

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 106

**Representatives Williams, Otterman, McGregor, Hartnett, Hagan, Perry, Gilb,
Koziura, Widowfield, Young, Bocchieri, Willamowski**

A B I L L

To amend sections 2152.18, 3313.533, 3313.672, and 1
5139.05 of the Revised Code to require that upon a 2
child's discharge or release from the custody of 3
the Department of Youth Services certain records 4
pertaining to that child be released to the 5
superintendent of the school district in which the 6
child is entitled to attend school and to specify 7
that a school district's policy on the assignment 8
of students to an alternative school may provide 9
for the assignment of any child released from the 10
custody of the Department of Youth Services to 11
such a school. 12

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

Section 1. That sections 2152.18, 3313.533, 3313.672, and 13
5139.05 of the Revised Code be amended to read as follows: 14

Sec. 2152.18. (A) When a juvenile court commits a delinquent 15
child to the custody of the department of youth services pursuant 16
to this chapter, the court shall not designate the specific 17
institution in which the department is to place the child but 18
instead shall specify that the child is to be institutionalized in 19

a secure facility. 20

(B) When a juvenile court commits a delinquent child to the 21
custody of the department of youth services pursuant to this 22
chapter, the court shall state in the order of commitment the 23
total number of days that the child has been held in detention in 24
connection with the delinquent child complaint upon which the 25
order of commitment is based. The department shall reduce the 26
minimum period of institutionalization that was ordered by both 27
the total number of days that the child has been so held in 28
detention as stated by the court in the order of commitment and 29
the total number of any additional days that the child has been 30
held in detention subsequent to the order of commitment but prior 31
to the transfer of physical custody of the child to the 32
department. 33

(C)(1) When a juvenile court commits a delinquent child to 34
the custody of the department of youth services pursuant to this 35
chapter, the court shall provide the department with the child's 36
medical records, a copy of the report of any mental examination of 37
the child ordered by the court, the Revised Code section or 38
sections the child violated and the degree of each violation, the 39
warrant to convey the child to the department, a copy of the 40
court's journal entry ordering the commitment of the child to the 41
legal custody of the department, a copy of the arrest record 42
pertaining to the act for which the child was adjudicated a 43
delinquent child, a copy of any victim impact statement pertaining 44
to the act, and any other information concerning the child that 45
the department reasonably requests. The court also shall complete 46
the form for the standard predisposition investigation report that 47
the department furnishes pursuant to section 5139.04 of the 48
Revised Code and provide the department with the completed form. 49

The department may refuse to accept physical custody of a 50

delinquent child who is committed to the legal custody of the 51
department until the court provides to the department the 52
documents specified in this division. No officer or employee of 53
the department who refuses to accept physical custody of a 54
delinquent child who is committed to the legal custody of the 55
department shall be subject to prosecution or contempt of court 56
for the refusal if the court fails to provide the documents 57
specified in this division at the time the court transfers the 58
physical custody of the child to the department. 59

(2) Within twenty working days after the department of youth 60
services receives physical custody of a delinquent child from a 61
juvenile court, the court shall provide the department with a 62
certified copy of the child's birth certificate and the child's 63
social security number or, if the court made all reasonable 64
efforts to obtain the information but was unsuccessful, with 65
documentation of the efforts it made to obtain the information. 66

(3) If an officer is preparing pursuant to section 2947.06 or 67
2951.03 of the Revised Code or Criminal Rule 32.2 a presentence 68
investigation report pertaining to a person, the department shall 69
make available to the officer, for use in preparing the report, 70
any records or reports it possesses regarding that person that it 71
received from a juvenile court pursuant to division (C)(1) of this 72
section or that pertain to the treatment of that person after the 73
person was committed to the custody of the department as a 74
delinquent child. 75

(D)(1) Within ten days after an adjudication that a child is 76
a delinquent child, the court shall give written notice of the 77
adjudication to the superintendent of a city, local, exempted 78
village, or joint vocational school district, and to the principal 79
of the school the child attends, if the basis of the adjudication 80
was the commission of an act that would be a criminal offense if 81
committed by an adult, if the act was committed by the delinquent 82

child when the child was fourteen years of age or older, and if 83
the act is any of the following: 84

(a) An act that would be a felony or an offense of violence 85
if committed by an adult, an act in the commission of which the 86
child used or brandished a firearm, or an act that is a violation 87
of section 2907.06, 2907.07, 2907.08, 2907.09, 2907.24, or 88
2907.241 of the Revised Code and that would be a misdemeanor if 89
committed by an adult; 90

(b) A violation of section 2923.12 of the Revised Code or of 91
a substantially similar municipal ordinance that would be a 92
misdemeanor if committed by an adult and that was committed on 93
property owned or controlled by, or at an activity held under the 94
auspices of, the board of education of that school district; 95

(c) A violation of division (A) of section 2925.03 or 2925.11 96
of the Revised Code that would be a misdemeanor if committed by an 97
adult, that was committed on property owned or controlled by, or 98
at an activity held under the auspices of, the board of education 99
of that school district, and that is not a minor drug possession 100
offense; 101

(d) An act that would be a criminal offense if committed by 102
an adult and that results in serious physical harm to persons or 103
serious physical harm to property while the child is at school, on 104
any other property owned or controlled by the board, or at an 105
interscholastic competition, an extracurricular event, or any 106
other school program or activity; 107

(e) Complicity in any violation described in division 108
(D)(1)(a), (b), (c), or (d) of this section that was alleged to 109
have been committed in the manner described in division (D)(1)(a), 110
(b), (c), or (d) of this section, regardless of whether the act of 111
complicity was committed on property owned or controlled by, or at 112
an activity held under the auspices of, the board of education of 113

that school district. 114

(2) The notice given pursuant to division (D)(1) of this 115
section shall include the name of the child who was adjudicated to 116
be a delinquent child, the child's age at the time the child 117
committed the act that was the basis of the adjudication, and 118
identification of the violation of the law or ordinance that was 119
the basis of the adjudication. 120

(3) Within fourteen days after committing a delinquent child 121
to the custody of the department of youth services, the court 122
shall give notice to the school attended by the child of the 123
child's commitment by sending to that school a copy of the court's 124
journal entry ordering the commitment. As soon as possible after 125
receipt of the notice described in this division, the school shall 126
provide the department with the child's school transcript. 127
However, the department shall not refuse to accept a child 128
committed to it, and a child committed to it shall not be held in 129
a county or district detention facility, because of a school's 130
failure to provide the school transcript that it is required to 131
provide under this division. 132

(4) Immediately upon the release or discharge of a child from 133
an institution under its control, the department of youth services 134
shall provide to the superintendent of the school district in 135
which the child is entitled to attend school under section 3313.64 136
or 3313.65 of the Revised Code the following records: 137

(a) A document stating the Revised Code section or sections 138
the child violated and the degree of each violation for which the 139
child was adjudicated a delinquent child; 140

(b) The warrant to convey the child to the department; 141

(c) A copy of the juvenile court's journal entry ordering the 142
commitment of the child to the legal custody of the department; 143

(d) A copy of the arrest record pertaining to the act for which the child was adjudicated a delinquent child; 144
145

(e) The standard predisposition investigation report submitted to the department by the juvenile court pursuant to section 5139.04 of the Revised Code; 146
147
148

(f) The child's disciplinary records for the period the child has been in the custody of the department; 149
150

(g) The record of any mental, emotional, or psychological examination of the child that the department has in its files; 151
152

(h) The child's school transcript; 153

(i) A summary of the institutional record of the child. 154

The records described in divisions (D)(4)(a) to (i) of this section are intended to be used by the superintendent in deciding the appropriate assignment of the child to a school in the district upon the child's discharge or release from the custody of the department. The superintendent shall release those records only as provided in section 3319.321 of the Revised Code and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, as amended. 155
156
157
158
159
160
161
162

Within fourteen days after discharging or releasing the child from an institution under its control, the department shall provide to the superintendent amended versions of the records described in divisions (D)(4)(h) and (i) of this section, if necessary to completely reflect the child's education while in the custody of the department, or a written statement that it is not necessary to provide amended versions. 163
164
165
166
167
168
169

(5) Within fourteen days after discharging or releasing a child from an institution under its control, the department of youth services shall provide the court and the school with an updated copy of the child's school transcript and a summary of the 170
171
172
173

institutional record of the child. The department also shall 174
provide the court with a copy of any portion of the child's 175
institutional record that the court specifically requests, within 176
five working days of the request. 177

(E) At any hearing at which a child is adjudicated a 178
delinquent child or as soon as possible after the hearing, the 179
court shall notify all victims of the delinquent act who may be 180
entitled to a recovery under any of the following sections of the 181
right of the victims to recover, pursuant to section 3109.09 of 182
the Revised Code, compensatory damages from the child's parents; 183
of the right of the victims to recover, pursuant to section 184
3109.10 of the Revised Code, compensatory damages from the child's 185
parents for willful and malicious assaults committed by the child; 186
and of the right of the victims to recover an award of reparations 187
pursuant to sections 2743.51 to 2743.72 of the Revised Code. 188

Sec. 3313.533. (A) The board of education of a city, exempted 189
village, or local school district may adopt a resolution to 190
establish and maintain an alternative school in accordance with 191
this section. The resolution shall specify, but not necessarily be 192
limited to, all of the following: 193

(1) The purpose of the school, which purpose shall be to 194
serve students who are on suspension, who are having truancy 195
problems, who are experiencing academic failure, who have a 196
history of class disruption, ~~or~~ who are exhibiting other academic 197
or behavioral problems specified in the resolution, or who have 198
been discharged or released from the custody of the department of 199
youth services under section 5139.51 of the Revised Code; 200

(2) The grades served by the school, which may include any of 201
grades kindergarten through twelve; 202

(3) A requirement that the school be operated in accordance 203
with this section. The board of education adopting the resolution 204

under division (A) of this section shall be the governing board of 205
the alternative school. The board shall develop and implement a 206
plan for the school in accordance with the resolution establishing 207
the school and in accordance with this section. Each plan shall 208
include, but not necessarily be limited to, all of the following: 209

(a) Specification of the reasons for which students will be 210
accepted for assignment to the school and any criteria for 211
admission that are to be used by the board to approve or 212
disapprove the assignment of students to the school; 213

(b) Specification of the criteria and procedures that will be 214
used for returning students who have been assigned to the school 215
back to the regular education program of the district; 216

(c) An evaluation plan for assessing the effectiveness of the 217
school and its educational program and reporting the results of 218
the evaluation to the public. 219

(B) Notwithstanding any provision of Title XXXIII of the 220
Revised Code to the contrary, the alternative school plan may 221
include any of the following: 222

(1) A requirement that on each school day students must 223
attend school or participate in other programs specified in the 224
plan or by the chief administrative officer of the school for a 225
period equal to the minimum school day set by the state board of 226
education under section 3313.48 of the Revised Code plus any 227
additional time required in the plan or by the chief 228
administrative officer; 229

(2) Restrictions on student participation in extracurricular 230
or interscholastic activities; 231

(3) A requirement that students wear uniforms prescribed by 232
the district board of education. 233

(C) In accordance with the alternative school plan, the 234

district board of education may employ teachers and nonteaching 235
employees necessary to carry out its duties and fulfill its 236
responsibilities or may contract with a nonprofit or for profit 237
entity to operate the alternative school, including the provision 238
of personnel, supplies, equipment, or facilities. 239

(D) An alternative school may be established in all or part 240
of a school building. 241

(E) If a district board of education elects under this 242
section, or is required by section 3313.534 of the Revised Code, 243
to establish an alternative school, the district board may join 244
with the board of education of one or more other districts to form 245
a joint alternative school by forming a cooperative education 246
school district under section 3311.52 or 3311.521 of the Revised 247
Code, or a joint educational program under section 3313.842 of the 248
Revised Code. The authority to employ personnel or to contract 249
with a nonprofit or for profit entity under division (C) of this 250
section applies to any alternative school program established 251
under this division. 252

(F) Any individual employed as a teacher at an alternative 253
school operated by a nonprofit or for profit entity under this 254
section shall be licensed and shall be subject to background 255
checks, as described in section 3319.39 of the Revised Code, in 256
the same manner as an individual employed by a school district. 257

(G) Division (G) of this section applies only to any 258
alternative school that is operated by a nonprofit or for profit 259
entity under contract with the school district. 260

(1) In addition to the specifications authorized under 261
division (B) of this section, any plan adopted under that division 262
for an alternative school to which division (G) of this section 263
also applies shall include the following: 264

(a) A description of the educational program provided at the 265

alternative school, which shall include:	266
(i) Provisions for the school to be configured in clusters or small learning communities;	267 268
(ii) Provisions for the incorporation of education technology into the curriculum;	269 270
(iii) Provisions for accelerated learning programs in reading and mathematics.	271 272
(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.	273 274 275 276 277 278
(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;	279 280 281
(d) A plan for a student's transition from the alternative school back to a school operated by the school district;	282 283
(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.	284 285 286 287 288
(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.	289 290 291
(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing	292 293 294 295

students.	296
(H) When any district board of education determines to	297
contract with a nonprofit or for profit entity to operate an	298
alternative school under this section, the board shall use the	299
procedure set forth in this division.	300
(1) The board shall publish notice of a request for proposals	301
in a newspaper of general circulation in the district once each	302
week for a period of at least two consecutive weeks prior to the	303
date specified by the board for receiving proposals. Notices of	304
requests for proposals shall contain a general description of the	305
subject of the proposed contract and the location where the	306
request for proposals may be obtained. The request for proposals	307
shall include all of the following information:	308
(a) Instructions and information to respondents concerning	309
the submission of proposals, including the name and address of the	310
office where proposals are to be submitted;	311
(b) Instructions regarding communications, including at least	312
the names, titles, and telephone numbers of persons to whom	313
questions concerning a proposal may be directed;	314
(c) A description of the performance criteria that will be	315
used to evaluate whether a respondent to which a contract is	316
awarded is meeting the district's educational standards or the	317
method by which such performance criteria will be determined;	318
(d) Factors and criteria to be considered in evaluating	319
proposals, the relative importance of each factor or criterion,	320
and a description of the evaluation procedures to be followed;	321
(e) Any terms or conditions of the proposed contract,	322
including any requirement for a bond and the amount of such bond;	323
(f) Documents that may be incorporated by reference into the	324
request for proposals, provided that the request for proposals	325

specifies where such documents may be obtained and that such 326
documents are readily available to all interested parties. 327

(2) After the date specified for receiving proposals, the 328
board shall evaluate the submitted proposals and may hold 329
discussions with any respondent to ensure a complete understanding 330
of the proposal and the qualifications of such respondent to 331
execute the proposed contract. Such qualifications shall include, 332
but are not limited to, all of the following: 333

(a) Demonstrated competence in performance of the required 334
services as indicated by effective implementation of educational 335
programs in reading and mathematics and at least three years of 336
experience successfully serving a student population similar to 337
the student population assigned to the alternative school; 338

(b) Demonstrated performance in the areas of cost 339
containment, the provision of educational services of a high 340
quality, and any other areas determined by the board; 341

(c) Whether the respondent has the resources to undertake the 342
operation of the alternative school and to provide qualified 343
personnel to staff the school; 344

(d) Financial responsibility. 345

(3) The board shall select for further review at least three 346
proposals from respondents the board considers qualified to 347
operate the alternative school in the best interests of the 348
students and the district. If fewer than three proposals are 349
submitted, the board shall select each proposal submitted. The 350
board may cancel a request for proposals or reject all proposals 351
at any time prior to the execution of a contract. 352

The board may hold discussions with any of the three selected 353
respondents to clarify or revise the provisions of a proposal or 354
the proposed contract to ensure complete understanding between the 355
board and the respondent of the terms under which a contract will 356

be entered. Respondents shall be accorded fair and equal treatment 357
with respect to any opportunity for discussion regarding 358
clarifications or revisions. The board may terminate or 359
discontinue any further discussion with a respondent upon written 360
notice. 361

(4) Upon further review of the three proposals selected by 362
the board, the board shall award a contract to the respondent the 363
board considers to have the most merit, taking into consideration 364
the scope, complexity, and nature of the services to be performed 365
by the respondent under the contract. 366

(5) Except as provided in division (H)(6) of this section, 367
the request for proposals, submitted proposals, and related 368
documents shall become public records under section 149.43 of the 369
Revised Code after the award of the contract. 370

(6) Any respondent may request in writing that the board not 371
disclose confidential or proprietary information or trade secrets 372
contained in the proposal submitted by the respondent to the 373
board. Any such request shall be accompanied by an offer of 374
indemnification from the respondent to the board. The board shall 375
determine whether to agree to the request and shall inform the 376
respondent in writing of its decision. If the board agrees to 377
nondisclosure of specified information in a proposal, such 378
information shall not become a public record under section 149.43 379
of the Revised Code. If the respondent withdraws its proposal at 380
any time prior to the execution of a contract, the proposal shall 381
not be a public record under section 149.43 of the Revised Code. 382

(I) Upon a recommendation from the department and in 383
accordance with section 3301.16 of the Revised Code, the state 384
board of education may revoke the charter of any alternative 385
school operated by a school district that violates this section. 386

Sec. 3313.672. (A)(1) At the time of ~~his~~ initial entry to a 387

public or nonpublic school, a pupil shall present to the person in 388
charge of admission any records given ~~him~~ the pupil by the public 389
or nonpublic elementary or secondary school ~~he~~ the pupil most 390
recently attended; a certified copy of an order or decree, or 391
modification of such an order or decree allocating parental rights 392
and responsibilities for the care of a child and designating a 393
residential parent and legal custodian of the child, as provided 394
in division (B) of this section, if that type of order or decree 395
has been issued; and a certification of birth issued pursuant to 396
Chapter 3705. of the Revised Code, a comparable certificate or 397
certification issued pursuant to the statutes of another state, 398
territory, possession, or nation, or a document in lieu of a 399
certificate or certification as described in divisions (A)(1)(a) 400
to (e) of this section. Any of the following shall be accepted in 401
lieu of a certificate or certification of birth by the person in 402
charge of admission: 403

(a) A passport or attested transcript of a passport filed 404
with a registrar of passports at a point of entry of the United 405
States showing the date and place of birth of the child; 406

(b) An attested transcript of the certificate of birth; 407

(c) An attested transcript of the certificate of baptism or 408
other religious record showing the date and place of birth of the 409
child; 410

(d) An attested transcript of a hospital record showing the 411
date and place of birth of the child; 412

(e) A birth affidavit. 413

(2) ~~Within~~ If a pupil requesting admission to a school of the 414
school district in which the pupil is entitled to attend school 415
under section 3313.64 or 3313.65 of the Revised Code has been 416
discharged or released from the custody of the department of youth 417

services under section 5139.51 of the Revised Code just prior to 418
requesting admission to the school, no school official shall admit 419
that pupil until the records described in divisions (D)(4)(a) to 420
(i) of section 2152.18 of the Revised Code have been received by 421
the superintendent of the school district. 422

(3) Except as otherwise provided in division (A)(2) of this 423
section, within twenty-four hours of the entry into the school of 424
a pupil described in division (A)(1) of this section, a school 425
official shall request the pupil's official records from the 426
public or nonpublic elementary or secondary school ~~he~~ the pupil 427
most recently attended. If the public or nonpublic school the 428
pupil claims to have most recently attended indicates that it has 429
no record of the pupil's attendance or the records are not 430
received within fourteen days of the date of request, or if the 431
pupil does not present a certification of birth described in 432
division (A)(1) of this section, a comparable certificate or 433
certification from another state, territory, possession, or 434
nation, or another document specified in divisions (A)(1)(a) to 435
(d) of this section, the principal or chief administrative officer 436
of the school shall notify the law enforcement agency having 437
jurisdiction in the area where the pupil resides of this fact and 438
of the possibility that the pupil may be a missing child, as 439
defined in section 2901.30 of the Revised Code. 440

(B) Whenever an order or decree allocating parental rights 441
and responsibilities for the care of a child and designating a 442
residential parent and legal custodian of the child, including a 443
temporary order, is issued resulting from an action of divorce, 444
alimony, annulment, or dissolution of marriage, and the order or 445
decree pertains to a child who is a pupil in a public or nonpublic 446
school, the residential parent of the child shall notify the 447
school of those allocations and designations by providing the 448
person in charge of admission at the pupil's school with a 449

certified copy of the order or decree that made the allocation and 450
designation. Whenever there is a modification of any order or 451
decree allocating parental rights and responsibilities for the 452
care of a child and designating a residential parent and legal 453
custodian of the child that has been submitted to a school, the 454
residential parent shall provide the person in charge of admission 455
at the pupil's school with a certified copy of the order or decree 456
that makes the modification. 457

(C) If, at the time of a pupil's initial entry to a public or 458
nonpublic school, the pupil is under the care of a shelter for 459
victims of domestic violence, as defined in section 3113.33 of the 460
Revised Code, the pupil or ~~his~~ the pupil's parent shall notify the 461
school of that fact. Upon being so informed, the school shall 462
inform the elementary or secondary school from which it requests 463
the pupil's records of that fact. 464

Sec. 5139.05. (A) The juvenile court may commit any child to 465
the department of youth services as authorized in Chapter 2152. of 466
the Revised Code, provided that any child so committed shall be at 467
least ten years of age at the time of the child's delinquent act, 468
and, if the child is ten or eleven years of age, the delinquent 469
act is a violation of section 2909.03 of the Revised Code or would 470
be aggravated murder, murder, or a first or second degree felony 471
offense of violence if committed by an adult. Any order to commit 472
a child to an institution under the control and management of the 473
department shall have the effect of ordering that the child be 474
committed to the department and assigned to an institution as 475
follows: 476

(1) For an indefinite term consisting of the prescribed 477
minimum period specified by the court under division (A)(1) of 478
section 2152.16 of the Revised Code and a maximum period not to 479
exceed the child's attainment of twenty-one years of age, if the 480

child was committed pursuant to section 2152.16 of the Revised Code; 481
482

(2) Until the child's attainment of twenty-one years of age, 483
if the child was committed for aggravated murder or murder 484
pursuant to section 2152.16 of the Revised Code; 485

(3) For a period of commitment that shall be in addition to, 486
and shall be served consecutively with and prior to, a period of 487
commitment described in division (A)(1) or (2) of this section, if 488
the child was committed pursuant to section 2152.17 of the Revised 489
Code; 490

(4) If the child is ten or eleven years of age, to an 491
institution, a residential care facility, a residential facility, 492
or a facility licensed by the department of job and family 493
services that the department of youth services considers best 494
designated for the training and rehabilitation of the child and 495
protection of the public. The child shall be housed separately 496
from children who are twelve years of age or older until the child 497
is released or discharged or until the child attains twelve years 498
of age, whichever occurs first. Upon the child's attainment of 499
twelve years of age, if the child has not been released or 500
discharged, the department is not required to house the child 501
separately. 502

(B)(1) Except as otherwise provided in section 5139.54 of the 503
Revised Code, the release authority of the department of youth 504
services, in accordance with section 5139.51 of the Revised Code 505
and at any time after the end of the minimum period specified 506
under division (A)(1) of section 2152.16 of the Revised Code, may 507
grant the release from custody of any child committed to the 508
department. 509

The order committing a child to the department of youth 510
services shall state that the child has been adjudicated a 511

elinquent child and state the minimum period. The jurisdiction of 512
the court terminates at the end of the minimum period except as 513
follows: 514

(a) In relation to judicial release procedures, supervision, 515
and violations; 516

(b) With respect to functions of the court related to the 517
revocation of supervised release that are specified in sections 518
5139.51 and 5139.52 of the Revised Code; 519

(c) In relation to its duties relating to serious youthful 520
offender dispositional sentences under sections 2152.13 and 521
2152.14 of the Revised Code. 522

(2) When a child has been committed to the department under 523
section 2152.16 of the Revised Code, the department shall retain 524
legal custody of the child until one of the following: 525

(a) The department discharges the child to the exclusive 526
management, control, and custody of the child's parent or the 527
guardian of the child's person or, if the child is eighteen years 528
of age or older, discharges the child. 529

(b) The committing court, upon its own motion, upon petition 530
of the parent, guardian of the person, or next friend of a child, 531
or upon petition of the department, terminates the department's 532
legal custody of the child. 533

(c) The committing court grants the child a judicial release 534
to court supervision under section 2152.22 of the Revised Code. 535

(d) The department's legal custody of the child is terminated 536
automatically by the child attaining twenty-one years of age. 537

(e) If the child is subject to a serious youthful offender 538
dispositional sentence, the adult portion of that dispositional 539
sentence is imposed under section 2152.14 of the Revised Code. 540

(C) When a child is committed to the department of youth 541

services, the department may assign the child to a hospital for 542
mental, physical, and other examination, inquiry, or treatment for 543
the period of time that is necessary. The department may remove 544
any child in its custody to a hospital for observation, and a 545
complete report of every observation at the hospital shall be made 546
in writing and shall include a record of observation, treatment, 547
and medical history and a recommendation for future treatment, 548
custody, and maintenance. The department shall thereupon order the 549
placement and treatment that it determines to be most conducive to 550
the purposes of Chapters 2151. and 5139. of the Revised Code. The 551
committing court and all public authorities shall make available 552
to the department all pertinent data in their possession with 553
respect to the case. 554

(D) Records maintained by the department of youth services 555
pertaining to the children in its custody shall be accessible only 556
to department employees, except by consent of the department ~~or~~, 557
upon the order of the judge of a court of record, or as provided 558
in divisions (D)(1) and (2) of this section. These records shall 559
not be considered "public records," as defined in section 149.43 560
of the Revised Code. 561

(1) Except as otherwise provided by a law of this state or 562
the United States, the department of youth services may release 563
records that are maintained by the department of youth services 564
and that pertain to children in its custody to the department of 565
rehabilitation and correction regarding persons who are under the 566
jurisdiction of the department of rehabilitation and correction 567
and who have previously been committed to the department of youth 568
services. The department of rehabilitation and correction may use 569
those records for the limited purpose of carrying out the duties 570
of the department of rehabilitation and correction. Records 571
released by the department of youth services to the department of 572
rehabilitation and correction shall remain confidential and shall 573

not be considered public records as defined in section 149.43 of 574
the Revised Code. 575

(2) The department of youth services shall provide to the 576
superintendent of the school district in which a child discharged 577
or released from the custody of the department is entitled to 578
attend school under section 3313.64 or 3313.65 of the Revised Code 579
the records described in divisions (D)(4)(a) to (i) of section 580
2152.18 of the Revised Code. Subject to the provisions of section 581
3319.321 of the Revised Code and the Family Educational Rights and 582
Privacy Act, 20 U.S.C. 1232g, as amended, the records released to 583
the superintendent shall remain confidential and shall not be 584
considered public records as defined in section 149.43 of the 585
Revised Code. 586

(E)(1) When a child is committed to the department of youth 587
services, the department, orally or in writing, shall notify the 588
parent, guardian, or custodian of a child that the parent, 589
guardian, or custodian may request at any time from the 590
superintendent of the institution in which the child is located 591
any of the information described in divisions (E)(1)(a), (b), (c), 592
and (d) of this section. The parent, guardian, or custodian may 593
provide the department with the name, address, and telephone 594
number of the parent, guardian, or custodian, and, until the 595
department is notified of a change of name, address, or telephone 596
number, the department shall use the name, address, and telephone 597
number provided by the parent, guardian, or custodian to provide 598
notices or answer inquiries concerning the following information: 599

(a) When the department of youth services makes a permanent 600
assignment of the child to a facility, the department, orally or 601
in writing and on or before the third business day after the day 602
the permanent assignment is made, shall notify the parent, 603
guardian, or custodian of the child of the name of the facility to 604
which the child has been permanently assigned. 605

If a parent, guardian, or custodian of a child who is committed to the department of youth services requests, orally or in writing, the department to provide the parent, guardian, or custodian with the name of the facility in which the child is currently located, the department, orally or in writing and on or before the next business day after the day on which the request is made, shall provide the name of that facility to the parent, guardian, or custodian.

(b) If a parent, guardian, or custodian of a child who is committed to the department of youth services, orally or in writing, asks the superintendent of the institution in which the child is located whether the child is being disciplined by the personnel of the institution, what disciplinary measure the personnel of the institution are using for the child, or why the child is being disciplined, the superintendent or the superintendent's designee, on or before the next business day after the day on which the request is made, shall provide the parent, guardian, or custodian with written or oral responses to the questions.

(c) If a parent, guardian, or custodian of a child who is committed to the department of youth services, orally or in writing, asks the superintendent of the institution in which the child is held whether the child is receiving any medication from personnel of the institution, what type of medication the child is receiving, or what condition of the child the medication is intended to treat, the superintendent or the superintendent's designee, on or before the next business day after the day on which the request is made, shall provide the parent, guardian, or custodian with oral or written responses to the questions.

(d) When a major incident occurs with respect to a child who is committed to the department of youth services, the department, as soon as reasonably possible after the major incident occurs,

shall notify the parent, guardian, or custodian of the child that 638
a major incident has occurred with respect to the child and of all 639
the details of that incident that the department has ascertained. 640

(2) The failure of the department of youth services to 641
provide any notification required by or answer any requests made 642
pursuant to division (E) of this section does not create a cause 643
of action against the state. 644

(F) The department of youth services, as a means of 645
punishment while the child is in its custody, shall not prohibit a 646
child who is committed to the department from seeing that child's 647
parent, guardian, or custodian during standard visitation periods 648
allowed by the department of youth services unless the 649
superintendent of the institution in which the child is held 650
determines that permitting that child to visit with the child's 651
parent, guardian, or custodian would create a safety risk to that 652
child, that child's parents, guardian, or custodian, the personnel 653
of the institution, or other children held in that institution. 654

(G) As used in this section: 655

(1) "Permanent assignment" means the assignment or transfer 656
for an extended period of time of a child who is committed to the 657
department of youth services to a facility in which the child will 658
receive training or participate in activities that are directed 659
toward the child's successful rehabilitation. "Permanent 660
assignment" does not include the transfer of a child to a facility 661
for judicial release hearings pursuant to section 2152.22 of the 662
Revised Code or for any other temporary assignment or transfer to 663
a facility. 664

(2) "Major incident" means the escape or attempted escape of 665
a child who has been committed to the department of youth services 666
from the facility to which the child is assigned; the return to 667
the custody of the department of a child who has escaped or 668

otherwise fled the custody and control of the department without 669
authorization; the allegation of any sexual activity with a child 670
committed to the department; physical injury to a child committed 671
to the department as a result of alleged abuse by department 672
staff; an accident resulting in injury to a child committed to the 673
department that requires medical care or treatment outside the 674
institution in which the child is located; the discovery of a 675
controlled substance upon the person or in the property of a child 676
committed to the department; a suicide attempt by a child 677
committed to the department; a suicide attempt by a child 678
committed to the department that results in injury to the child 679
requiring emergency medical services outside the institution in 680
which the child is located; the death of a child committed to the 681
department; an injury to a visitor at an institution under the 682
control of the department that is caused by a child committed to 683
the department; and the commission or suspected commission of an 684
act by a child committed to the department that would be an 685
offense if committed by an adult. 686

(3) "Sexual activity" has the same meaning as in section 687
2907.01 of the Revised Code. 688

(4) "Controlled substance" has the same meaning as in section 689
3719.01 of the Revised Code. 690

(5) "Residential care facility" and "residential facility" 691
have the same meanings as in section 2151.011 of the Revised Code. 692

Section 2. That existing sections 2152.18, 3313.533, 693
3313.672, and 5139.05 of the Revised Code are hereby repealed. 694

Section 3. Section 2152.18 of the Revised Code is presented 695
in this act as a composite of the section as amended by both Sub. 696
H.B. 247 and Sub. H.B. 393 of the 124th General Assembly. The 697
General Assembly, applying the principle stated in division (B) of 698

section 1.52 of the Revised Code that amendments are to be	699
harmonized if reasonably capable of simultaneous operation, finds	700
that the composite is the resulting version of the section in	701
effect prior to the effective date of the section as presented in	702
this act.	703