individual who is 1120
eligible for home and community-based services, resides in an 1121
intermediate care facility for the mentally retarded or nursing 1122
facility, chooses to move to another setting with the help of home 1123
and community-based services, and has been determined by the 1124
department of mental retardation and developmental disabilities to 1125
be capable of residing in the other setting, priority over any 1126
other individual on a waiting list established under division (C) 1127
of this section for home and community-based services who does not 1128
meet these criteria. The department of mental retardation and 1129
developmental disabilities shall identify the individuals to 1130
receive priority under division (D)(3) of this section, assess the 1131
needs of the individuals, and notify the county boards that are to 1132
provide the individuals priority under division (D)(3) of this 1133
section of the individuals identified by the department and the 1134
individuals' assessed needs. 1135

(E) If two or more individuals on a waiting list established 1136
under division (C) of this section for home and community-based 1137
services have priority for the services pursuant to division 1138
(D)(1) or (2) of this section, a county board may use, until 1139
December 31, 2003, criteria specified in rules adopted under 1140
division (J)(2) of this section in determining the order in which 1141
the individuals with priority will be offered the services. 1142
Otherwise, the county board shall offer the home and 1143
community-based services to such individuals in the order they are 1144
placed on the waiting list. 1145

(F)(1) No individual may receive priority for services 1146
pursuant to division (D) of this section over an individual placed 1147
on a waiting list established under division (C) of this section 1148
on an emergency status. 1149

(2) No more than ~~two~~ four hundred individuals in the state 1150
may receive priority for services during ~~state fiscal years~~ the 1151
2002 and 2003 biennium pursuant to division (D)(2)(b) of this 1152
section. 1153

(3) No more than a total of seventy-five individuals in the 1154
state may receive priority for services during state fiscal years 1155
2002 and 2003 pursuant to division (D)(3) of this section. 1156

~~(F)~~(G) Prior to establishing any waiting list under this 1157
section, a county board shall develop and implement a policy for 1158
waiting lists that complies with this section and rules ~~that the~~ 1159
~~department of mental retardation and developmental disabilities~~ 1160
~~shall adopt in accordance with Chapter 119. of the Revised Code.~~ 1161
~~The department's rules shall include procedures to be followed to~~ 1162
~~ensure that the due process rights of individuals placed on~~ 1163
~~waiting lists are not violated~~ adopted under division (J) of this 1164
section. 1165

Prior to placing an individual on a waiting list, the county 1166
board shall assess the service needs of the individual in 1167
accordance with all applicable state and federal laws. The county 1168
board shall place the individual on the appropriate waiting list 1169
and may place the individual on more than one waiting list. The 1170
county board shall notify the individual of the individual's 1171
placement and position on each waiting list on which the 1172
individual is placed. 1173

At least annually, the county board shall reassess the 1174
service needs of each individual on a waiting list. If it 1175
determines that an individual no longer needs a program or 1176

service, the county board shall remove the individual from the 1177
waiting list. If it determines that an individual needs a program 1178
or service other than the one for which the individual is on the 1179
waiting list, the county board shall provide the program or 1180
service to the individual or place the individual on a waiting 1181
list for the program or service in accordance with the board's 1182
policy for waiting lists. 1183

When a program or service for which there is a waiting list 1184
becomes available, the county board shall reassess the service 1185
needs of the individual next scheduled on the waiting list to 1186
receive that program or service. If the reassessment demonstrates 1187
that the individual continues to need the program or service, the 1188
board shall offer the program or service to the individual. If it 1189
determines that an individual no longer needs a program or 1190
service, the county board shall remove the individual from the 1191
waiting list. If it determines that an individual needs a program 1192
or service other than the one for which the individual is on the 1193
waiting list, the county board shall provide the program or 1194
service to the individual or place the individual on a waiting 1195
list for the program or service in accordance with the board's 1196
policy for waiting lists. The county board shall notify the 1197
individual of the individual's placement and position on the 1198
waiting list on which the individual is placed. 1199

~~(G)~~(H) A child subject to a determination made pursuant to 1200
section 121.38 of the Revised Code who requires the home and 1201
community-based services provided through the medicaid component 1202
that the department of mental retardation and developmental 1203
disabilities administers under section 5111.871 of the Revised 1204
Code shall receive services through that medicaid component. For 1205
all other services, a child subject to a determination made 1206
pursuant to section 121.38 of the Revised Code shall be treated as 1207
an emergency by the county boards and shall not be subject to a 1208

waiting list. 1209

~~(H)~~(I) Not later than the fifteenth day of March of each 1210
even-numbered year, each county board shall prepare and submit to 1211
the director of mental retardation and developmental disabilities 1212
its recommendations for the funding of services for individuals 1213
with mental retardation and developmental disabilities and its 1214
proposals for reducing the waiting lists for services. 1215

~~(I)~~(J)(1) The department of mental retardation and 1216
developmental disabilities shall adopt rules in accordance with 1217
Chapter 119. of the Revised Code governing waiting lists 1218
established under this section. The rules shall include procedures 1219
to be followed to ensure that the due process rights of 1220
individuals placed on waiting lists are not violated. 1221

(2) As part of the rules adopted under this division, the 1222
department shall adopt, not later than November 15, 2001, rules 1223
establishing criteria a county board may use under division (E) of 1224
this section in determining the order in which individuals with 1225
priority for home and community-based services will be offered the 1226
services. The rules shall also specify conditions under which a 1227
county board, when there is no individual with priority for home 1228
and community-based services pursuant to division (D)(1) or (2) of 1229
this section available and appropriate for the services, may offer 1230
the services to an individual on a waiting list for the services 1231
but not given such priority for the services. The rules adopted 1232
under division (J)(2) of this section shall cease to have effect 1233
December 31, 2003. 1234

(K) The following shall take precedence over the applicable 1235
provisions of this section: 1236

(1) Medicaid rules and regulations; 1237

(2) Any specific requirements that may be contained within a 1238
medicaid state plan amendment or waiver program that a county 1239

board has authority to administer or with respect to which it has 1240
authority to provide services, programs, or supports. 1241

Sec. 5126.046. (A) Each county board of mental retardation 1242
and developmental disabilities that has medicaid local 1243
administrative authority under division (A) of section 5126.055 of 1244
the Revised Code for habilitation, vocational, or community 1245
employment services provided as part of home and community-based 1246
services shall create a list of all persons and government 1247
entities eligible to provide such habilitation, vocational, or 1248
community employment services. If the county board chooses and is 1249
eligible to provide such habilitation, vocational, or community 1250
employment services, the county board shall include itself on the 1251
list. The county board shall make the list available to each 1252
individual with mental retardation or other developmental 1253
disability who resides in the county and is eligible for such 1254
habilitation, vocational, or community employment services. The 1255
county board shall also make the list available to such 1256
individuals' families. 1257

An individual with mental retardation or other developmental 1258
disability who is eligible for habilitation, vocational, or 1259
community employment services may choose the provider of the 1260
services. 1261

~~If a~~ A county board that has medicaid local administrative 1262
authority under division (A) of section 5126.055 of the Revised 1263
Code for habilitation, vocational, and community employment 1264
services provided as part of home and community-based services, 1265
~~the county board~~ shall pay the nonfederal share of the 1266
habilitation, vocational, and community employment services when 1267
required by section ~~5126.056~~ 5126.057 of the Revised Code. The 1268
department of mental retardation and developmental disabilities 1269
shall pay the nonfederal share of such habilitation, vocational, 1270

and community employment services when required by section 1271
5123.047 of the Revised Code. 1272

(B) Each month, the department of mental retardation and 1273
developmental disabilities shall create a list of all persons and 1274
government entities eligible to provide residential services and 1275
supported living. The department shall include on the list all 1276
residential facilities licensed under section 5123.19 of the 1277
Revised Code and all supported living providers certified under 1278
section 5126.431 of the Revised Code. The department shall 1279
distribute the monthly lists to county boards that have local 1280
administrative authority under division (A) of section 5126.055 of 1281
the Revised Code for residential services and supported living 1282
provided as part of home and community-based services. A county 1283
board that receives a list shall make it available to each 1284
individual with mental retardation or other developmental 1285
disability who resides in the county and is eligible for such 1286
residential services or supported living. The county board shall 1287
also make the list available to the families of those individuals. 1288

An individual who is eligible for residential services or 1289
supported living may choose the provider of the residential 1290
services or supported living. 1291

~~If a~~ A county board that has medicaid local administrative 1292
authority under division (A) of section 5126.055 of the Revised 1293
Code for residential services and supported living provided as 1294
part of home and community-based services, ~~the county board~~ shall 1295
pay the nonfederal share of the residential services and supported 1296
living when required by section ~~5126.056~~ 5126.057 of the Revised 1297
Code. The department shall pay the nonfederal share of the 1298
residential services and supported living when required by section 1299
5123.047 of the Revised Code. 1300

(C) If a county board that has medicaid local administrative 1301
authority under division (A) of section 5126.055 of the Revised 1302

Code for home and community-based services violates the right 1303
established by this section of an individual to choose a provider 1304
that is qualified and willing to provide services to the 1305
individual, the individual shall receive timely notice that the 1306
individual may request a hearing under section 5101.35 of the 1307
Revised Code. 1308

(D) The departments of mental retardation and developmental 1309
disabilities and job and family services shall adopt rules in 1310
accordance with Chapter 119. of the Revised Code governing the 1311
implementation of this section. The rules shall include procedures 1312
for individuals to choose their service providers. The rules shall 1313
not be limited by a provider selection system established under 1314
section 5126.42 of the Revised Code, including any pool of 1315
providers created pursuant to a provider selection system. 1316
1317

Sec. 5126.05. (A) Subject to the rules established by the 1318
director of mental retardation and developmental disabilities 1319
pursuant to Chapter 119. of the Revised Code for programs and 1320
services offered pursuant to this chapter, and subject to the 1321
rules established by the state board of education pursuant to 1322
Chapter 119. of the Revised Code for programs and services offered 1323
pursuant to Chapter 3323. of the Revised Code, the county board of 1324
mental retardation and developmental disabilities shall: 1325

(1) Administer and operate facilities, programs, and services 1326
as provided by this chapter and Chapter 3323. of the Revised Code 1327
and establish policies for their administration and operation; 1328
1329

(2) Coordinate, monitor, and evaluate existing services and 1330
facilities available to individuals with mental retardation and 1331
developmental disabilities; 1332

(3) Provide early childhood services, supportive home 1333

services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;	1334 1335
(4) Provide or contract for special education services pursuant to Chapters 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;	1336 1337 1338 1339 1340
(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director;	1341 1342 1343 1344 1345 1346
(6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;	1347 1348 1349 1350 1351
(7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the Revised Code, and contract for employee benefits;	1352 1353 1354 1355 1356 1357
(8) Provide service and support administration in accordance with section 5126.046 <u>5126.15</u> of the Revised Code;	1358 1359
(9) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of mental retardation and developmental disabilities.	1360 1361 1362
(B) To the extent that rules adopted under this section apply to the identification and placement of handicapped children under	1363 1364

Chapter 3323. of the Revised Code, they shall be consistent with 1365
the standards and procedures established under sections 3323.03 to 1366
3323.05 of the Revised Code. 1367

(C) Any county board may enter into contracts with other such 1368
boards and with public or private, nonprofit, or profit-making 1369
agencies or organizations of the same or another county, to 1370
provide the facilities, programs, and services authorized or 1371
required, upon such terms as may be agreeable, and in accordance 1372
with this chapter and Chapter 3323. of the Revised Code and rules 1373
adopted thereunder and in accordance with sections 307.86 and 1374
5126.071 of the Revised Code. 1375

(D) A county board may combine transportation for children 1376
and adults enrolled in programs and services offered under section 1377
5126.12 with transportation for children enrolled in classes 1378
funded under section 3317.20 or units approved under section 1379
3317.05 of the Revised Code. 1380

(E) A county board may purchase all necessary insurance 1381
policies, may purchase equipment and supplies through the 1382
department of administrative services or from other sources, and 1383
may enter into agreements with public agencies or nonprofit 1384
organizations for cooperative purchasing arrangements. 1385

(F) A county board may receive by gift, grant, devise, or 1386
bequest any moneys, lands, or property for the benefit of the 1387
purposes for which the board is established and hold, apply, and 1388
dispose of the moneys, lands, and property according to the terms 1389
of the gift, grant, devise, or bequest. All money received by 1390
gift, grant, bequest, or disposition of lands or property received 1391
by gift, grant, devise, or bequest shall be deposited in the 1392
county treasury to the credit of such board and shall be available 1393
for use by the board for purposes determined or stated by the 1394
donor or grantor, but may not be used for personal expenses of the 1395
board members. Any interest or earnings accruing from such gift, 1396

grant, devise, or bequest shall be treated in the same manner and
subject to the same provisions as such gift, grant, devise, or
bequest.

(G) The board of county commissioners shall levy taxes and
make appropriations sufficient to enable the county board of
mental retardation and developmental disabilities to perform its
functions and duties, and may utilize any available local, state,
and federal funds for such purpose.

Sec. 5126.054. (A) Each county board of mental retardation
and developmental disabilities shall, by resolution, develop a
three-calendar year plan that includes ~~all~~ of the following four
components:

(1) An assessment component that includes all of the
following:

(a) The number of individuals with mental retardation or
other developmental disability residing in the county who need the
level of care provided by an intermediate care facility for the
mentally retarded, may seek home and community-based services, are
given priority for the services pursuant to division (D) of
section 5126.042 of the Revised Code; the service needs of those
individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay
the nonfederal share of medicaid expenditures that the county
board is required by division (A) of section ~~5126.056~~ 5126.057 of
the Revised Code to pay;

(c) Any other applicable information or conditions that the
department of mental retardation and developmental disabilities
requires as a condition of approving the ~~plan~~ component under
section 5123.046 of the Revised Code.

(2) A component that provides for the recruitment, training,

and retention of existing and new direct care staff necessary to
implement services included in individualized service plans,
including behavior management services and health management
services such as delegated nursing and other habilitation center
services, and protect the health and welfare of individuals
receiving services included in the individual's individualized
service plan by complying with safeguards for unusual and major
unusual incidents, day-to-day program management, and other
requirements the department shall identify. A county board shall
develop this component in collaboration with providers of
medicaid-funded services with which the county board contracts. A
county board shall include all of the following in the component:

(a) The source and amount of funds available for the
component;

(b) A plan and timeline for implementing the component with
the medicaid providers under contract with the county board;

(c) The mechanisms the county board shall use to ensure the
financial and program accountability of the medicaid provider's
implementation of the component.

(3) A preliminary implementation component that specifies the
number of individuals to be provided, during the first year that
the plan is in effect, home and community-based services pursuant
to the priority given to them under divisions (D)(1) and (2) of
section 5126.042 of the Revised Code and the types of home and
community-based services the individuals are to receive;

(4) A component that provides for the implementation of
habilitation center services, medicaid case management services,
and home and community-based services for individuals who begin to
receive the services on or after the date the plan is approved
under section 5123.046 of the Revised Code. A county board shall
include all of the following in the component:

(a) If the department of mental retardation and developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section ~~5126.056~~ 5126.057 of the Revised Code to pay;

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals on a waiting list established under division (C) of section 5126.042 who are given priority status under division (D)(1) of that section;

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(3) of this section to at least the number of individuals specified in that component;

(ii) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

~~(ii)~~(iii) To employ a business manager who is either a new employee who has earned at least a bachelor's degree in business administration or a current employee who has the equivalent experience of a bachelor's degree in business administration. If the county board will employ a new employee, the county board

shall include in the component a timeline for employing the 1489
employee. 1490

~~(iii)~~(iv) To employ or contract with a medicaid services 1491
manager who is either a new employee who has earned at least a 1492
bachelor's degree or a current employee who has the equivalent 1493
experience of a bachelor's degree. If the county board will employ 1494
a new employee, the county board shall include in the component a 1495
timeline for employing the employee. Two or three county boards 1496
that have a combined total enrollment in county board services not 1497
exceeding one thousand individuals as determined pursuant to 1498
certifications made under division (B) of section 5126.12 of the 1499
Revised Code may satisfy this requirement by sharing the services 1500
of a medicaid services manager or using the services of a medicaid 1501
services manager employed by or under contract with a regional 1502
council that the county boards establish under section 5126.13 of 1503
the Revised Code. 1504

(e) An agreement to comply with the method, developed by 1505
rules adopted under section 5123.0413 of the Revised Code, of 1506
paying for extraordinary costs, including extraordinary costs for 1507
services to individuals with mental retardation or other 1508
developmental disability, and ensuring the availability of 1509
adequate funds in the event a county property tax levy for 1510
services for individuals with mental retardation or other 1511
developmental disability fails; 1512

(f) Programmatic and financial accountability measures and 1513
projected outcomes expected from the implementation of the plan; 1514

(g) Any other applicable information or conditions that the 1515
department requires as a condition of approving the plan component 1516
under section 5123.046 of the Revised Code. 1517

(B) For the purpose of obtaining the department's approval 1518
under section 5123.046 of the Revised Code of the plan the county 1519
board develops under division (A) of this section, a county board 1520

shall do ~~both~~ all of the following: 1521

(1) Submit the components required by divisions (A)(1) and 1522
(2) of this section to the department not later than August 1, 1523
2001; 1524

(2) Submit the component required by division (A)(3) of this 1525
section to the department not later than January 31, 2002; 1526

(3) Submit the component required by division (A)~~(3)~~(4) of 1527
this section to the department not later than ~~November~~ July 1, 1528
~~2001~~ 2002. 1529

(C) A county board whose plan developed under division (A) of 1530
this section is approved by the department under section 5123.046 1531
of the Revised Code shall update and renew the plan in accordance 1532
with a schedule the department shall develop. 1533

Sec. 5126.055. (A) Except as provided in ~~division (G) of this~~ 1534
~~section 5126.056 of the Revised Code~~, a county board of mental 1535
retardation and developmental disabilities ~~with an approved plan~~ 1536
~~under section 5123.046 of the Revised Code~~ has medicaid local 1537
administrative authority to, and shall, do all of the following 1538
for an individual with mental retardation or other developmental 1539
disability who resides in the county that the county board serves 1540
and seeks or receives home and community-based services: 1541

(1) Perform assessments and evaluations of the individual. As 1542
part of the assessment and evaluation process, the county board 1543
shall do all of the following: 1544

(a) Make a recommendation to the department of mental 1545
retardation and developmental disabilities on whether the 1546
department should approve or deny the individual's application for 1547
the services, including on the basis of whether the individual 1548
needs the level of care an intermediate care facility for the 1549
mentally retarded provides; 1550

(b) If the individual's application is denied because of the county board's recommendation and the individual requests a hearing under section 5101.35 of the Revised Code, present, with the department of mental retardation and developmental disabilities or department of job and family services, whichever denies the application, the reasons for the recommendation and denial at the hearing;

(c) If the individual's application is approved, recommend to the departments of mental retardation and developmental disabilities and job and family services the services that should be included in the individual's individualized service plan and, if either department approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.871 of the Revised Code because of the county board's recommendation, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code.

(2) If the individual has been identified by the department of mental retardation and developmental disabilities as an individual to receive priority for home and community-based services pursuant to division (D)(3) of section 5126.042 of the Revised Code, assist the department in expediting the transfer of the individual from an intermediate care facility for the mentally retarded or nursing facility to the home and community-based services;

(3) In accordance with the rules adopted under section 5126.046 of the Revised Code, perform the county board's duties under that section regarding assisting the individual's right to choose a qualified and willing provider of the services and, at a hearing under section 5101.35 of the Revised Code, present evidence of the process for appropriate assistance in choosing

providers; 1583

(4) Unless the county board provides the services under 1584
division (A)(5) of this section, contract with the person or 1585
government entity the individual chooses in accordance with 1586
section 5126.046 of the Revised Code to provide the services if 1587
the person or government entity is qualified and agrees to provide 1588
the services. The contract shall contain all the provisions 1589
required by section ~~5126.057~~ 5126.035 of the Revised Code and 1590
require the provider to agree to furnish, in accordance with the 1591
provider's medicaid provider agreement and for the authorized 1592
reimbursement rate, the services the individual requires. 1593

(5) If the county board is certified under section 5123.045 1594
of the Revised Code to provide the services and agrees to provide 1595
the services to the individual and the individual chooses the 1596
county board to provide the services, furnish, in accordance with 1597
the county board's medicaid provider agreement and for the 1598
authorized reimbursement rate, the services the individual 1599
requires; 1600

(6) Monitor the services provided to the individual and 1601
ensure the individual's health, safety, and welfare. The 1602
monitoring shall include quality assurance activities. If the 1603
county board provides the services, the department of mental 1604
retardation and developmental disabilities shall also monitor the 1605
services. 1606

(7) Develop, with the individual and the provider of the 1607
individual's services, an effective individualized service plan 1608
that includes coordination of services, recommend that the 1609
departments of mental retardation and developmental disabilities 1610
and job and family services approve the plan, and implement the 1611
plan unless either department disapproves it; 1612

(8) Have an investigative agent conduct investigations under 1613

section 5126.313 of the Revised Code that concern the individual; 1614

(9) Have a service and support administrator perform the 1615
duties under division (B)(9) of section 5126.15 of the Revised 1616
Code that concern the individual. 1617

(B) Except as provided in ~~division (G) of this section~~ 1618
5126.056 of the Revised Code, a county board ~~with an approved plan~~ 1619
~~under section 5123.046 of the Revised Code~~ has medicaid local 1620
administrative authority to, and shall, do all of the following 1621
for an individual with mental retardation or other developmental 1622
disability who resides in the county that the county board serves 1623
and seeks or receives medicaid case management services or 1624
habilitation center services, other than habilitation center 1625
services for which a school district is required by division (E) 1626
of section 5111.041 of the Revised Code to pay the nonfederal 1627
share: 1628

(1) Perform assessments and evaluations of the individual for 1629
the purpose of recommending to the departments of mental 1630
retardation and developmental disabilities and job and family 1631
services the services that should be included in the individual's 1632
individualized service plan; 1633

(2) If the department of mental retardation and developmental 1634
disabilities or department of job and family services approves, 1635
reduces, denies, or terminates a service included in the 1636
individual's individualized service plan under section 5111.041 or 1637
5111.042 of the Revised Code because of the county board's 1638
recommendation under division (B)(1) of this section, present, 1639
with the department that made the approval, reduction, denial, or 1640
termination, the reasons for the recommendation and approval, 1641
reduction, denial, or termination at a hearing under section 1642
5101.35 of the Revised Code and inform the individual that the 1643
individual may file a complaint with the county board under 1644
section 5126.06 of the Revised Code at the same time the 1645

individual pursues an appeal under section 5101.35 of the Revised Code; 1646
1647

(3) In accordance with rules the departments of mental 1648
retardation and developmental disabilities and job and family 1649
services shall adopt in accordance with Chapter 119. of the 1650
Revised Code governing the process for individuals to choose 1651
providers of medicaid case management services and habilitation 1652
center services, assist the individual in choosing the provider of 1653
the services. The rules shall provide for both of the following: 1654

(a) The county board providing the individual up-to-date 1655
information about qualified providers that the department of 1656
mental retardation and developmental disabilities shall make 1657
available to the county board; 1658

(b) If the individual chooses a provider who is qualified and 1659
willing to provide the services but is denied that provider, the 1660
individual receiving timely notice that the individual may request 1661
a hearing under section 5101.35 of the Revised Code and, at the 1662
hearing, the county board presenting evidence of the process for 1663
appropriate assistance in choosing providers. 1664

(4) Unless the county board provides the services under 1665
division (B)(5) of this section, contract with the person or 1666
government entity that the individual chooses in accordance with 1667
the rules adopted under division (B)(3) of this section to provide 1668
the services if the person or government entity is qualified and 1669
agrees to provide the services. The contract shall contain all the 1670
provisions required by section ~~5126.057~~ 5126.035 of the Revised 1671
Code and require the provider to agree to furnish, in accordance 1672
with the provider's medicaid provider agreement and for the 1673
authorized reimbursement rate, the services the individual 1674
requires. 1675

(5) If the county board is certified under section 5123.041 1676

of the Revised Code to provide the services and agrees to provide 1677
the services to the individual and the individual chooses the 1678
county board to provide the services, furnish, in accordance with 1679
the county board's medicaid provider agreement and for the 1680
authorized reimbursement rate, the services the individual 1681
requires; 1682

(6) Monitor the services provided to the individual. The 1683
monitoring shall include quality assurance activities. If the 1684
county board provides the services, the department of mental 1685
retardation and developmental disabilities shall also monitor the 1686
services. 1687

(7) Develop with the individual and the provider of the 1688
individual's services, and with the approval of the departments of 1689
mental retardation and developmental disabilities and job and 1690
family services, implement an effective plan for coordinating the 1691
services in accordance with the individual's approved 1692
individualized service plan; 1693

(8) Have an investigative agent conduct investigations under 1694
section 5126.313 of the Revised Code that concern the individual; 1695

(9) Have a service and support administrator perform the 1696
duties under division (B)(9) of section 5126.15 of the Revised 1697
Code that concern the individual. 1698

(C) A county board shall perform its medicaid local 1699
administrative authority under this section in accordance with all 1700
of the following: 1701

(1) The county board's plan that the department of mental 1702
retardation and developmental disabilities approves under section 1703
5123.046 of the Revised Code; 1704

(2) All applicable federal and state laws; 1705

(3) All applicable policies of the departments of mental 1706

retardation and developmental disabilities and job and family
services and the United States department of health and human
services; 1707
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(4) The department of job and family services' supervision 1710
under its authority under section 5111.01 of the Revised Code to 1711
act as the single state medicaid agency; 1712

(5) The department of mental retardation and developmental 1713
disabilities' oversight. 1714

(D) The departments of mental retardation and developmental 1715
disabilities and job and family services shall communicate with 1716
and provide training to county boards regarding medicaid local 1717
administrative authority granted by this section. The 1718
communication and training shall include issues regarding audit 1719
protocols and other standards established by the United States 1720
department of health and human services that the departments 1721
determine appropriate for communication and training. County 1722
boards shall participate in the training. The departments shall 1723
assess the county board's compliance against uniform standards 1724
that the departments shall establish. 1725

(E) A county board may not delegate its medicaid local 1726
administrative authority granted under this section but may 1727
contract with a person or government entity, including a council 1728
of governments, for assistance with its medicaid local 1729
administrative authority. A county board that enters into such a 1730
contract shall notify the director of mental retardation and 1731
developmental disabilities. The notice shall include the tasks and 1732
responsibilities that the contract gives to the person or 1733
government entity. The person or government entity shall comply in 1734
full with all requirements to which the county board is subject 1735
regarding the person or government entity's tasks and 1736
responsibilities under the contract. The county board remains 1737
ultimately responsible for the tasks and responsibilities. 1738

(F) A county board that has medicaid local administrative authority under this section shall, through the departments of mental retardation and developmental disabilities and job and family services, reply to, and cooperate in arranging compliance with, a program or fiscal audit or program violation exception that a state or federal audit or review discovers. The department of job and family services shall timely notify the department of mental retardation and developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of mental retardation and developmental disabilities, shall cooperate fully with the department of job and family services and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

(G)~~(1)~~ If the department of mental retardation and developmental disabilities or department of job and family services determines that a county board's implementation of its medicaid local administrative authority under this section is deficient, the department that makes the determination shall require that county board do the following:

~~(a)~~(1) If the deficiency affects the health, safety, or welfare of an individual with mental retardation or other developmental disability, correct the deficiency within twenty-four hours;

~~(b)~~(2) If the deficiency does not affect the health, safety, or welfare of an individual with mental retardation or other developmental disability, receive technical assistance from the department or submit a plan of correction to the department that is acceptable to the department within sixty days and correct the

deficiency within the time required by the plan of correction. 1771

~~(2) If the county board fails to correct a deficiency within 1772
the time required by division (G)(1) of this section to the 1773
satisfaction of the department, or submit an acceptable plan of 1774
correction within the time required by division (G)(1)(b) of this 1775
section, the department shall issue an order terminating the 1776
county board's medicaid local administrative authority over all or 1777
part of home and community-based services, medicaid managed care 1778
services, habilitation center services, all or part of two of 1779
those services, or all or part of all three of those services. The 1780
department shall provide a copy of the order to the board of 1781
county commissioners, probate judge, county auditor, and president 1782
and superintendent of the county board. The department shall 1783
specify in the order the medicaid local administrative authority 1784
that the department is terminating, the reason for the 1785
termination, and the county board's option and responsibilities 1786
under this division. 1787~~

~~A county board whose medicaid local administrative authority 1788
is terminated may, no later than thirty days after the department 1789
issues the termination order, recommend to the department that 1790
another county board that has not had any of its medicaid local 1791
administrative authority terminated or another entity the 1792
department approves administer the services for which the county 1793
board's medicaid local administrative authority is terminated. The 1794
department may contract with the other county board or entity to 1795
administer the services. If the department enters into such a 1796
contract, the county board shall adopt a resolution giving the 1797
other county board or entity full medicaid local administrative 1798
authority over the services that the other county board or entity 1799
is to administer. The other county board or entity shall be known 1800
as the contracting authority. 1801~~

~~If the county board does not submit a recommendation to the 1802~~

~~department regarding a contracting authority within the required
time or the department rejects the county board's recommendation,
the department shall appoint an administrative receiver to
administer the services for which the county board's medicaid
local administrative authority is terminated. To the extent
necessary for the department to appoint an administrative
authority, the department may utilize employees of the department,
management personnel from another county board, or other
individuals who are not employed by or affiliated with in any
manner a person or government entity that provides home and
community-based services, medicaid case management services, or
habilitation center services pursuant to a contract with any
county board. The administrative receiver shall assume full
administrative responsibility for the county board's services for
which the county board's medicaid local administrative authority
is terminated.~~

~~The contracting authority or administrative receiver shall
develop and submit to the department a plan of correction to
remediate the problems that caused the department to issue the
termination order. If, after reviewing the plan, the department
approves it, the contracting authority or administrative receiver
shall implement the plan.~~

~~The county board shall transfer control of state and federal
funds it is otherwise eligible to receive for the services for
which the county board's medicaid local administrative authority
is terminated and funds the county board may use under division
(B) of section 5126.056 of the Revised Code to pay the nonfederal
share of the services that the county board is required by
division (A) of that section to pay. The county board shall
transfer control of the funds to the contracting authority or
administrative receiver administering the services. The amount the
county board shall transfer shall be the amount necessary for the~~

~~contracting authority or administrative receiver to fulfill its~~ 1835
~~duties in administering the services, including its duties to pay~~ 1836
~~its personnel for time worked, travel, and related matters. If the~~ 1837
~~county board fails to make the transfer, the department may~~ 1838
~~withhold the state and federal funds from the county board and~~ 1839
~~bring a mandamus action against the county board in the court of~~ 1840
~~common pleas of the county served by the county board or in the~~ 1841
~~Franklin county court of common pleas. The mandamus action may not~~ 1842
~~require that the county board transfer any funds other than the~~ 1843
~~funds the county board is required by division (G)(2) of this~~ 1844
~~section to transfer.~~ 1845

~~The contracting authority or administrative receiver has the~~ 1846
~~right to authorize the payment of bills in the same manner that~~ 1847
~~the county board may authorize payment of bills under this chapter~~ 1848
~~and section 319.16 of the Revised Code.~~ 1849

Sec. 5126.056. (A) The department of mental retardation and 1850
developmental disabilities shall take action under division (B) of 1851
this section against a county board of mental retardation and 1852
developmental disabilities if any of the following are the case: 1853

(1) The county board fails to submit to the department all 1854
the components of its three-year plan required by section 5126.054 1855
of the Revised Code within the time required by division (B) of 1856
that section. 1857

(2) The department disapproves the county board's three-year 1858
plan under section 5123.046 of the Revised Code. 1859

(3) The county board fails, as required by division (C) of 1860
section 5126.054 of the Revised Code, to update and renew its 1861
three-year plan in accordance with a schedule the department 1862
develops under that section. 1863

(4) The county board fails to implement its initial or 1864

renewed three-year plan approved by the department. 1865

(5) The county board fails to correct a deficiency within the time required by division (G) of section 5126.055 of the Revised Code to the satisfaction of the department. 1866
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(6) The county board fails to submit an acceptable plan of correction to the department within the time required by division (G)(2) of section 5126.055 of the Revised Code. 1869
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(B) If required by division (A) of this section to take action against a county board, the department shall issue an order terminating the county board's medicaid local administrative authority over all or part of home and community-based services, medicaid case management services, habilitation center services, all or part of two of those services, or all or part of all three of those services. The department shall provide a copy of the order to the board of county commissioners, probate judge, county auditor, and president and superintendent of the county board. The department shall specify in the order the medicaid local administrative authority that the department is terminating, the reason for the termination, and the county board's option and responsibilities under this division. 1872
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A county board whose medicaid local administrative authority is terminated may, not later than thirty days after the department issues the termination order, recommend to the department that another county board that has not had any of its medicaid local administrative authority terminated or another entity the department approves administer the services for which the county board's medicaid local administrative authority is terminated. The department may contract with the other county board or entity to administer the services. If the department enters into such a contract, the county board shall adopt a resolution giving the other county board or entity full medicaid local administrative authority over the services that the other county board or entity 1885
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is to administer. The other county board or entity shall be known
as the contracting authority.

If the county board does not submit a recommendation to the
department regarding a contracting authority within the required
time or the department rejects the county board's recommendation,
the department shall appoint an administrative receiver to
administer the services for which the county board's medicaid
local administrative authority is terminated. To the extent
necessary for the department to appoint an administrative
receiver, the department may utilize employees of the department,
management personnel from another county board, or other
individuals who are not employed by or affiliated with in any
manner a person that provides home and community-based services,
medicaid case management services, or habilitation center services
pursuant to a contract with any county board. The administrative
receiver shall assume full administrative responsibility for the
county board's services for which the county board's medicaid
local administrative authority is terminated.

The contracting authority or administrative receiver shall
develop and submit to the department a plan of correction to
remediate the problems that caused the department to issue the
termination order. If, after reviewing the plan, the department
approves it, the contracting authority or administrative receiver
shall implement the plan.

The county board shall transfer control of state and federal
funds it is otherwise eligible to receive for the services for
which the county board's medicaid local administrative authority
is terminated and funds the county board may use under division
(B) of section 5126.057 of the Revised Code to pay the nonfederal
share of the services that the county board is required by
division (A) of that section to pay. The county board shall
transfer control of the funds to the contracting authority or

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administrative receiver administering the services. The amount the 1929
county board shall transfer shall be the amount necessary for the 1930
contracting authority or administrative receiver to fulfill its 1931
duties in administering the services, including its duties to pay 1932
its personnel for time worked, travel, and related matters. If the 1933
county board fails to make the transfer, the department may 1934
withhold the state and federal funds from the county board and 1935
bring a mandamus action against the county board in the court of 1936
common pleas of the county served by the county board or in the 1937
Franklin county court of common pleas. The mandamus action may not 1938
require that the county board transfer any funds other than the 1939
funds the county board is required by division (B) of this section 1940
to transfer. 1941

The contracting authority or administrative receiver has the 1942
right to authorize the payment of bills in the same manner that 1943
the county board may authorize payment of bills under this chapter 1944
and section 319.16 of the Revised Code. 1945

Sec. ~~5126.056~~ 5126.057. (A) A county board of mental 1946
retardation and developmental disabilities that has medicaid local 1947
administrative authority under division (A) of section 5126.055 of 1948
the Revised Code for home and community-based services shall pay 1949
the nonfederal share of medicaid expenditures for such services 1950
provided to an individual with mental retardation or other 1951
developmental disability who the county board determines under 1952
section 5126.041 of the Revised Code is eligible for county board 1953
services unless division (C)(2) of section 5123.047 of the Revised 1954
Code requires the department of mental retardation and 1955
developmental disabilities to pay the nonfederal share. 1956

A county board that has medicaid local administrative 1957
authority under division (B) of section 5126.055 of the Revised 1958
Code for medicaid case management services shall pay the 1959

nonfederal share of medicaid expenditures for such services 1960
provided to an individual with mental retardation or other 1961
developmental disability who the county board determines under 1962
section 5126.041 of the Revised Code is eligible for county board 1963
services unless division (B)(2) of section 5123.047 of the Revised 1964
Code requires the department of mental retardation and 1965
developmental disabilities to pay the nonfederal share. 1966

A county board shall pay the nonfederal share of medicaid 1967
expenditures for habilitation center services when required to do 1968
so by division (D) of section 5111.041 of the Revised Code. 1969

(B) A county board may use the following funds to pay the 1970
nonfederal share of the services that the county board is required 1971
by division (A) of this section to pay: 1972

(1) To the extent consistent with the levy that generated the 1973
taxes, the following taxes: 1974

(a) Taxes levied pursuant to division (L) of section 5705.19 1975
of the Revised Code and section 5705.222 of the Revised Code; 1976

(b) Taxes levied under section 5705.191 of the Revised Code 1977
that the board of county commissioners allocates to the county 1978
board to pay the nonfederal share of the services. 1979

(2) Funds that the department of mental retardation and 1980
developmental disabilities distributes to the county board under 1981
sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the 1982
Revised Code; 1983

(3) Funds that the department allocates to the county board 1984
for habilitation center services provided under section 5111.041 1985
of the Revised Code; 1986

(4) Earned federal revenue funds the county board receives 1987
for medicaid services the county board provides pursuant to the 1988
county board's valid medicaid provider agreement. 1989

(C) If by December 31, 2001, the United States secretary of health and human services approves at least five hundred more slots for home and community-based services for calendar year 2002 than were available for calendar year 2001, each county board shall provide, by the last day of calendar year 2001, assurances to the department of mental retardation and developmental disabilities that the county board will have for calendar year 2002 at least one-third of the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

If by December 31, 2002, the United States secretary approves at least five hundred more slots for home and community-based services for calendar year 2003 than were available for calendar year 2002, each county board shall provide, by the last day of calendar year 2002, assurances to the department that the county board will have for calendar year 2003 at least two-thirds of the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

If by December 31, 2003, the United States secretary approves at least five hundred more slots for home and community-based services for calendar year 2004 than were available for calendar year 2003, each county board shall provide, by the last day of calendar year 2003 and each calendar year thereafter, assurances to the department that the county board will have for calendar year 2004 and each calendar year thereafter at least the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

(D) Each year, each county board shall adopt a resolution

specifying the amount of funds it will use in the next year to pay 2022
the nonfederal share of the services that the county board is 2023
required by division (A) of this section to pay. The amount 2024
specified shall be adequate to assure that the services will be 2025
available in the county in a manner that conforms to all 2026
applicable state and federal laws. A county board shall state in 2027
its resolution that the payment of the nonfederal share represents 2028
an ongoing financial commitment of the county board. A county 2029
board shall adopt the resolution in time for the county auditor to 2030
make the determination required by division (E) of this section. 2031

(E) Each year, a county auditor shall determine whether the 2032
amount of funds a county board specifies in the resolution it 2033
adopts under division (D) of this section will be available in the 2034
following year for the county board to pay the nonfederal share of 2035
the services that the county board is required by division (A) of 2036
this section to pay. The county auditor shall make the 2037
determination not later than the last day of the year before the 2038
year in which the funds are to be used. 2039

Sec. 5126.06. (A) Except as provided in division (B) of this 2040
section and section ~~5126.035~~ 5126.036 of the Revised Code, any 2041
person who has a complaint involving any of the programs, 2042
services, policies, or administrative practices of a county board 2043
of mental retardation and developmental disabilities or any of the 2044
entities under contract with the county board, may file a 2045
complaint with the board. Prior to commencing a civil action 2046
regarding the complaint, a person shall attempt to have the 2047
complaint resolved through the administrative resolution process 2048
established in the rules adopted under section 5123.043 of the 2049
Revised Code. After exhausting the administrative resolution 2050
process, the person may commence a civil action if the complaint 2051
is not settled to the person's satisfaction. 2052

(B) An employee of a county board may not file under this 2053
section a complaint related to the terms and conditions of 2054
employment of the employee. 2055

Sec. 5126.14. The entity responsible for the habilitation 2056
management included in adult day habilitation services, the 2057
program management included in residential services, and the 2058
program management included in supported living shall provide 2059
administrative oversight by doing all of the following: 2060

(A) Having available supervisory personnel to monitor and 2061
ensure implementation of all interventions in accordance with 2062
every individual service plan implemented by the staff who work 2063
with the individuals receiving the services; 2064

(B) Providing appropriate training and technical assistance 2065
for all staff who work with the individuals receiving services; 2066

(C) Communicating with service and support administration 2067
staff for the purpose of coordinating activities to ensure that 2068
services are provided to individuals in accordance with individual 2069
service plans and intended outcomes; 2070

(D) Monitoring for unusual and major unusual incidents and 2071
cases of abuse, neglect, ~~or~~ exploitation, ~~or misappropriation of~~ 2072
funds involving the individual under the care of staff who are 2073
providing the services; taking immediate actions as necessary to 2074
maintain the health, safety, and welfare of the individuals 2075
receiving the services; and providing notice of unusual and major 2076
unusual incidents and suspected cases of abuse, neglect, ~~or~~ 2077
exploitation, or misappropriation of funds to the ~~investigative~~ 2078
~~agent for the~~ county board of mental retardation and developmental 2079
disabilities; 2080

(E) Performing other administrative duties as required by 2081
state or federal law or by the county board of mental retardation 2082

and developmental disabilities through contracts with providers. 2083

Sec. 5126.15. (A) A county board of mental retardation and 2084
developmental disabilities shall provide service and support 2085
administration to each individual three years of age or older who 2086
is eligible for ~~other services of the board~~ and requests service 2087
and support administration. A board shall provide service and 2088
support administration to each individual receiving home and 2089
community-based services. A board may provide, in accordance with 2090
the service coordination requirements of 34 C.F.R. 303.23, service 2091
and support administration to an individual under three years of 2092
age eligible for early intervention services under 34 C.F.R. part 2093
303. A board may provide service and support administration to an 2094
individual who is not eligible for other services of the board. 2095
Service and support administration shall be provided in accordance 2096
with rules adopted under section 5126.08 of the Revised Code. 2097

A board may provide service and support administration by 2098
directly employing service and support administrators or by 2099
contracting with entities for the performance of service and 2100
support administration. Individuals employed or under contract as 2101
service and support administrators shall not be in the same 2102
collective bargaining unit as employees who perform duties that 2103
are not administrative. 2104

Individuals employed by a board as service and support 2105
administrators shall not be assigned responsibilities for 2106
implementing other services for individuals and shall not be 2107
employed by or serve in a decision-making or policy-making 2108
capacity for any other entity that provides programs or services 2109
to individuals with mental retardation or developmental 2110
disabilities. An individual employed as a conditional status 2111
service and support administrator shall perform the duties of 2112
service and support administration only under the supervision of a 2113

management employee who is a service and support administration 2114
supervisor or a professional employee who is a service and support 2115
administrator. 2116

(B) The individuals employed by or under contract with a 2117
board to provide service and support administration shall do all 2118
of the following: 2119

(1) Establish an individual's eligibility for the services of 2120
the county board of mental retardation and developmental 2121
disabilities; 2122

(2) Assess individual needs for services; 2123

(3) Develop individual service plans with the active 2124
participation of the individual to be served, other persons 2125
selected by the individual, and, when applicable, the provider 2126
selected by the individual, and recommend the plans for approval 2127
by the department of mental retardation and developmental 2128
disabilities when services included in the plans are funded 2129
through medicaid; 2130

(4) Establish budgets for services based on the individual's 2131
assessed needs and preferred ways of meeting those needs; 2132

(5) Assist individuals in making selections from among the 2133
providers they have chosen; 2134

(6) Ensure that services are effectively coordinated and 2135
provided by appropriate providers; 2136

(7) Establish and implement an ongoing system of monitoring 2137
the implementation of individual service plans to achieve 2138
consistent implementation and the desired outcomes for the 2139
individual; 2140

(8) Perform quality assurance reviews as a distinct function 2141
of service and support administration; 2142

(9) Incorporate the results of quality assurance reviews and 2143

identified trends and patterns of unusual incidents and major 2144
unusual incidents into amendments of an individual's service plan 2145
for the purpose of improving and enhancing the quality and 2146
appropriateness of services rendered to the individual; 2147

(10) Ensure that each individual receiving services has a 2148
designated person who is responsible on a continuing basis for 2149
providing the individual with representation, advocacy, advice, 2150
and assistance related to the day-to-day coordination of services 2151
in accordance with the individual's service plan. The service and 2152
support administrator shall give the individual receiving services 2153
an opportunity to designate the person to provide daily 2154
representation. If the individual declines to make a designation, 2155
the administrator shall make the designation. In either case, the 2156
individual receiving services may change at any time the person 2157
designated to provide daily representation. 2158

(C) Subject to available funds, the department of mental 2159
retardation and developmental disabilities shall pay a county 2160
board an annual subsidy for service and support administration. 2161
The amount of the subsidy shall be equal to the greater of twenty 2162
thousand dollars or two hundred dollars times the board's 2163
certified average daily membership. The payments shall be made in 2164
semiannual installments, which shall be made no later than the 2165
thirty-first day of August and the thirty-first day of January. 2166
Funds received shall be used solely for service and support 2167
administration. 2168

Sec. 5126.17. (A)(1) ~~Annually, on~~ On the request of the 2169
director of mental retardation and developmental disabilities, the 2170
tax commissioner shall provide to the department of mental 2171
retardation and developmental disabilities information specifying 2172
each county's taxable value. 2173

(2) On request of the director, each county auditor shall 2174

submit a certified report to the department specifying the 2175
county's taxes and the aggregate rate of tax authorized to be 2176
levied by the board of county commissioners pursuant to division 2177
(L) of section 5705.19 and section 5705.222 of the Revised Code or 2178
the aggregate rate of tax authorized pursuant to that division and 2179
that section and certified to the county auditor under section 2180
319.30 of the Revised Code. Tax information submitted by the 2181
county auditor shall be obtained from the most recent tax year for 2182
which the information is available. 2183

(3) The director may request any other tax information 2184
necessary for purposes of sections 5126.16 to 5126.18 of the 2185
Revised Code. 2186

(B) Using the information obtained under this section and 2187
each board's enrollment, the department shall ~~annually~~ determine, 2188
for fiscal year 2004 and each fiscal year thereafter, the 2189
hypothetical statewide average revenue per enrollee and, for each 2190
county board, the hypothetical local revenue per enrollee. ~~This~~ 2191
~~division applies only in those years in which the director~~ 2192
~~determines that the department will implement section 5126.18 of~~ 2193
~~the Revised Code.~~ 2194

Sec. 5126.18. (A) The For fiscal year 2004 and each fiscal 2195
year thereafter, the department of mental retardation and 2196
developmental disabilities shall pay to each county board of 2197
mental retardation and developmental disabilities whose 2198
hypothetical local revenue per enrollee is less than the 2199
hypothetical statewide average revenue per enrollee the amount 2200
computed under division (B) of this section. Payments shall be 2201
made on or before the thirtieth day of September. 2202

(B) Except as provided in division (C) of this section, the 2203
amount to be paid to a county board shall be equal to the 2204
following: 2205

(1) If the county board's effective tax rate is equal to or greater than one mill, the product obtained by multiplying the following two quantities:	2206 2207 2208
(a) The amount by which the hypothetical statewide average revenue per enrollee exceeds the county board's hypothetical local revenue per enrollee;	2209 2210 2211
(b) The county board's infant and adult enrollment.	2212
(2) If the county board's effective tax rate is less than one mill, the product obtained by multiplying the following three quantities:	2213 2214 2215
(a) The amount by which the hypothetical statewide average revenue per enrollee exceeds the county board's hypothetical local revenue per enrollee;	2216 2217 2218
(b) The county board's infant and adult enrollment;	2219
(c) The quotient obtained by dividing the county board's effective tax rate by one mill.	2220 2221
(C)(1) For each individual who is enrolled in active treatment under the community alternative funding system as defined in section 5126.12 of the Revised Code, the department may reduce the portion of the payment made under this section for that individual by fifty per cent or less.	2222 2223 2224 2225 2226
(2) If, in any year, an appropriation by the general assembly to the department for purposes of this section is less than the total amount required to make, in full, the payments as determined under and authorized by this section, the department shall pay each county board the same percentage of the board's payment as determined under this section without regard to this division that the amount of the appropriation available for purposes of this section is of the total amount of payments as determined under this section without regard to this division.	2227 2228 2229 2230 2231 2232 2233 2234 2235

(3) Payments made to a county board pursuant to this section 2236
shall not exceed thirty per cent of the payments made to that 2237
board pursuant to section 5126.12 of the Revised Code. 2238

(D) Payments made under this section are supplemental to all 2239
other state or federal funds for which county boards are eligible 2240
and shall be made from funds appropriated for purposes of this 2241
section. A county board shall use the payments solely to pay the 2242
nonfederal share of medicaid expenditures that division (A) of 2243
section ~~5126.056~~ 5126.057 of the Revised Code requires the county 2244
board to pay. 2245

(E) Each county board that receives a payment under this 2246
section shall, for each year it receives a payment, certify to the 2247
department that it will make a good faith effort to obtain 2248
revenues, including federal funds, for services to individuals 2249
included in its infant and adult enrollment. 2250

Sec. 5126.19. (A) The director of mental retardation and 2251
developmental disabilities may grant temporary funding from the 2252
community mental retardation and developmental disabilities trust 2253
fund based on allocations to ~~a county board~~ boards of mental 2254
retardation and developmental disabilities. ~~With the consent of~~ 2255
~~the county board, the~~ The director may distribute all or part of 2256
the funding directly to a county board, the persons who provide 2257
the services for which the funding is granted, or persons with 2258
mental retardation or developmental disabilities who are to 2259
receive those services. 2260

(B) Funding granted under this section shall be granted 2261
according to the availability of moneys in the fund and priorities 2262
established by the director. Funding may be granted for any of the 2263
following purposes: 2264

(1) Behavioral or short-term interventions for persons with 2265
mental retardation or developmental disabilities that assist them 2266

in remaining in the community by preventing institutionalization;	2267
(2) Emergency respite care services, as defined in section 5126.11 of the Revised Code;	2268 2269
(3) Family support services provided under section 5126.11 of the Revised Code;	2270 2271
(4) Supported living, as defined in section 5126.01 of the Revised Code;	2272 2273
(5) Staff training for county board employees, employees of providers of residential services as defined in section 5126.01 of the Revised Code, and other personnel under contract with a county board, to provide the staff with necessary training in serving mentally retarded or developmentally disabled persons in the community;	2274 2275 2276 2277 2278 2279
(6) Short-term provision of early childhood services provided under section 5126.05, adult services provided under sections 5126.05 and 5126.051, and service and support administration provided under section 5126.15 of the Revised Code, when local moneys are insufficient to meet the need for such services due to the successive failure within a two-year period of three or more proposed levies for the services;	2280 2281 2282 2283 2284 2285 2286
(7) Contracts with providers of residential services to maintain persons with mental retardation and developmental disabilities in their programs and avoid institutionalization.	2287 2288 2289
(C) If the trust fund contains more than ten million dollars on the first day of July the director shall use one million dollars for payments under section 5126.12 of the Revised Code, one million dollars for payments under section 5126.18 of the Revised Code, and two million dollars for payments under section 5126.44 of the Revised Code. Distributions of funds under this division shall be made prior to August 31 of the state fiscal year in which the funds are available. The funds shall be distributed	2290 2291 2292 2293 2294 2295 2296 2297

allocated to a county board in an amount equal to the same 2298
percentage of the total amount ~~distributed for the services that~~ 2299
allocated to the county board ~~received in~~ the immediately 2300
preceding state fiscal year. 2301

Sec. 5126.221. Each county board of mental retardation and 2302
developmental disabilities shall employ at least one investigative 2303
agent or contract with a person or government entity, including 2304
another county board of mental retardation and developmental 2305
disabilities or a regional council established under section 2306
5126.13 of the Revised Code, for the services of an investigative 2307
agent. Neither a county board nor a person or government entity 2308
with which a county board contracts for the services of an 2309
investigative agent shall assign any duties to an investigative 2310
agent other than conducting investigations under section 5126.313 2311
of the Revised Code. 2312

All investigative agents shall be trained in civil and 2313
criminal investigatory practices ~~and~~. The person responsible for 2314
supervising the work of the investigative agents shall report 2315
directly to a county board's superintendent regarding the 2316
investigative agents. ~~No~~ 2317

No investigative agent shall do anything that interferes with 2318
the investigative agent's objectivity in conducting investigations 2319
under section 5126.313 of the Revised Code. 2320

Sec. 5126.357. (A) As used in this section: 2321

(1) "In-home care" means the supportive services provided 2322
within the home of an individual who receives funding for the 2323
services as a county board client, including any client who 2324
receives residential services funded through home ~~or~~ and 2325
community-based services, family support services provided under 2326
section 5126.11 of the Revised Code, or supported living provided 2327

in accordance with sections 5126.41 to 5126.47 of the Revised Code. "In-home care" includes care that is provided outside a client's home in places incidental to the home, and while traveling to places incidental to the home, except that "in-home care" does not include care provided in the facilities of a county board of mental retardation and developmental disabilities or care provided in schools.

(2) "Parent" means either parent of a child, including an adoptive parent but not a foster parent.

(3) "Unlicensed in-home care worker" means an individual who provides in-home care but is not a health care professional. A county board worker may be an unlicensed in-home care worker.

(4) "Family member" means a parent, sibling, spouse, son, daughter, grandparent, aunt, uncle, cousin, or guardian of the individual with mental retardation or a developmental disability if the individual with mental retardation or developmental disabilities lives with the person and is dependent on the person to the extent that, if the supports were withdrawn, another living arrangement would have to be found.

(B) Except as provided in division (D) of this section, a family member of an individual with mental retardation or a developmental disability may authorize an unlicensed in-home care worker to give or apply prescribed medication or perform other health care tasks as part of the in-home care provided to the individual, if the family member is the primary supervisor of the care and the unlicensed in-home care worker has been selected by the family member and is under the direct supervision of the family member. Sections 4723.62 and 5126.351 to 5126.356 of the Revised Code do not apply to the in-home care authorized by a family member under this section. Instead, a family member shall obtain a prescription, if applicable, and written instructions from a health care professional for the care to be provided to the

individual. The family member shall authorize the unlicensed 2360
in-home care worker to provide the care by preparing a written 2361
document granting the authority. The family member shall provide 2362
the unlicensed in-home care worker with appropriate training and 2363
written instructions in accordance with the instructions obtained 2364
from the health care professional. 2365

(C) A family member who authorizes an unlicensed in-home care 2366
worker to give or apply prescribed medication or perform other 2367
health care tasks retains full responsibility for the health and 2368
safety of the individual receiving the care and for ensuring that 2369
the worker provides the care appropriately and safely. No entity 2370
that funds or monitors the provision of in-home care may be held 2371
liable for the results of the care provided under this section by 2372
an unlicensed in-home care worker, including such entities as the 2373
county board of mental retardation and developmental disabilities, 2374
any other entity that employs an unlicensed in-home care worker, 2375
and the department of mental retardation and developmental 2376
disabilities. 2377

An unlicensed in-home care worker who is authorized under 2378
this section by a family member to provide care to an individual 2379
may not be held liable for any injury caused in providing the 2380
care, unless the worker provides the care in a manner that is not 2381
in accordance with the training and instructions received or the 2382
worker acts in a manner that constitutes wanton or reckless 2383
misconduct. 2384

(D) A county board of mental retardation and developmental 2385
disabilities may evaluate the authority granted by a family member 2386
under this section to an unlicensed in-home care worker at any 2387
time it considers necessary and shall evaluate the authority on 2388
receipt of a complaint. If the board determines that a family 2389
member has acted in a manner that is inappropriate for the health 2390
and safety of the individual receiving the services, the 2391

authorization granted by the family member to an unlicensed 2392
in-home care worker is void, and the family member may not 2393
authorize other unlicensed in-home care workers to provide the 2394
care. In making such a determination, the board shall use 2395
appropriately licensed health care professionals and shall provide 2396
the family member an opportunity to file a complaint under section 2397
5126.06 of the Revised Code. 2398

Sec. 5705.44. When contracts or leases run beyond the 2399
termination of the fiscal year in which they are made, the fiscal 2400
officer of the taxing authority shall make a certification for the 2401
amount required to meet the obligation of such contract or lease 2402
maturing in such fiscal year. The amount of the obligation under 2403
such contract or lease remaining unfulfilled at the end of a 2404
fiscal year, and which will become payable during the next fiscal 2405
year, shall be included in the annual appropriation measure for 2406
the next year as a fixed charge. 2407

The certificate required by section 5705.41 of the Revised 2408
Code as to money in the treasury shall not be required for 2409
contracts on which payments are to be made from the earnings of a 2410
publicly operated water works or public utility, but in the case 2411
of any such contract made without such certification, no payment 2412
shall be made on account thereof, and no claim or demand thereon 2413
shall be recoverable, except out of such earnings. That 2414
certificate also shall not be required if requiring the 2415
certificate makes it impossible for a county board of mental 2416
retardation and developmental disabilities to pay the nonfederal 2417
share of medicaid expenditures that the county board is required 2418
by division (A) of section ~~5126.056~~ 5126.057 of the Revised Code 2419
to pay. 2420

Section 2. That existing sections 5111.872, 5123.046, 2421
5123.048, 5123.049, 5123.0411, 5126.01, 5126.02, 5126.021, 2422

5126.022, 5126.033, 5126.035, 5126.036, 5126.042, 5126.046, 2423
5126.05, 5126.054, 5126.055, 5126.056, 5126.06, 5126.14, 5126.15, 2424
5126.17, 5126.18, 5126.19, 5126.221, 5126.357, and 5705.44 of the 2425
Revised Code are hereby repealed. 2426

Section 3. On the recommendation of the Director of Mental 2427
Retardation and Developmental Disabilities, the Director of Job 2428
and Family Services may seek one or more Medicaid waivers pursuant 2429
to section 5111.87 of the Revised Code including a waiver under 2430
which home and community-based services are provided in the form 2431
of family support services programs established by county boards 2432
of mental retardation and developmental disabilities under section 2433
5126.11 of the Revised Code. Notwithstanding division (A) of 2434
section 5111.873 of the Revised Code, the Director of Job and 2435
Family Services is not required to adopt rules under that section 2436
by the effective date of the waiver under which home and 2437
community-based services are provided in the form of family 2438
support services programs. 2439

Section 4. (A) As used in this section: 2440

(1) "Taxable value" with respect to a county board of mental 2441
retardation and developmental disabilities means the total taxable 2442
value of real and public utility property and tangible personal 2443
property in the county served by that board as shown on the county 2444
auditor's tax lists. 2445

(2) "Adult services enrollment" means a county board of 2446
mental retardation and developmental disabilities' average daily 2447
membership of individuals twenty-two years of age or older in 2448
adult services, community employment services, and supported 2449
employment services, exclusive of individuals who are served 2450
solely through service and support administration provided 2451
pursuant to section 5126.15 of the Revised Code or family support 2452
services provided pursuant to section 5126.11 of the Revised Code. 2453

(3) "Local tax capacity per adult services enrollee" of a county board of mental retardation and developmental disabilities means one mill per dollar of taxable value multiplied by the quotient obtained by dividing the county board's taxable value by the county board's adult services enrollment.

(4) "State average tax capacity per adult services enrollee" means one mill per dollar of taxable value multiplied by the quotient obtained by dividing the sum of all county boards of mental retardation and developmental disabilities' taxable value by the sum of all county boards' adult services enrollment.

(B) On the request of the Director of Mental Retardation and Developmental Disabilities, the Tax Commissioner shall provide to the Director information specifying each county's taxable value.

Using the information provided by the Tax Commissioner and each county board of mental retardation and developmental disabilities' adult services enrollment, the Director shall determine, for fiscal years 2002 and 2003, the state average tax capacity per adult services enrollee and, for each county board, the local tax capacity per adult services enrollee.

(C) Subject to division (D) of this section and for fiscal years 2002 and 2003, the Director shall pay each county board having a local tax capacity per adult services enrollee less than the state average tax capacity per adult services enrollee a sum equal to the product obtained by multiplying the following quantities:

(1) The amount by which the state average tax capacity per adult services enrollee exceeds the county board's local tax capacity per adult services enrollee;

(2) The county board's adult services enrollment.

(D) The total amount that the Director shall pay to all county boards under division (C) of this section shall not exceed

\$6,500,000 for fiscal year 2002 and \$13,000,000 for fiscal year 2485
2003. If, under the formula created by division (C) of this 2486
section, the total payments under that division would exceed these 2487
caps, the Director shall prorate payments to the county boards 2488
based on the caps. 2489

(E) For fiscal year 2002, the Director shall make the 2490
payments under division (C) of this section not later than 2491
December 31, 2001. For fiscal year 2003, the Director shall make 2492
the payments not later than August 31, 2002. 2493

(F) A county board that receives a payment under division (C) 2494
of this section shall do both of the following: 2495

(1) Use the payment solely to develop and implement 2496
habilitation center services, home and community-based services, 2497
and Medicaid case management services for individuals included in 2498
the county board's adult services enrollment so that the services 2499
are comparable to such services available in counties served by a 2500
county board having a local tax capacity per adult services 2501
enrollee equal to or greater than the state average tax capacity 2502
per adult services enrollee; 2503

(2) Certify to the director, for each year it receives a 2504
payment, that it will make a good faith effort to obtain revenues, 2505
including federal funds, for services to individuals included in 2506
its adult services enrollment. 2507

Section 5. That Section 75.02 of Am. Sub. H.B. 94 of the 2508
124th General Assembly be amended to read as follows: 2509

"Sec. 75.02. COMMUNITY SERVICES 2510

General Revenue Fund 2511

GRF 322-405 State Use Program \$ 264,685 \$ 264,685 2512

GRF 322-413 Residential and \$ 154,418,317 \$ 164,539,811 2513

		Support					
		Services					2514
GRF	322-451	Family Support	\$	7,975,870	\$	7,975,870	2515
		Services					
GRF	322-452	Case Management	\$	8,984,491	\$	9,874,628	2516
GRF	322-501	County Boards	\$	45,366,297	\$	46,817,644	2517
		Subsidies					
TOTAL GRF		General Revenue Fund	\$	217,009,660	\$	229,722,638	2518
		General Services Fund Group					2519
4J6	322-645	Intersystem Services	\$	5,000,000	\$	5,000,000	2520
		for					
		Children					2521
4U4	322-606	Community MR and DD	\$	125,000	\$	131,250	2522
		Trust					
4V1	322-611	Program Support	\$	2,000,000	\$	2,000,000	2523
488	322-603	Residential Services	\$	2,499,188	\$	2,499,188	2524
		Refund					2525
TOTAL GSF		General Services					2526
		Fund Group	\$	9,624,188	\$	9,630,438	2527
		Federal Special Revenue Fund Group					2528
3A4	322-605	Community Program	\$	3,024,047	\$	3,326,452	2529
		Support					
3A4	322-610	Community Residential	\$	5,924,858	\$	5,924,858	2530
		Support					2531
3A5	322-613	DD Council Grants	\$	3,358,290	\$	3,358,290	2532
3G6	322-639	Medicaid Waiver	\$	148,304,949	\$	151,754,169	2533
3M7	322-650	CAFS Medicaid	\$	163,747,903	\$	172,568,939	2534
325	322-608	Federal Grants -	\$	1,360,000	\$	1,360,000	2535
		Operating Expenses					2536
325	322-612	Social Service Block	\$	11,500,000	\$	11,500,000	2537
		Grant					2538
325	322-617	Education Grants -	\$	115,000	\$	115,000	2539

Operating				2540	
TOTAL FED Federal Special Revenue				2541	
Fund Group	\$	337,335,047	\$	349,907,708	2542
State Special Revenue Fund Group				2543	
4K8 322-604 Waiver - Match	\$	13,783,463	\$	14,039,133	2544
5H0 322-619 Medicaid Repayment	\$	562,080	\$	576,132	2545
TOTAL SSR State Special Revenue				2546	
Fund Group	\$	14,345,543	\$	14,615,265	2547
TOTAL ALL COMMUNITY SERVICES				2548	
BUDGET FUND GROUPS	\$	578,314,438	\$	603,626,049	2549
RESIDENTIAL AND SUPPORT SERVICES				2550	
The foregoing appropriation item 322-413, Residential and				2551	
Support Services, shall be used for any of the following:				2552	
(A) Home and community-based waiver services pursuant to				2553	
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42				2554	
U.S.C. 301, as amended;				2555	
(B) Services contracted by county boards of mental				2556	
retardation and developmental disabilities;				2557	
(C) Supported living services contracted by county boards of				2558	
mental retardation and developmental disabilities in accordance				2559	
with sections 5126.40 to 5126.47 of the Revised Code;				2560	
(D) Sermak Class Services used to implement the requirements				2561	
of the consent decree in <i>Sermak v. Manuel</i> , Case No. c-2-80-220,				2562	
United States District Court for the Southern District of Ohio,				2563	
Eastern Division;				2564	
(E) Other Medicaid-reimbursed programs, in an amount not to				2565	
exceed \$1,000,000 in each fiscal year, that enable persons with				2566	
mental retardation and developmental disabilities to live in the				2567	
community.				2568	
Notwithstanding Chapters 5123. and 5126. of the Revised Code,				2569	

the Department of Mental Retardation and Developmental 2570
Disabilities may develop residential and support service programs 2571
that enable persons with mental retardation and developmental 2572
disabilities to live in the community. Notwithstanding Chapter 2573
5121. and section 5123.122 of the Revised Code, the department may 2574
waive the support collection requirements of those statutes for 2575
persons in community programs developed by the department under 2576
this section. The department shall adopt rules under Chapter 119. 2577
of the Revised Code or may use existing rules for the 2578
implementation of these programs. 2579

The Department of Mental Retardation and Developmental 2580
Disabilities may designate a portion of appropriation item 2581
332-413, Residential and Support Services, to county boards of 2582
mental retardation and developmental disabilities that have 2583
greater need for various residential and support services due to a 2584
low percentage of residential and support services development in 2585
comparison to the number of individuals with mental retardation or 2586
developmental disabilities in the county. 2587

Not later than 30 days after the effective date of this 2588
section, the Director of Budget and Management shall transfer up 2589
to \$5,000,000 from appropriation item 322-413, Residential and 2590
Support Services, to appropriation item 322-501, County Boards 2591
Subsidies. The total amount that is transferred from appropriation 2592
item 322-413 to appropriation item 322-501 shall be used for the 2593
tax equalization program created under ~~sections 5126.16 to 5126.18~~ 2594
~~of the Revised Code and is subject to all statutes and rules~~ 2595
~~established for the tax equalization program~~ Section 4 of this 2596
act. 2597

Not later than July 30, 2002, the Director of Budget and 2598
Management shall transfer up to \$11,500,000 from appropriation 2599
item 322-413, Residential and Support Services, to appropriation 2600
item 322-501, County Boards Subsidies. The total amount that is 2601

transferred from appropriation item 322-413 to appropriation item 2602
322-501 shall be used for the tax equalization program created 2603
under ~~sections 5126.16 to 5126.18 of the Revised Code and is~~ 2604
~~subject to all statutes and rules established for the tax~~ 2605
~~equalization program~~ Section 4 of this act. 2606

Of the foregoing appropriation item 322-413, Residential and 2607
Support Services, \$9,700,000 in fiscal year 2002 and \$9,850,000 in 2608
fiscal year 2003 shall be distributed by the Department to county 2609
boards of mental retardation and developmental disabilities to 2610
support existing residential facilities waiver and individual 2611
options waiver related Medicaid activities provided for in the 2612
component of a county board's plan developed under division (A)(2) 2613
of section 5126.054 of the Revised Code and approved under section 2614
5123.046 of the Revised Code. Up to \$3,000,000 of these funds in 2615
each fiscal year may be used to implement day-to-day program 2616
management services under division (A)(2) of section 5126.054 of 2617
the Revised Code. Up to \$4,200,000 in each fiscal year may be used 2618
to implement the program and health and welfare requirements of 2619
division (A)(2) of section 5126.054 of the Revised Code. 2620

In fiscal years 2002 and 2003, not less than \$2,500,000 and 2621
\$2,650,000, respectively, of these funds shall be used to recruit 2622
and retain, under division (A)(2) of section 5126.054 of the 2623
Revised Code, the direct care staff necessary to implement the 2624
services included in an individualized service plan in a manner 2625
that ensures the health and welfare of the individuals being 2626
served. 2627

FAMILY SUPPORT SERVICES 2628

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 2629
5126.11 of the Revised Code, the Department of Mental Retardation 2630
and Developmental Disabilities may implement programs funded by 2631
appropriation item 322-451, Family Support Services, to provide 2632
assistance to persons with mental retardation or developmental 2633

disabilities and their families who are living in the community. 2634
The department shall adopt rules to implement these programs. 2635

CASE MANAGEMENT 2636

The foregoing appropriation item 322-452, Case Management, 2637
shall be allocated to county boards of mental retardation and 2638
developmental disabilities for the purpose of providing case 2639
management services and to assist in bringing state funding for 2640
all department-approved case managers within county boards of 2641
mental retardation and developmental disabilities to the level 2642
authorized in division (C) of section 5126.15 of the Revised Code. 2643
The department may request approval from the Controlling Board to 2644
transfer any unobligated appropriation authority from other state 2645
General Revenue Fund appropriation items within the department's 2646
budget to appropriation item 322-452, Case Management, to be used 2647
to meet the statutory funding level in division (C) of section 2648
5126.15 of the Revised Code. 2649

Notwithstanding division (C) of section 5126.15 of the 2650
Revised Code and subject to funding in appropriation item 322-452, 2651
Case Management, no county may receive less than its allocation in 2652
fiscal year 1995. 2653

STATE SUBSIDIES TO MR/DD BOARDS 2654

Of the foregoing appropriation item 322-501, County Boards 2655
Subsidies, \$6,500,000 in fiscal year 2002 and \$13,000,000 in 2656
fiscal year 2003 shall be used to fund the tax equalization 2657
program created under ~~sections 5126.16 to 5126.18 of the Revised~~ 2658
~~Code for county boards of mental retardation and developmental~~ 2659
~~disabilities~~ Section 4 of this act. The tax equalization program 2660
shall utilize the average daily membership of adults 22 years of 2661
age and older in habilitation, vocational, and community 2662
employment services only for the yield on 1/2 mills. 2663

After funding the tax equalization program, the Department of 2664

Mental Retardation and Developmental Disabilities shall distribute 2665
the remaining appropriation authority in appropriation item 2666
322-501, County Boards Subsidies, to county boards of mental 2667
retardation and developmental disabilities for subsidies 2668
distributed pursuant to section 5126.12 of the Revised Code to the 2669
limit of the lesser of the amount required by that section or the 2670
remaining balance of the appropriation authority in appropriation 2671
item 322-501 prorated to all county boards of mental retardation 2672
and developmental disabilities. 2673

INTERSYSTEM SERVICES FOR CHILDREN 2674

The foregoing appropriation item 322-645, Intersystem 2675
Services for Children, shall be used to support direct grants to 2676
county family and children first councils created under section 2677
121.37 of the Revised Code. The funds shall be used as partial 2678
support payment and reimbursement for locally coordinated 2679
treatment plans for multi-needs children that come to the 2680
attention of the Family and Children First Cabinet Council 2681
pursuant to section 121.37 of the Revised Code. The Department of 2682
Mental Retardation and Developmental Disabilities may use up to 2683
five per cent of this amount for administrative expenses 2684
associated with the distribution of funds to the county councils. 2685

WAIVER - MATCH 2686

The foregoing appropriation item 322-604, Waiver-Match (Fund 2687
4K8), shall be used as state matching funds for the home and 2688
community-based waivers. 2689

The Department of Job and Family Services may enter into an 2690
interagency agreement with the Department of Mental Retardation 2691
and Developmental Disabilities providing for the Department of 2692
Mental Retardation and Developmental Disabilities to operate the 2693
program. " 2694

Section 6. That existing Section 75.02 of Am. Sub. H.B. 94 of 2695
the 124th General Assembly is hereby repealed. 2696

Section 7. An individual serving on a county board of mental 2697
retardation and developmental disabilities on the effective date 2698
of the amendment by this act to section 5126.021 of the Revised 2699
Code who would otherwise be ineligible to continue to serve on the 2700
county board because of the amendment may continue to serve on the 2701
county board and be re-appointed to the county board 2702
notwithstanding the amendment. 2703

Section 8. This act is hereby declared to be an emergency 2704
measure necessary for the immediate preservation of the public 2705
peace, health, and safety. The reason for such necessity is that 2706
county boards of mental retardation and developmental disabilities 2707
are required to submit the final component of their three-year 2708
plans for Medicaid-funded services for individuals with mental 2709
retardation or other developmental disability not later than 2710
November 1, 2001, and this act delays the submission due date to 2711
July 1, 2002. Therefore, this act shall go into immediate effect. 2712