

As Reported by the Senate Judiciary-Civil Justice Committee

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Sub. H. B. No. 85

REPRESENTATIVES Hughes, Goodman, Sullivan, Setzer, Patton, Allen, Jolivette, Niehaus, Webster, Redfern, Latta, DePiero, Reidelbach, Sulzer, Seitz, Womer Benjamin, Manning, Jones, Grendell, Schmidt, G. Smith, Cates, Flannery, Lendrum, Coates, Otterman, Evans, Damschroder, Aslanides, Blasdel, Rhine, Collier, Barrett, Fessler, Kearns, Latell, Schneider, Oakar, Salerno, Gilb

SENATORS Austria, Johnson, Espy

A B I L L

To amend sections 2106.01, 2106.02, 2106.13, 2107.19, 1
2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2
2109.18, 2109.24, 2109.30, 2109.31, 2109.32, 3
2113.25, 2113.28, 2113.53, 2113.64, 2115.09, 4
3705.09, and 5905.11, to amend the version of 5
section 2117.06 that was in effect immediately 6
prior to January 27, 1997, to enact sections 7
2105.25, 2105.26, 2106.25, 2109.301, 2109.302, and 8
2109.303 and to repeal section 2113.533 of the 9
Revised Code relative to a surviving spouse's 10
election whether to take under the will, will 11
contests, the final and distributive account of an 12
estate's administration, and other provisions of 13
probate law and relative to a probate court 14
procedure for declaring a man to be the father of 15
an adult child if specified conditions are met. 16

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

Section 1. That sections 2106.01, 2106.02, 2106.13, 2107.19, 17
2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2109.18, 2109.24, 18
2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 19
2115.09, 3705.09, and 5905.11 and the version of section 2117.06 20
that was in effect immediately prior to January 27, 1997, be 21
amended and sections 2105.25, 2105.26, 2106.25, 2109.301, 22
2109.302, and 2109.303 of the Revised Code be enacted to read as 23
follows: 24

Sec. 2105.25. (A) As used in this section and section 2105.26 25
of the Revised Code: 26

(1) "Adult child" means a person born in this state who is 27
twenty-three years old or older. 28

(2) "Genetic test" has the same meaning as in section 3111.09 29
of the Revised Code. 30

(B) A man alleging himself to be the father of an adult 31
child, the adult child's mother, and the adult child may appear 32
together before the probate judge of the county in which the man 33
resides and jointly file a declaration stating that the man is the 34
adult child's father and requesting that the court issue an order 35
declaring the man to be the adult child's father. The declaration 36
must state that the adult child's birth certificate does not 37
designate anyone as the adult child's father, the request for the 38
order is made freely and voluntarily by all parties appearing 39
before the court, and genetic test results show the man is the 40
adult child's father. A copy of the birth certificate and the 41
genetic test results must be attached to the declaration. 42

(C) The man alleging himself to be the adult child's father 43
and the adult child may appear before the court without the adult 44
child's mother and file the declaration if the mother is deceased 45
or has been adjudicated incompetent. If the man alleging himself 46

to be the adult child's father is not a resident of this state,
appearance under this section may be made before a probate judge
of any county of this state.

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Sec. 2105.26. (A) If the probate court determines the
following, it shall issue the order requested under section
2105.25 of the Revised Code declaring the man alleging himself to
be the father of the adult child to be the adult child's father:

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(1) The order was freely and voluntarily requested.

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(2) No person is designated as the father on the birth
certificate of the adult child.

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(3) Genetic test results show that the man is the father of
the adult child.

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(4) It is in the best interests of the man and adult child
that the order be issued.

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(B) As part of the order, the court shall order the adult
child's birth certificate to be changed to designate the man as
the adult child's father.

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(C) After issuance of an order under this section, the adult
child shall be considered the child of the man declared to be the
father as if born to him in lawful wedlock, except that the adult
child and the adult child's mother shall not be awarded child
support from the man for the time the adult child was a minor.

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Sec. 2106.01. (A) After the probate of a will and the filing
of the inventory and the appraisalment initial appointment of an
administrator or executor of the estate, the probate court shall
issue a citation to the surviving spouse, if any is living at the
time of the issuance of the citation, to elect whether to exercise
the surviving spouse's rights under Chapter 2106. of the Revised
Code, including, after the probate of a will, the right to elect

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to take under the will or under section 2105.06 of the Revised Code. 76
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(B) If the surviving spouse elects to take under section 78
2105.06 of the Revised Code and if the value of the property that 79
the surviving spouse is entitled to receive is equal to or greater 80
than the value of the decedent's interest in the mansion house as 81
determined under section 2106.10 of the Revised Code, the 82
surviving spouse also is entitled to make an election pursuant to 83
division (A) of section 2106.10 of the Revised Code. 84

(C) If the surviving spouse elects to take under section 85
2105.06 of the Revised Code, the surviving spouse shall take not 86
to exceed one-half of the net estate, unless two or more of the 87
decedent's children or their lineal descendants survive, in which 88
case the surviving spouse shall take not to exceed one-third of 89
the net estate. 90

For purposes of this division, the net estate shall be 91
determined before payment of federal estate tax, estate taxes 92
under Chapter 5731. of the Revised Code, or any other tax that is 93
subject to apportionment under section 2113.86 or 2113.861 of the 94
Revised Code. 95

(D) Unless the will expressly provides that in case of an 96
election under division (A) of this section there shall be no 97
acceleration of remainder or other interests bequeathed or devised 98
by the will, the balance of the net estate shall be disposed of as 99
though the surviving spouse had predeceased the testator. If there 100
is a disposition by a will to an inter vivos trust that was 101
created by the testator, if under the terms of the trust the 102
surviving spouse is entitled to any interest in the trust or is 103
granted any power or nomination with respect to the trust, and if 104
the surviving spouse makes an election to take under section 105
2105.06 of the Revised Code, then, unless the trust instrument 106

provides otherwise, the surviving spouse is deemed for purposes of
the trust to have predeceased the testator, and there shall be an
acceleration of remainder or other interests in all property
bequeathed or devised to the trust by the will, in all property
held by the trustee at the time of the death of the decedent, and
in all property that comes into the hands of the trustee by reason
of the death of the decedent.

(E) The election of a surviving spouse to take under a will
or under section 2105.06 of the Revised Code may be made at any
time after the death of the decedent, but the surviving spouse
~~shall be made~~ not make the election later than one-month five
months from the service date of the citation to elect initial
appointment of an administrator or executor of the estate. On a
motion filed before the expiration of the ~~one-month~~ five-month
period, and for good cause shown, the court may allow further time
for the making of the election. If no action is taken by the
surviving spouse before the expiration of the ~~one-month~~ five-month
period, it is conclusively presumed that the surviving spouse
elects to take under the will. The election shall be entered on
the journal of the court.

When proceedings for advice or to contest the validity of a
will are begun within the time allowed by this division for making
the election, the election may be made within three months after
the final disposition of the proceedings, if the will is not set
aside.

(F) When a surviving spouse succeeds to the entire estate of
the testator, having been named the sole devisee and legatee, it
shall be presumed that the spouse elects to take under the will of
the testator. ~~No citation shall be issued to the surviving spouse~~
~~as provided in division (A) of this section, and no election shall~~
~~be required~~, unless the surviving spouse manifests a contrary
intention.

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Sec. 2106.02. (A) The citation to make the election referred 139
to in section 2106.01 of the Revised Code shall be sent to the 140
surviving spouse by certified mail. Notice that the citation has 141
been issued by the court shall be given to the administrator or 142
executor of the estate of the deceased spouse. 143

(B) The citation shall be accompanied by a general 144
description of the effect of the election to take under the will 145
or under section 2105.06 of the Revised Code and the general 146
rights of the surviving spouse under Chapter 2106. of the Revised 147
Code. The description shall include a specific reference to the 148
procedures available to the surviving spouse under section 2106.03 149
of the Revised Code and to the presumption that arises if the 150
surviving spouse does not make the election in accordance with 151
division (E) of section 2106.01 of the Revised Code. The 152
description of the general rights of the surviving spouse under 153
Chapter 2106. of the Revised Code shall include a specific 154
reference to the presumption that arises if the surviving spouse 155
does not make the election within the time period specified by 156
section 2106.25 of the Revised Code. The description of the effect 157
of the election and of the general rights of the surviving spouse 158
need not relate to the nature of any particular estate. 159

(C) A surviving spouse electing to take under the will may 160
manifest the election in writing within the times described in 161
division (E) of section 2106.01 of the Revised Code. 162

Sec. 2106.13. (A) If a person dies leaving a surviving spouse 163
and no minor children, leaving a surviving spouse and minor 164
children, or leaving minor children and no surviving spouse, the 165
surviving spouse, minor children, or both shall be entitled to 166
receive, subject to division (B) of this section, in money or 167
property the sum of forty thousand dollars as an allowance for 168
support. If the surviving spouse selected two automobiles under 169

section 2106.18 of the Revised Code, the allowance for support 170
prescribed by this section shall be reduced by the value of the 171
automobile having the lower value of the two automobiles so 172
selected. The money or property set off as an allowance for 173
support shall be considered estate assets. 174

(B) The probate court shall order the distribution of the 175
allowance for support described in division (A) of this section as 176
follows: 177

(1) If the person died leaving a surviving spouse and no 178
minor children, one hundred per cent to the surviving spouse; 179

(2) If the person died leaving a surviving spouse and minor 180
children, and if all of the minor children are the children of the 181
surviving spouse, one hundred per cent to the surviving spouse; 182

(3) If the person died leaving a surviving spouse and minor 183
children, and if not all of the minor children are children of the 184
surviving spouse, in equitable shares, as fixed by the probate 185
court in accordance with this division, to the surviving spouse 186
and the minor children who are not the children of the surviving 187
spouse. In determining equitable shares under this division, the 188
probate court shall do all of the following: 189

(a) Consider the respective needs of the surviving spouse, 190
the minor children who are children of the surviving spouse, and 191
the minor children who are not children of the surviving spouse; 192

(b) Allocate to the surviving spouse, the share that is 193
equitable in light of the needs of the surviving spouse and the 194
minor children who are children of the surviving spouse; 195

(c) Allocate to the minor children who are not children of 196
the surviving spouse, the share that is equitable in light of the 197
needs of those minor children. 198

(4) If the person died leaving minor children and no 199

surviving spouse, in equitable shares, as fixed by the probate court in accordance with this division, to the minor children. In determining equitable shares under this division, the probate court shall consider the respective needs of the minor children and allocate to each minor child the share that is equitable in light of the child's needs.

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(C) If the surviving spouse selected two automobiles under section 2106.18 of the Revised Code, the probate court, in considering the respective needs of the surviving spouse and the minor children when allocating an allowance for support under division (B)(3) of this section, shall consider the benefit derived by the surviving spouse from the transfer of the automobile having the lower value of the two automobiles so selected.

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(D) If, pursuant to this section, the probate court must allocate the allowance for support, the administrator or executor, within five months of the initial appointment of an administrator or executor, shall file with the probate court an application to allocate the allowance for support.

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

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

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Sec. 2106.25. Unless otherwise specified by a provision of the Revised Code or this section, a surviving spouse shall

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exercise all rights under Chapter 2106. of the Revised Code within 231
five months of the initial appointment of an executor or 232
administrator of the estate. It is conclusively presumed that a 233
surviving spouse has waived any right not exercised within that 234
five-month period or within any longer period of time allowed by 235
the court pursuant to this section. Upon the filing of a motion to 236
extend the time for exercising a right under Chapter 2106. of the 237
Revised Code and for good cause shown, the court may allow further 238
time for exercising the right that is the subject of the motion. 239
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Sec. 2107.19. (A)(1) Subject to divisions (A)(2) and (B) of 241
this section, when a will has been admitted to probate, the 242
fiduciary for the estate or another person specified in division 243
(A)(4) of this section ~~promptly~~ shall, within two weeks of the 244
admission of the will to probate, give a notice as described in 245
this division and in the manner provided by Civil Rule 73(E) to 246
the surviving spouse of the testator, to all persons who would be 247
entitled to inherit from the testator under Chapter 2105. of the 248
Revised Code if ~~he~~ the testator had died intestate, and to all 249
legatees and devisees named in the will. The notice shall mention 250
the probate of the will and, if a particular person being given 251
the notice is a legatee or devisee named in the will, shall state 252
that the person is named in the will as beneficiary. A copy of the 253
will admitted to probate is not required to be given with the 254
notice. 255

(2) A person entitled to be given the notice described in 256
division (A)(1) of this section may waive that right by filing a 257
written waiver of the right to receive the notice in the probate 258
court. The person may file the waiver of the right to receive the 259
notice at any time prior to or after the will has been admitted to 260
probate. 261

(3) The fact that the notice described in division (A)(1) of this section has been given, subject to division (B) of this section, to all persons described in division (A)(1) of this section who have not waived their right to receive the notice, and, if applicable, the fact that certain persons described in that division have waived their right to receive the notice in accordance with division (A)(2) of this section, shall be evidenced by a certificate that shall be filed in the probate court in accordance with division (A)(4) of this section.

(4) The notice of the admission of the will to probate required by division (A)(1) of this section and the certificate of giving notice or waiver of notice required by division (A)(3) of this section shall be given or filed by the fiduciary for the estate or by the applicant for the admission of the will to probate, the applicant for a release from administration, any other interested person, or the attorney for the fiduciary or for any of the preceding persons. The certificate of giving notice shall be filed not later than two months after the appointment of the fiduciary unless the court grants an extension of that time. Failure to file the certificate in a timely manner shall subject the fiduciary to the citation and penalty provisions of section 2109.31 of the Revised Code.

(B) The fiduciary or another person specified in division (A)(4) of this section is not required to give a notice pursuant to division (A)(1) of this section to persons who have been notified of the application for probate of the will or of a contest as to jurisdiction or to persons whose names or places of residence are unknown and cannot with reasonable diligence be ascertained, and a person authorized by division (A)(4) of this section to give notice shall file in the probate court a certificate to that effect.

Sec. 2107.76. No person who has received or waived the right 293
to receive the notice of the admission of a will to probate 294
required by section 2107.19 of the Revised Code may commence an 295
action permitted by section 2107.71 of the Revised Code to contest 296
the validity of the will more than ~~four~~ three months after the 297
filing of the certificate described in division (A)(3) of section 298
2107.19 of the Revised Code ~~certifying the giving of that notice~~ 299
~~to or the waiver of that notice by that person. No other person~~ 300
~~may commence an action permitted by section 2107.71 of the Revised~~ 301
~~Code to contest the validity of the will more than four months~~ 302
~~after the initial filing of a certificate described in division~~ 303
~~(A)(3) of section 2107.19 of the Revised Code. A person under any~~ 304
legal disability nevertheless may commence an action permitted by 305
section 2107.71 of the Revised Code to contest the validity of the 306
will within four months after the disability is removed, but the 307
rights saved shall not affect the rights of a purchaser, lessee, 308
or encumbrancer for value in good faith and shall not impose any 309
liability upon a fiduciary who has acted in good faith, or upon a 310
person delivering or transferring property to any other person 311
under authority of a will, whether or not the purchaser, lessee, 312
encumbrancer, fiduciary, or other person had actual or 313
constructive notice of the legal disability. 314

Sec. 2109.07. (A) The bond required of an administrator by 315
section 2109.04 of the Revised Code shall not be required in 316
either of the following cases: 317

(1) It shall not be required of a surviving spouse to 318
administer the deceased spouse's estate if the surviving spouse is 319
entitled to the entire net proceeds of the estate. 320

(2) It shall not be required of an administrator to 321
administer an estate if there is no will, if the administrator is 322
the next of kin, and if the administrator is entitled to the 323

entire net proceeds of the estate. 324

(B) The bond otherwise required by section 2109.04 of the 325
Revised Code of an administrator shall be conditioned as follows: 326

(1) To file with the probate court within the time required 327
by section 2115.02 of the Revised Code an inventory of all 328
tangible and intangible personal property of the deceased that is 329
to be administered and that comes to the administrator's 330
possession or knowledge and an inventory of the deceased's 331
interest in real estate located in this state; 332

(2) To administer and distribute according to law all 333
tangible and intangible personal property of the deceased, the 334
proceeds of any action for wrongful death or of any settlement, 335
with or without suit, of a wrongful death claim, and the proceeds 336
of all real estate in which the deceased had an interest, that is 337
located in this state, and that is sold, when the property or 338
proceeds have come to the possession of the administrator or to 339
the possession of a person for the administrator; 340

(3) To render a just and true account of the administrator's 341
administration at the times required by section ~~2109.30~~ 2109.301 342
of the Revised Code; 343

(4) To deliver the letters of administration into court if a 344
will of the deceased is proved and allowed. 345

Sec. 2109.09. (A) Unless the testator has specified otherwise 346
in the will, the bond required of an executor by section 2109.04 347
of the Revised Code shall not be required of the executor to 348
administer an estate in accordance with the will of the testator 349
if the executor is the next of kin and if the executor is entitled 350
to the entire net proceeds of the estate. 351

(B) The bond otherwise required of an executor by section 352
2109.04 of the Revised Code shall be conditioned as follows: 353

(1) To file with the probate court within the time required 354
by section 2115.02 of the Revised Code an inventory of all the 355
tangible and intangible personal property of the testator that is 356
to be administered and that comes to the executor's possession or 357
knowledge and an inventory of the testator's interest in real 358
estate located in this state; 359

(2) To administer and distribute according to law and the 360
will of the testator all the testator's tangible and intangible 361
personal property, the proceeds of any action for wrongful death 362
or of any settlement, with or without suit, of a wrongful death 363
claim, and the proceeds of all real estate in which the testator 364
had an interest, that is located in this state, and that is sold, 365
when the property or proceeds have come to the possession of the 366
executor or to the possession of another person for the executor; 367

(3) To render a just and true account of the executor's 368
administration at the times required by section ~~2109.30~~ 2109.301 369
of the Revised Code. 370

Sec. 2109.11. The bond required by section 2109.04 of the 371
Revised Code of a testamentary trustee shall be conditioned as 372
follows: 373

(A) To make and return to the probate court within the time 374
required by section 2109.58 of the Revised Code a true inventory 375
of all moneys, chattels, rights, credits and real estate belonging 376
to the trust that come to ~~his~~ the trustee's possession or 377
knowledge; 378

(B) To administer and distribute according to law and the 379
will of the testator all moneys, chattels, rights, credits, and 380
real estate belonging to the trust that come to the possession of 381
the trustee or to the possession of any other person for ~~him~~ the 382
trustee; 383

(C) To render a just and true account of ~~his~~ the trustee's 384
administration at the times required by section ~~2109.30~~ 2109.303 385
of the Revised Code. 386

Sec. 2109.12. Any bond required by or pursuant to section 387
2109.04 of the Revised Code of a guardian shall be conditioned as 388
follows: 389

(A) If applicable, to make and return to the probate court 390
within the time required by section 2111.14 of the Revised Code a 391
true inventory of all moneys, chattels, rights, credits, and real 392
estate belonging to the ward that come to ~~his~~ the guardian's 393
possession or knowledge; 394

(B) To administer and distribute according to law all moneys, 395
chattels, rights, credits, and real estate belonging to the ward 396
that come to the possession of the guardian or to the possession 397
of any other person for ~~him~~ the guardian; 398

(C) To render a just and true account of ~~his~~ the guardian's 399
administration at any times required by or pursuant to section 400
~~2109.30~~ 2109.302 of the Revised Code. 401

Sec. 2109.18. A surety of a fiduciary or the executor or 402
administrator of a surety may make application at any time to the 403
probate court to be released from the bond of such fiduciary. Such 404
surety shall file ~~his~~ a written request therefor with the probate 405
judge of such court and give at least five days' notice in writing 406
to such fiduciary. If, upon the hearing, the court is of the 407
opinion that there is good reason therefor, it shall release such 408
surety. The death of a surety shall always be good cause. 409

A fiduciary may make application at any time to the court for 410
the release of ~~his~~ the fiduciary's sureties. Such fiduciary shall 411
file ~~his~~ a written request therefor with the judge of such court 412
and give at least five days' notice in writing to such sureties. 413

If, upon the hearing, the court is of the opinion that there is good reason to release such sureties, it shall order the fiduciary to file an account, as provided by section ~~2109.30~~ 2109.301, 2109.302, or 2109.303 of the Revised Code, and such sureties shall be released after the fiduciary files a new bond which is approved by the court.

If such fiduciary fails to give new bond as directed, ~~he~~ the fiduciary shall be removed and ~~his~~ the fiduciary's letters of appointment superseded. Such original sureties shall not be released until the fiduciary gives a bond, but shall be liable for such fiduciary's acts only from the time of executing the original bond to the filing and approval by the court of the new bond.

The costs of such proceeding shall be paid by the surety applying to be released, unless it appears to the court that the fiduciary is insolvent, incompetent, or is wasting the assets of the estate.

Sec. 2109.24. The probate court at any time may accept the resignation of any fiduciary upon ~~his~~ the fiduciary's proper accounting, if the fiduciary was appointed by, is under the control of, or is accountable to the court.

If a fiduciary fails to make and file an inventory as required by sections 2109.58, 2111.14, and 2115.02 of the Revised Code or to render a just and true account of ~~his~~ the fiduciary's administration at the times required by section ~~2109.30~~ 2109.301, 2109.302, or 2109.303 of the Revised Code, and if the failure continues for thirty days after the fiduciary has been notified by the court of the expiration of the relevant time, the fiduciary forthwith may be removed by the court and shall receive no allowance for ~~his~~ the fiduciary's services unless the court enters upon its journal its findings that the delay was necessary and reasonable.

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The court may remove any such fiduciary, after giving the
fiduciary not less than ten days' notice, for habitual
drunkenness, neglect of duty, incompetency, or fraudulent conduct,
because the interest of the trust demands it, or for any other
cause authorized by law.

The court may remove a trustee upon the written application
of more than one-half of the persons having an interest in the
estate controlled by the trustee, but the trustee himself is not
to be considered as a person having an interest in the estate
under the proceedings; except that no trustee appointed under a
will shall be removed upon such written application unless for a
good cause.

Sec. 2109.30. (A) ~~Except as provided in division (B) of this~~
~~section, within nine months after appointment, every~~ Every
executor and administrator shall render an account of the
executor's and administrator's administration. ~~Except as provided~~
~~in division (B) of this section, after the initial account is~~
~~rendered, every executor and administrator shall render further~~
~~accounts at least once each year. Except as provided in divisions~~
~~(C) and (D) of this section, every fiduciary, other than an~~
~~executor, administrator, or guardian of the person only, shall~~
~~render an account of the administration of the fiduciary's estate~~
~~or trust at least once in each two years. An account shall be~~
~~rendered by a guardian of the person only at any time, or, subject~~
~~to division (D) of this section, by any other fiduciary at any~~
~~time other than those mentioned in this section, upon the order of~~
~~the court either at its own instance, or upon the motion of any~~
~~person interested in the estate or trust, for good cause shown.~~
~~Except as provided in divisions (B) and (C) of this section, every~~
~~fiduciary, other than a guardian of the person only, shall render~~
~~a final account within thirty days after completing the~~
~~administration of the estate or the termination of the fiduciary's~~

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~~trust or within any other period of time that the court may order.~~ 477

~~Every account shall include an itemized statement of all 478
receipts of the fiduciary during the accounting period and of all 479
disbursements and distributions made by the fiduciary during the 480
accounting period. The itemized disbursements and distributions 481
shall be verified by vouchers or proof, except in the case of an 482
account rendered by a corporate fiduciary subject to section 483
1111.28 of the Revised Code. In addition, the account shall 484
include an itemized statement of all funds, assets, and 485
investments of the estate or trust known to or in the possession 486
of the fiduciary at the end of the accounting period and shall 487
show any changes in investments since the last previous account. 488
The accounts of testamentary trustees shall, and the accounts of 489
other fiduciaries may, show receipts and disbursements separately 490
identified as to principal and income. 491~~

~~Every account shall be upon the signature of the fiduciary. 492
When an account is rendered by two or more joint fiduciaries, the 493
court may allow the account upon the signature of one of them. 494~~

~~Upon the filing of every account, the fiduciary, except 495
corporate fiduciaries subject to section 1111.28 of the Revised 496
Code, shall exhibit to the court, for its examination, the 497
securities shown in the account as being in the hands of the 498
fiduciary, or the certificate of the person in possession of the 499
securities, if held as collateral or pursuant to section 2109.13 500
or 2131.21 of the Revised Code, and a passbook or certified bank 501
statement showing as to each depository the fund deposited to the 502
credit of the trust. The court may designate a deputy clerk, an 503
agent of a corporate surety on the bond of the fiduciary, or 504
another suitable person whom the court appoints as commissioner to 505
make the examination and to report the person's findings to the 506
court. When securities are located outside the county, the court 507
may appoint a commissioner or request another probate court to 508~~

~~make the examination and to report its findings to the court. The
court may examine the fiduciary under oath concerning the account.~~ 509
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~~When a fiduciary is authorized by law or by the instrument
governing distribution to distribute the assets of the estate or
trust, in whole or in part, the fiduciary may do so and include a
report of the distribution in the fiduciary's succeeding account
at the time and in the manner prescribed in section 2109.301 of
the Revised Code. Every guardian or conservator shall render an
account of the ward's estate at the time and in the manner
prescribed in section 2109.302 of the Revised Code. Every
testamentary trustee and other fiduciary not subject to sections
2109.301 and 2109.302 of the Revised Code shall render an account
of the testamentary trustee's or other fiduciary's administration
at the time and in the manner prescribed in section 2109.303 of
the Revised Code.~~ 511
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~~(B) An account showing complete administration before
distribution of assets shall be designated "final account." An
account filed subsequent to the final account and showing
distribution of assets shall be designated "account of
distribution." An account showing complete administration and
distribution of assets shall be designated "final and distributive
account."~~ 524
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~~(B)(1) In estates of decedents in which the sole legatee,
devisee, or heir also is the executor or administrator, no partial
accountings are required, and no final account or final and
distributive account shall be filed. The executor or administrator
shall be discharged by filing with the court within thirty days
after completing the administration of the estate a certificate of
termination of an estate that states all of the following:~~ 531
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~~(a) That all debts and claims presented to the estate have
been paid in full or settled finally;~~ 538
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~~(b) That an estate tax return, if required under Chapter 5731. of the Revised Code, has been filed, and any estate tax due under that chapter has been paid;~~ 541
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~~(c) That all attorney's fees have been waived by or paid to counsel of record of the estate, and all fiduciary fees have been waived or paid;~~ 544
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~~(d) The amount of attorney's fees and the amount of fiduciary fees that have been paid;~~ 547
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~~(e) That all assets remaining after completion of the activities described in divisions (B)(1)(a) to (d) of this section have been distributed to the sole legatee, devisee, or heir.~~ 549
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~~In estates of decedents in which none of the legatees, devisees, or heirs is under a legal disability, each partial accounting of an executor or administrator may be waived by the written consent of all the legatees, devisees, or heirs filed in lieu of a partial accounting otherwise required.~~ 552
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~~(C)(1) The court may waive, by order, an account that division (A) of this section requires of a guardian of the estate or a guardian of the person and estate, other than an account made pursuant to court order, if any of the following circumstances applies:~~ 557
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~~(a) The assets of the estate consist entirely of real property.~~ 562
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~~(b) The assets of the estate consist entirely of personal property, that property is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the court has authorized expenditures of not more than five thousand dollars annually for the support, maintenance, or, if applicable, education of the ward.~~ 564
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~~(c) The assets of the estate consist entirely of real~~ 570

~~property and of personal property that is held by a bank, savings
and loan association, or trust company in accordance with section
2109.13 of the Revised Code, and the court has authorized
expenditures of not more than five thousand dollars annually for
the support, maintenance, or, if applicable, education of the
ward.~~

~~(2) The order of a court entered pursuant to division (C)(1)
of this section is prima facie evidence that a guardian of the
estate or a guardian of the person and estate has authority to
make expenditures as described in division (C)(1)(b) or (c) of
this section.~~

~~(D)(1) As used in this division:~~

~~(a) "Charitable trust" has the same meaning as in section
109.23 of the Revised Code.~~

~~(b) "Qualified community foundation" means any foundation
that is exempt from federal income taxation under sections
170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of
1986," 100 Stat. 2085, as amended; that is further described in
section 1.170A-9(10) and (11) of Title 26 of the Code of Federal
Regulations, 26 C.F.R. 1.170A-9(10) and (11), as amended; and that
publishes at least annually and circulates widely within its
community an audited report of its fund balances, activities, and
donors.~~

~~(c) "Testamentary charitable trust" means any charitable
trust that is created by a will.~~

~~(2) If the assets of a testamentary charitable trust are held
and managed by a fiduciary who is an individual or by a corporate
fiduciary and if the trust merges into a qualified community
foundation, then, after the fiduciary files with the court a final
and distributive account pertaining to the trust and activities up
to the effective date of the merger, the fiduciary and any~~

~~successors of the fiduciary shall not be required to render any
accounting to the court pertaining to the merged trust and
activities that follow the effective date of the merger.~~

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Sec. 2109.301. (A) An administrator or executor shall render
an account at any time other than a time otherwise mentioned in
this section upon an order of the probate court issued for good
cause shown either at its own instance or upon the motion of any
person interested in the estate. Except as otherwise provided in
division (B)(2) of this section, an administrator or executor
shall render a final account within thirty days after completing
the administration of the estate or within any other period of
time that the court may order.

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Every account shall include an itemized statement of all
receipts of the administrator or executor during the accounting
period and of all disbursements and distributions made by the
executor or administrator during the accounting period. In
addition, the account shall include an itemized statement of all
funds, assets, and investments of the estate known to or in the
possession of the administrator or executor at the end of the
accounting period and shall show any changes in investments since
the last previous account.

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Every account shall be upon the signature of the
administrator or executor. When two or more administrators or
executors render an account, the court may allow the account upon
the signature of one of them. The court may examine the
administrator or executor under oath concerning the account.

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When an administrator or executor is authorized by law or by
the instrument governing distribution to distribute the assets of
the estate, in whole or in part, the administrator or executor may
do so and include a report of the distribution in the
administrator's or executor's succeeding account.

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In estates of decedents in which none of the legatees, devisees, or heirs is under a legal disability, each partial accounting of an executor or administrator may be waived by the written consent of all the legatees, devisees, or heirs filed in lieu of a partial accounting otherwise required. 633
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(B)(1) Every administrator and executor, within six months after appointment, shall render a final and distributive account of the administrator's or executor's administration of the estate unless one or more of the following circumstances apply: 638
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(a) An Ohio estate tax return must be filed for the estate. 642

(b) A proceeding contesting the validity of the decedent's will pursuant to section 2107.71 of the Revised Code has been commenced. 643
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(c) The surviving spouse has filed an election to take against the will. 646
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(d) The administrator or executor is a party in a civil action. 648
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(e) The estate is insolvent. 650

(f) For other reasons set forth by the administrator or executor, subject to court approval, it would be detrimental to the estate and its beneficiaries or heirs to file a final and distributive account. 651
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(2) In estates of decedents in which the sole legatee, devisee, or heir is also the administrator or executor of the estate, no partial accountings are required, and the administrator or executor shall not file a final account or final and distributive account. In lieu of filing a final account, the administrator or executor of an estate of that type shall be discharged by filing with the court within thirty days after completing the administration of the estate a certificate of 655
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termination of an estate that states all of the following: 663

(a) All debts and claims presented to the estate have been 664
paid in full or settled finally. 665

(b) An estate tax return, if required under the provisions of 666
the Internal Revenue Code or Chapter 5731. of the Revised Code, 667
has been filed, and any estate tax has been paid. 668

(c) All attorney's fees have been waived by or paid to 669
counsel of record of the estate, and all executor or administrator 670
fees have been waived or paid. 671

(d) The amount of attorney's fees and the amount of 672
administrator or executor fees that have been paid. 673

(e) All assets remaining after completion of the activities 674
described in divisions (B)(2)(a) to (d) of this section have been 675
distributed to the sole legatee, devisee, or heir. 676

(3) Not later than thirteen months after appointment, every 677
administrator and executor shall render an account of the 678
administrator's or executor's administration, unless a certificate 679
of termination is filed under division (B)(2) of this section. 680
Except as provided in divisions (B)(1) and (2) of this section, 681
after the initial account is rendered, every administrator and 682
executor shall render further accounts at least once each year. 683

Sec. 2109.302. (A) Every guardian or conservator shall render 684
an account of the administration of the ward's estate at least 685
once in each two years. The guardian or conservator shall render 686
an account at any time other than a time otherwise mentioned in 687
this section upon the order of the probate court issued for good 688
cause shown either at its own instance or upon the motion of any 689
person interested in the estate. Except as provided in division 690
(B) of this section, every guardian or conservator shall render a 691
final account within thirty days after completing the 692

administration of the ward's estate or within any other period of
time that the court may order.

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Every account shall include an itemized statement of all
receipts of the guardian or conservator during the accounting
period and of all disbursements and distributions made by the
guardian or conservator during the accounting period. The itemized
disbursements and distributions shall be verified by vouchers or
proof, except in the case of an account rendered by a corporate
fiduciary subject to section 1111.28 of the Revised Code. In
addition, the account shall include an itemized statement of all
funds, assets, and investments of the estate known to or in the
possession of the guardian or conservator at the end of the
accounting period and shall show any changes in investments since
the last previous account.

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Every account shall be upon the signature of the guardian or
conservator. When two or more guardians or conservators render an
account, the court may allow the account upon the signature of one
of the guardians or conservators.

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Upon the filing of every account, the guardian or
conservator, except a corporate fiduciary subject to section
1111.28 of the Revised Code, shall exhibit to the court for its
examination both of the following: the securities shown in the
account as being in the hands of the guardian or conservator, or
the certificate of the person in possession of the securities, if
held as collateral or pursuant to section 2109.13 or 2131.21 of
the Revised Code; and a passbook or certified bank statement
showing as to each depository the fund deposited to the credit of
the ward's estate. The court may designate a deputy clerk, an
agent of a corporate surety on the bond of the guardian or
conservator, or another suitable person whom the court appoints as
commissioner to make the examination and to report the person's

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findings to the court. When securities are located outside the 724
county, the court may appoint a commissioner or request another 725
probate court to make the examination and to report its findings 726
to the court. The court may examine the guardian or conservator 727
under oath concerning the account. 728

When a guardian or conservator is authorized by law to 729
distribute the assets of the estate, in whole or in part, the 730
guardian or conservator may do so and include a report of the 731
distribution in the guardian's or conservator's succeeding 732
account. 733

(B)(1) The court may waive, by order, an account that 734
division (A) of this section requires of a guardian of the estate 735
or of a guardian of the person and estate, other than an account 736
made pursuant to court order, if any of the following 737
circumstances apply: 738

(a) The assets of the estate consist entirely of real 739
property. 740

(b) The assets of the estate consist entirely of personal 741
property, that property is held by a bank, savings and loan 742
association, or trust company in accordance with section 2109.13 743
of the Revised Code, and the court has authorized expenditures of 744
not more than ten thousand dollars annually for the support, 745
maintenance, or, if applicable, education of the ward. 746

(c) The assets of the estate consist entirely of real 747
property and of personal property that is held by a bank, savings 748
and loan association, or trust company in accordance with section 749
2109.13 of the Revised Code, and the court has authorized 750
expenditures of not more than ten thousand dollars annually for 751
the support, maintenance, or, if applicable, education of the 752
ward. 753

(2) The order of a court entered pursuant to division (B)(1) 754

of this section is prima-facie evidence that a guardian of the estate or a guardian of the person and estate has authority to make expenditures as described in divisions (B)(1)(b) and (c) of this section.

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(3) Notwithstanding the requirements for accounts by other guardians under this section, a guardian of the person is not required to render an account except upon an order of the court that the court issues for good cause shown either at its own instance or upon the motion of any person interested in the estate.

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Sec. 2109.303. (A) Except as provided in division (B) of this section, every testamentary trustee shall, and every other fiduciary not subject to section 2109.301 or 2109.302 of the Revised Code may, render an account of the trustee's or other fiduciary's administration of the estate or trust at least once in each two years. Any testamentary trustee or other fiduciary shall render an account, subject to division (B) of this section, at any time other than a time otherwise mentioned in this section upon an order of the court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate or trust. Every testamentary trustee shall, and every other fiduciary may, render a final account within thirty days after completing the administration of the estate or trust or shall file a final account within any other period of time that the court may order.

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Every account shall include an itemized statement of all receipts of the testamentary trustee or other fiduciary during the accounting period and of all disbursements and distributions made by the testamentary trustee or other fiduciary during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an

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account rendered by a corporate fiduciary subject to section 786
1111.28 of the Revised Code. In addition, the account shall 787
include an itemized statement of all funds, assets, and 788
investments of the estate or trust known to or in the possession 789
of the testamentary trustee or other fiduciary at the end of the 790
accounting period and shall show any changes in investments since 791
the last previous account. The accounts of testamentary trustees 792
shall, and the accounts of other fiduciaries may, show receipts 793
and disbursements separately identified as to principal and 794
income. 795

Every account shall be upon the signature of the testamentary 796
trustee or other fiduciary. When two or more testamentary trustees 797
or other fiduciaries render an account, the court may allow the 798
account upon the signature of one of them. 799

Upon the filing of every account, the testamentary trustee or 800
other fiduciary, except a corporate fiduciary subject to section 801
1111.28 of the Revised Code, shall exhibit to the court for its 802
examination both of the following: the securities shown in the 803
account as being in the hands of the testamentary trustee or other 804
fiduciary, or the certificate of the person in possession of the 805
securities, if held as collateral or pursuant to section 2109.13 806
or 2131.21 of the Revised Code; and a passbook or certified bank 807
statement showing as to each depository the fund deposited to the 808
credit of the estate or trust. The court may designate a deputy 809
clerk, an agent of a corporate surety on the bond of the 810
testamentary trustee or other fiduciary, or another suitable 811
person whom the court appoints as commissioner to make the 812
examination and to report the person's findings to the court. When 813
securities are located outside the county, the court may appoint a 814
commissioner or request another probate court to make the 815
examination and to report its findings to the court. The court may 816
examine the testamentary trustee or other fiduciary under oath 817

concerning the account. 818

When a testamentary trustee or other fiduciary is authorized 819
by law or by the instrument governing distribution to distribute 820
the assets of the estate or trust, in whole or in part, the 821
testamentary trustee or other fiduciary may do so and include a 822
report of the distribution in the testamentary trustee's or 823
fiduciary's succeeding account. 824

(B) If the assets of a testamentary charitable trust are held 825
and managed by a testamentary trustee or other fiduciary who is an 826
individual or by a corporate fiduciary and if the trust merges 827
into a qualified community foundation, then, after the 828
testamentary trustee or other fiduciary files with the court a 829
final and distributive account pertaining to the trust and 830
activities up to the effective date of the merger, the 831
testamentary trustee or other fiduciary and any successors of the 832
testamentary trustee or other fiduciary shall not be required to 833
render any accounting to the court pertaining to the merged trust 834
and activities that follow the effective date of the merger. 835

(C) As used in this section: 836

(1) "Charitable trust" has the same meaning as in section 837
109.23 of the Revised Code. 838

(2) "Qualified community foundation" means any foundation 839
that is exempt from federal income taxation under sections 840
170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of 841
1986," 100 Stat. 2085, 26 U.S.C. 170(b)(1)(A)(vi) and 501 (c)(3), 842
as amended; that is further described in section 1.170A-9(10) and 843
(11) of Title 26 of the Code of Federal Regulations, 26 C.F.R. 844
1.170A-9(10) and (11), as amended; and that publishes at least 845
annually and circulates widely within its community an audited 846
report of its fund balances, activities, and donors. 847

(3) "Testamentary charitable trust" means any charitable 848

trust that is created by a will. 849

(4) "Other fiduciary" means a fiduciary other than an 850
executor, administrator, guardian, conservator, or testamentary 851
trustee. 852

Sec. 2109.31. (A) If a fiduciary neglects or refuses to file 853
an account, inventory, certificate of notice of probate of will, 854
or report when due according to section 2107.19, 2109.30, 2111.49, 855
or 2115.02 of the Revised Code or when ordered by the probate 856
court, the court at its own instance may issue, and on the 857
application of any interested party or of any of the next of kin 858
of any ward shall issue, a citation as described in division (B) 859
of this section to such fiduciary pursuant to Civil Rules 4.1 to 860
4.6 to compel the filing of the overdue account, inventory, 861
certificate of notice of probate of will, or report. 862

(B) The citation that is required by division (A) of this 863
section may contain any of the following: 864

(1) A statement that the particular account, inventory, 865
certificate of notice of probate of will, or report is overdue; 866

(2) An order to the fiduciary to file the account, inventory, 867
certificate of notice of probate of will, or report, or otherwise 868
to appear before the court on a specified date; 869

(3) A statement that, upon the issuance of the citation, a 870
continuance to file the account, inventory, certificate of notice 871
of probate of will, or report may be obtained from the court only 872
on or after the date specified pursuant to division (B)(2) of this 873
section. 874

(C) If a citation is issued to a fiduciary in accordance with 875
divisions (A) and (B) of this section and if the fiduciary fails 876
to file the account, inventory, certificate of notice of probate 877
of will, or report prior to the appearance date specified in the 878

citation, the court may order, on that date, one or more of the 879
following: 880

(1) The removal of the fiduciary; 881

(2) A denial of all or part of the fees to which the 882
fiduciary otherwise would be entitled; 883

(3) A continuance of the time for filing the account, 884
inventory, certificate of notice of probate of will, or report; 885

(4) An assessment against the fiduciary of a penalty of one 886
hundred dollars and costs of twenty-five dollars for the hearing, 887
or a suspension of all or part of the penalty and costs; 888

(5) That the fiduciary is in contempt of the court for the 889
failure to comply with the citation and that a specified daily 890
fine, imprisonment, or daily fine and imprisonment may be imposed 891
against the fiduciary, beginning with the appearance date, until 892
the account, inventory, certificate of notice of probate of will, 893
or report is filed with the court; 894

(6) If the fiduciary does not appear in the court on the 895
specified appearance date, that the fiduciary is in contempt of 896
the court for the failure to comply with the citation, and that 897
one of the following may occur: 898

(a) The fiduciary shall be taken into custody by the sheriff 899
or a deputy sheriff and brought before the court. 900

(b) The fiduciary shall appear before the court on a 901
specified date or otherwise be taken into custody by the sheriff 902
or a deputy sheriff and brought before the court. 903

(D) The assessments, fines, and other sanctions that the 904
court may impose upon a fiduciary pursuant to this section may be 905
imposed only upon a fiduciary and shall not be imposed upon the 906
surety of any fiduciary. 907

Sec. 2109.32. (A) Every fiduciary's account required by 908
section ~~2109.30~~ 2109.301, 2109.302, or 2109.303 of the Revised 909
Code shall be set for hearing before the probate court. The 910
hearing on the account shall be set not earlier than thirty days 911
after the filing of the account. 912

At the hearing upon an account required by section 2109.302 913
or 2109.303 of the Revised Code and, if ordered by the court, upon 914
an account required by section 2109.301 of the Revised Code, the 915
court shall inquire into, consider, and determine all matters 916
relative to the account and the manner in which the fiduciary has 917
executed ~~his~~ the fiduciary's trust, including the investment of 918
trust funds, and may order the account approved and settled or 919
make any other order as the court considers proper. If, at the 920
hearing upon an account, the court finds that the fiduciary has 921
fully and lawfully administered the estate or trust and has 922
distributed the assets of the estate or trust in accordance with 923
the law or the instrument governing distribution, as shown in the 924
account, the court shall order the account approved and settled 925
and may order the fiduciary discharged. Upon approval of a final 926
and distributive account required by division (B)(1) of section 927
2109.301 of the Revised Code, the court may order the surety bond 928
for the fiduciary terminated. Unless otherwise ordered by the 929
court, the fiduciary shall be discharged without further order 930
twelve months following the approval of the final and distributive 931
account. 932

(B)(1) An administrator or executor filing an account 933
pursuant to section 2109.301 of the Revised Code shall provide at 934
the time of filing the account a copy of the account to each heir 935
of an intestate estate or to each beneficiary of a testate estate. 936
An administrator or executor is not required to provide a copy of 937
the account to any of the following: 938

<u>(a) An heir or a beneficiary whose residence is unknown;</u>	939
<u>(b) A beneficiary of a specific bequest or devise who has received his or her distribution and for which a receipt has been filed or exhibited with the court.</u>	940 941 942
(2) The probate court shall not approve the final account of any executor or administrator until the following events have occurred:	943 944 945
(A) <u>(a)</u> Three months have passed since the death of the decedent + .	946 947
(B) <u>(b)</u> The surviving spouse has filed an election to take under or against the will, or the time for making the election has expired.	948 949 950
<u>(3) If an administrator or executor learns of the existence of newly discovered assets after the filing of the final account or otherwise comes into possession of assets belonging to the estate after the filing of the final account, the executor or administrator shall file a supplemental final account with respect to the disposition of the assets and shall provide a copy of the supplemental final account to each heir of an intestate estate or to each beneficiary of a testate estate, as provided in division (B)(1) of this section and subject to the exceptions specified in divisions (B)(1)(a) and (b) of this section.</u>	951 952 953 954 955 956 957 958 959 960
<u>(C) The rights of any person with a pecuniary interest in the estate are not barred by approval of an account pursuant to divisions (A) and (B) of this section. These rights may be barred following a hearing on the account pursuant to section 2109.33 of the Revised Code.</u>	961 962 963 964 965
Sec. 2113.25. So far as he <u>the executor or administrator</u> is able, the executor or administrator of an estate shall collect the assets and complete the administration of such <u>that</u> estate within	966 967 968

nine thirteen months after the date of his appointment. 969

Upon application of the executor or administrator and notice 970
to the interested parties, if the probate court ~~deems such~~ 971
considers that notice necessary, the court may allow further time 972
in which to collect assets, to convert assets into money, to pay 973
creditors, to make distributions to legatees or distributees, to 974
file partial, final, and distributive accounts, and to settle 975
estates. The court, upon application of any interested party, may 976
authorize the examination under oath in open court of the executor 977
or administrator upon any matter relating to the administration of 978
the estate. 979

Sec. 2113.28. The time allowed by the probate court to 980
collect the assets of an estate shall not operate as an allowance 981
of further time to file the accounts required by section ~~2109.30~~ 982
2109.301 of the Revised Code. 983

Sec. 2113.53. (A) At any time after the appointment of an 984
executor or administrator, the executor or administrator may 985
distribute to the beneficiaries entitled to assets of the estate 986
under the will, if there is no action pending to set aside the 987
will, or to the heirs entitled to assets of the estate by law, in 988
cash or in kind, any part or all of the assets of the estate. Each 989
beneficiary or heir is liable to return the assets, or the 990
proceeds from the assets, if they are necessary to satisfy the 991
share of a surviving spouse who elects to take against the will 992
pursuant to section 2106.01 of the Revised Code, ~~or~~ if they are 993
necessary to satisfy any claims against the estate as provided in 994
this section, or if the will is set aside. If any 995

(B) After distribution pursuant to division (A) of this 996
section, a distributee shall be personally liable to a claimant 997
who presents a claim within the time set forth in division (B) of 998
section 2117.06 of the Revised Code, subject to the limitations 999

described in this division. 1000

The personal liability of any distributee shall not exceed 1001
the lesser of the following: 1002

(1) The amount the distributee has received reduced by the 1003
amount, if any, previously returned or otherwise used for the 1004
payment of the spouse's share or claims finally allowed; 1005

(2) The distributee's proportionate share of the spouse's 1006
share or of claims finally allowed. Any distributee's 1007
proportionate share of the spouse's share or of claims finally 1008
allowed shall be determined by the following fraction: 1009

(a) The numerator shall be the total amount received by the 1010
distributee, reduced by all amounts, if any, previously returned 1011
or otherwise used for the payment of the spouse's share or claims 1012
finally allowed. 1013

(b) The denominator shall be the total amount received by all 1014
distributees reduced by all amounts, if any, previously returned 1015
or otherwise used for the payment of the spouse's share or claims 1016
finally allowed. 1017

(C) If there is a surviving spouse and if the executor or 1018
administrator distributes any part of the assets of the estate 1019
before the expiration of the times described in division (E) of 1020
section 2106.01 of the Revised Code for the making of an election 1021
by a surviving spouse, ~~he is~~ the executor or administrator shall 1022
be personally liable to any surviving spouse who subsequently 1023
elects to take against the will. If the executor or administrator 1024
distributes any part of the assets of the estate within three 1025
months after the death of the decedent, the executor or 1026
administrator ~~is~~ shall be personally liable only to those 1027
claimants who present their claims within that three-month period. 1028
If the executor or administrator distributes any part of the 1029
assets of the estate more than three months but less than one year 1030

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after the death of the decedent, the executor or administrator ~~is~~ 1031
shall be personally liable only to those claimants who present 1032
their claims before the time of distribution. ~~If the executor or~~ 1033
~~administrator distributes any part of the assets of the estate~~ 1034
~~more than one year after the death of the decedent, he is~~ 1035
~~personally liable only to those claimants who present their claims~~ 1036
~~within one year after the death of the decedent. The executor or~~ 1037
~~administrator shall be liable only to the extent a claim is~~ 1038
finally allowed and within the time set forth in division (B) of 1039
section 2117.06 of the Revised Code. 1040

The executor or administrator shall be liable only to the 1041
extent that the sum of the remaining assets of the estate and the 1042
assets returned by the beneficiaries or heirs is insufficient to 1043
satisfy the share of the surviving spouse and to satisfy the 1044
claims against the estate. The executor or administrator shall not 1045
be liable in any case for an amount greater than the value of the 1046
estate that existed at the time that the distribution of assets 1047
was made and that was subject to the spouse's share or to the 1048
claims. 1049

Any (D) The executor or administrator may provide for the 1050
payment of rejected claims or claims in suit by setting aside a 1051
sufficient amount of the assets of the estate for paying the 1052
claims. The assets shall be set aside for the payment of the 1053
claims in a manner approved by the probate court. Each claimant 1054
for whom assets are to be set aside shall be given notice, in the 1055
manner as the court shall order, of the hearing upon the 1056
application to set aside assets and shall have the right to be 1057
fully heard as to the nature and amount of the assets to be set 1058
aside for payment of ~~his~~ the claim and as to all other conditions 1059
in connection with the claim. In any case in which the executor or 1060
administrator may set aside assets as provided in this section, 1061
the court, upon its own motion or upon application of the executor 1062

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or administrator, as a condition precedent to any distribution, 1063
may require any beneficiary or heir to give a bond to the state 1064
with surety approved and in an amount fixed by the court, 1065
conditioned to secure the return of the assets to be distributed, 1066
or the proceeds from the assets or as much of the assets as may be 1067
necessary to satisfy the claims that may be recovered against the 1068
estate, and to indemnify the executor or administrator against 1069
loss and damage on account of such distribution. The bond may be 1070
in addition to the assets to be set aside or partially or wholly 1071
in lieu of the assets, as the court shall determine. 1072

Sec. 2113.64. If a sum of money ~~directed by a decree or order~~ 1073
~~of the probate court~~ to be distributed to heirs, next of kin, or 1074
legatees, or owing from an estate to a creditor ~~thereof~~ of the 1075
estate, remains ~~for six months~~ unclaimed prior to the filing of a 1076
final account, the court may order it turned into the county 1077
treasury as provided in section 2113.65 of the Revised Code, or 1078
may order the executor or administrator to invest it as the court 1079
directs for a period not to exceed ~~one year~~ two years, to 1080
accumulate for the benefit of the persons entitled ~~thereto~~ to the 1081
sum of money. Such investment shall be made in the name of the 1082
probate judge of the court for the time being and shall be subject 1083
to the order of the judge and ~~his~~ the judge's successors in 1084
office. 1085

Sec. 2115.09. The inventory required by section 2115.02 of 1086
the Revised Code shall contain a particular statement of all 1087
securities for the payment of money ~~which~~ that belong to the 1088
deceased and are known to ~~such~~ the executor or administrator. Such 1089
inventory shall specify the name of the debtor in each security, 1090
the date, the sum originally payable, the indorsements thereon 1091
with their dates, the serial numbers or other identifying data as 1092
to each security, and the sum ~~which~~ that, in the judgment of the 1093

appraisers, can be collected on each claim. 1094

Such inventory ~~must~~ shall contain a statement of all debts 1095
and accounts belonging to the deceased ~~which~~ that are known to 1096
such executor or administrator and specify the name of the debtor, 1097
the date, the balance or thing due, and the value or sum ~~which~~ 1098
that can be collected thereon, in the judgment of the appraisers. 1099

Such inventory ~~must~~ shall contain an account of all moneys 1100
~~which~~ that belong to the deceased and have come to the hands of 1101
the executor or administrator. If none has come to ~~his~~ the 1102
executor's or administrator's hands, the fact ~~must~~ shall be stated 1103
in the inventory. 1104

The inventory shall contain a statement whether or not, 1105
insofar as it can be ascertained, the filing of an Ohio estate tax 1106
return will be required. 1107

Sec. 2117.06. (A) All creditors having claims against an 1108
estate, including claims arising out of contract, out of tort, on 1109
cognovit notes, or on judgments, whether due or not due, secured 1110
or unsecured, liquidated or unliquidated, shall present their 1111
claims in one of the following manners: 1112

(1) To the executor or administrator in a writing; 1113

(2) To the executor or administrator in a writing, and to the 1114
probate court by filing a copy of the writing with it; 1115

(3) In a writing that is sent by ordinary mail addressed to 1116
the decedent and that is actually received by the executor or 1117
administrator within the appropriate time specified in division 1118
(B) of this section. For purposes of this division, if an executor 1119
or administrator is not a natural person, the writing shall be 1120
considered as being actually received by the executor or 1121
administrator only if the person charged with the primary 1122
responsibility of administering the estate of the decedent 1123

actually receives the writing within the appropriate time 1124
specified in division (B) of this section. 1125

(B) All claims shall be presented within one year after the 1126
death of the decedent, whether or not the estate is released from 1127
administration or an executor or administrator is appointed during 1128
that one-year period. Every claim presented shall set forth the 1129
claimant's address. 1130

(C) A claim that is not presented within one year ~~ater~~ after 1131
the death of the decedent shall be forever barred as to all 1132
parties, including, but not limited to, devisees, legatees, and 1133
distributees. No payment shall be made on the claim and no action 1134
shall be maintained on the claim, except as otherwise provided in 1135
sections 2117.37 to 2117.42 of the Revised Code, with reference to 1136
contingent claims. 1137

(D) In the absence of any prior demand for allowance, the 1138
executor or administrator shall allow or reject all claims, except 1139
tax assessment claims, within thirty days after their 1140
presentation, provided that failure of the executor or 1141
administrator to allow or reject within that time shall not 1142
prevent ~~him~~ the executor or administrator from doing so after that 1143
time and shall not prejudice the rights of any claimant. Upon the 1144
allowance of a claim, the executor or the administrator, on demand 1145
of the creditor, shall furnish the creditor with a written 1146
statement or memorandum of the fact and date of ~~such~~ the 1147
allowance. 1148

(E) If the executor or administrator has actual knowledge of 1149
a pending action commenced against the decedent prior to ~~his~~ the 1150
decedent's death in a court of record in this state, ~~such~~ the 1151
executor or administrator shall file a notice of ~~his~~ the 1152
appointment of the executor or administrator in ~~such~~ the pending 1153
action within ten days after acquiring ~~such~~ that knowledge. If the 1154
administrator or executor is not a natural person, actual 1155

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knowledge of a pending suit against the decedent shall be limited 1156
to the actual knowledge of the person charged with the primary 1157
responsibility of administering the estate of the decedent. 1158
Failure to file the notice within the ten-day period does not 1159
extend the claim period established by this section. 1160

(F) This section applies to any person who is required to 1161
give written notice to the executor or administrator of a motion 1162
or application to revive an action pending against the decedent at 1163
the date of the death of the decedent. 1164

(G) Nothing in this section or in section 2117.07 of the 1165
Revised Code shall be construed to reduce the time mentioned in 1166
section 2125.02, 2305.09, 2305.10, 2305.11, or 2305.12 of the 1167
Revised Code, provided that no portion of any recovery on a claim 1168
brought pursuant to any of those sections shall come from the 1169
assets of an estate, unless the claim has been presented against 1170
the estate in accordance with Chapter 2117. of the Revised Code. 1171

(H) Any person whose claim has been presented, and has not 1172
~~thereafter been~~ rejected, after presentment is a creditor as that 1173
term is used in Chapters 2113. to 2125. of the Revised Code. 1174
Claims that are contingent need not be presented except as 1175
provided in sections 2117.37 to 2117.42 of the Revised Code, but, 1176
whether presented pursuant to those sections or this section, 1177
contingent claims may be presented in any of the manners described 1178
in division (A) of this section. 1179

(I) If a creditor presents a claim against an estate in 1180
accordance with division (A)(2) of this section, the probate court 1181
shall not close the administration of the estate until that claim 1182
is allowed or rejected. 1183

(J) The probate court shall not require an executor or 1184
administrator to make and return into the court a schedule of 1185
claims against the estate. 1186

(K) If the executor or administrator makes a distribution of the assets of the estate prior to the expiration of the time for the filing of claims as set forth in this section, ~~he~~ the executor or administrator shall provide notice on the account delivered to each distributee ~~as provided in that the distributee may be liable to the estate up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section 2113.533 of the Revised Code.~~

Sec. 3705.09. (A) A birth certificate for each live birth in this state shall be filed in the registration district in which it occurs within ten days after such birth and shall be registered if it has been completed and filed in accordance with this section.

(B) When a birth occurs in or en route to an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate within ten days with the local registrar of vital statistics. The physician in attendance shall provide the medical information required by the certificate and certify to the facts of birth within seventy-two hours after the birth.

(C) When a birth occurs outside an institution, the birth certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth;

(2) Any other person in attendance at or immediately after the birth;

(3) The father;	1217
(4) The mother;	1218
(5) The person in charge of the premises where the birth occurred.	1219 1220
(D) Either of the parents of the child or other informant shall attest to the accuracy of the personal data entered on the birth certificate in time to permit the filing of the certificate within the ten days prescribed in this section.	1221 1222 1223 1224
(E) When a birth occurs in a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the record shall show the actual place of birth insofar as can be determined.	1225 1226 1227 1228 1229 1230 1231 1232 1233 1234
(F)(1) If the mother of a child was married at the time of either conception or birth or between conception and birth, the child shall be registered in the surname designated by the mother, and the name of the husband shall be entered on the certificate as the father of the child. The presumption of paternity shall be in accordance with section 3111.03 of the Revised Code.	1235 1236 1237 1238 1239 1240
(2) If the mother was not married at the time of conception or birth or between conception and birth, the child shall be registered by the surname designated by the mother. The name of the father of such child shall also be inserted on the birth certificate if both the mother and the father sign an acknowledgement of paternity affidavit before the birth record has been sent to the local registrar. If the father is not named on	1241 1242 1243 1244 1245 1246 1247

the birth certificate pursuant to division (F)(1) or (2) of this 1248
section, no other information about the father shall be entered on 1249
the record. 1250

(G) When a man is presumed ~~or~~, found, or declared to be the 1251
father of a child, according to section 2105.26, sections 3111.01 1252
to 3111.18, former section 3111.21, or sections 3111.38 to 3111.54 1253
of the Revised Code, or the father has acknowledged the child as 1254
his child in an acknowledgment of paternity, and the 1255
acknowledgment has become final pursuant to section 2151.232, 1256
3111.25, or 3111.821 of the Revised Code, and documentary evidence 1257
of such fact is submitted to the department of health in such form 1258
as the director may require, a new birth record shall be issued by 1259
the department which shall have the same overall appearance as the 1260
record which would have been issued under this section if a 1261
marriage had occurred before the birth of such child. Where 1262
handwriting is required to effect such appearance, the department 1263
shall supply it. Upon the issuance of such new birth record, the 1264
original birth record shall cease to be a public record. Except as 1265
provided in division (C) of section 3705.091 of the Revised Code, 1266
the original record and any documentary evidence supporting the 1267
new registration of birth shall be placed in an envelope which 1268
shall be sealed by the department and shall not be open to 1269
inspection or copy unless so ordered by a court of competent 1270
jurisdiction. 1271

The department shall then promptly forward a copy of the new 1272
birth record to the local registrar of vital statistics of the 1273
district in which the birth occurred, and such local registrar 1274
shall file a copy of such new birth record along with and in the 1275
same manner as the other copies of birth records in such local 1276
registrar's possession. All copies of the original birth record in 1277
the possession of the local registrar or the probate court, as 1278
well as any and all index references to it, shall be destroyed. 1279

Such new birth record, as well as any certified or exact copy of
it, when properly authenticated by a duly authorized person shall
be prima-facie evidence in all courts and places of the facts
stated in it.

(H) When a woman who is a legal resident of this state has
given birth to a child in a foreign country that does not have a
system of registration of vital statistics, a birth record may be
filed in the office of vital statistics on evidence satisfactory
to the director of health.

(I) Every birth certificate filed under this section on or
after July 1, 1990, shall be accompanied by all social security
numbers that have been issued to the parents of the child, unless
the division of child support in the department of job and family
services, acting in accordance with regulations prescribed under
the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405,
as amended, finds good cause for not requiring that the numbers be
furnished with the certificate. The parents' social security
numbers shall not be recorded on the certificate. The local
registrar of vital statistics shall transmit the social security
numbers to the state office of vital statistics in accordance with
section 3705.07 of the Revised Code. No social security number
obtained under this division shall be used for any purpose other
than child support enforcement.

Sec. 5905.11. Every guardian who has received or shall
receive on account of ~~his~~ the guardian's ward any things of value
from the veterans administration shall file with the probate court
annually, on the anniversary date of the appointment, in addition
to any other accounts required by the court, a full and accurate
account of all things of value received by ~~him~~ the guardian, all
earnings, interest, or profits derived from those things of value,
all property acquired with those things of value, and all

disbursements from those things of ~~vaule~~ value. The account shall 1311
show the balance of those things of value in ~~his~~ the guardian's 1312
hands at the date of the account and how it is invested. 1313

The guardian, at the time of filing any account, shall 1314
exhibit all securities or investments held by ~~him~~ the guardian to 1315
an officer of the depository in which the securities or 1316
investments are held for safekeeping, to an authorized 1317
representative of the corporation that is surety on ~~his~~ the 1318
guardian's bond, to the judge or clerk of a court of record in 1319
this state, or, upon request of the guardian or other interested 1320
party, to any other reputable person designated by the probate 1321
court, who shall certify in writing that ~~he~~ the judge, clerk, or 1322
other person has examined the securities or investments and 1323
identified them with those described in the account and shall note 1324
any omissions or discrepancies. If the depository is the guardian, 1325
the certifying officer shall not be the officer verifying the 1326
account. The guardian may exhibit the securities or investments to 1327
the court, which shall indorse on the account and copy of the 1328
account a certificate that the securities or investments shown in 1329
the account as held by the guardian were each in fact exhibited to 1330
~~him~~ the court and that those exhibited to ~~him~~ the court were the 1331
same as those shown in the account, and shall note any omission or 1332
discrepancy. The certificate and the certificate of an official of 1333
the bank in which are deposited any funds for which the guardian 1334
is accountable showing the amount on deposit shall be prepared and 1335
signed in duplicate, and one of each shall be filed by the 1336
guardian with ~~his~~ the guardian's account. 1337

At the time of filing any account in the court, a certified 1338
copy of the account and a signed duplicate of each certificate 1339
filed with the court shall be sent by the guardian to the office 1340
of the veterans administration having jurisdiction over the area 1341
in which the court is located. A signed duplicate or certified 1342

copy of any pleading pertaining to an account, or to any matter
other than an account, that is filed in the guardianship
proceedings or in any proceeding for the purpose of removing the
disability of minority or mental incapacity, shall be furnished by
the person filing the pleading to the proper office of the
veterans administration. Unless hearing is waived in writing by
the attorney of the veterans administration and by all other
persons entitled to notice, the court shall fix a time and place
for the hearing on the account in the manner provided by section
2109.32 of the Revised Code for publishing fiduciary accounts,
unless a different available date is stipulated in writing. Unless
waived in writing, written notice of the time and place of hearing
shall be given to the veterans administration office concerned not
less than fifteen days prior to the date fixed for the hearing.
The notice may be given by mail in which event it shall be
deposited in the mails not less than fifteen days prior to that
date. The court or its clerk shall furnish to that veterans
administration office a copy of each order entered in any
guardianship proceeding in which the administrator is an
interested party.

If the guardian is accountable for property derived from
sources other than the veterans administration, ~~he~~ the guardian
shall be accountable under section ~~2109.30~~ 2109.302 of the Revised
Code, and, as to the other property, the guardian shall be
entitled to the compensation provided by section 2109.23 of the
Revised Code. The account for other property shall be combined
with the account filed in accordance with this section unless
otherwise ordered by the court.

Section 2. That existing sections 2106.01, 2106.02, 2106.13,
2107.19, 2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2109.18,
2109.24, 2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53,
2113.64, 2115.09, 3705.09, and 5905.11, all existing versions of

section 2117.06 that were in effect prior to, on, or after January 1375
27, 1997, the effective date of Am. Sub. H.B. 350 of the 121st 1376
General Assembly, and section 2113.533 of the Revised Code are 1377
hereby repealed. 1378

Section 3. The General Assembly hereby encourages the Supreme 1379
Court to amend Rule 59(B) of the Ohio Rules of Superintendence to 1380
require fiduciaries appointed to administer testate estates to 1381
file a Certificate of Service of Notice of Probate of Will within 1382
two weeks of the fiduciary's appointment. 1383

Section 4. The version of section 2117.06 of the Revised Code 1384
that is presented in this act is the version of that section that 1385
was in effect immediately prior to the effective date of Am. Sub. 1386
H.B. 350 of the 121st General Assembly. That version of section 1387
2117.06 of the Revised Code is used in this act in order to repeal 1388
the amendments made to that section by Am. Sub. H.B. 350 of the 1389
121st General Assembly, to revive the version of that section in 1390
effect immediately prior to January 27, 1997, the effective date 1391
of that act, and to clarify the existing language of that section. 1392

Section 5. Sections 2106.01, 2106.02, 2106.13, 2107.19, 1393
2107.76, 2109.07, 2109.09, 2109.18, 2109.24, 2109.30, 2109.31, 1394
2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 2115.09, and 2117.06 1395
of the Revised Code, as amended by this act, and sections 2106.25 1396
and 2109.301 of the Revised Code, as enacted by this act, apply 1397
only to estates of decedents who die on or after January 1, 2002. 1398

Section 6. Sections 2109.12, 2109.18, 2109.24, 2109.30, and 1399
5905.11 of the Revised Code, as amended by this act, and section 1400
2109.302 of the Revised Code, as enacted by this act, apply to 1401
guardians or conservators of wards' estates that are in existence 1402
or are created on or after January 1, 2002. 1403

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Section 7. Sections 2109.11, 2109.18, 2109.24, and 2109.30 of 1404
the Revised Code, as amended by this act, and section 2109.303 of 1405
the Revised Code, as enacted by this act, apply to testamentary 1406
trustees or other fiduciaries of trusts that are in existence or 1407
are created on or after January 1, 2002 or to other fiduciaries 1408
under governing instruments that are in existence or are created 1409
on or after January 1, 2002. 1410

As used in this section, "other fiduciary" has the same 1411
meaning as in section 2109.303 of the Revised Code, as enacted by 1412
this act. 1413