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**Sub. H. B. No. 106**

**Representatives Williams, Otterman, McGregor, Hartnett, Hagan, Perry, Gilb,  
Koziura, Widowfield, Young, Boccieri, Willamowski, Aslanides, Carano,  
Chandler, Cirelli, Clancy, Collier, DeBose, Domenick, C. Evans, Flowers,  
Gibbs, Grendell, Harwood, Kilbane, Latta, Martin, Niehaus, T. Patton,  
Peterson, Schlichter, Schmidt, Setzer, Sferra, J. Stewart, Taylor**

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**A B I L L**

To amend sections 2152.18, 3313.533, 3313.672, and 1  
5139.05 of the Revised Code to require the 2  
Department of Youth Services upon request to 3  
release certain records pertaining to a child 4  
discharged or released from its custody to the 5  
school district in which the child is entitled to 6  
attend school and to specify that a school 7  
district's policy on the assignment of students to 8  
an alternative school may provide for the 9  
assignment of any child released from the custody 10  
of the Department of Youth Services to such a 11  
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) Within fourteen days after a request from the 133  
superintendent of a school district pursuant to division (A)(2) of 134  
section 3313.672 of the Revised Code regarding a child released or 135  
discharged from an institution under the control of the department 136  
of youth services, the department shall provide the following 137  
records to the school psychologist named in the request: 138

(a) The child's current individualized education program, as 139  
defined in section 3323.01 of the Revised Code, if such a program 140  
has been developed for the child; 141

(b) A unified case plan and clinical services summary 142

developed for the child by the staff of the institution where the 143  
child resided while in the custody of the department. The unified 144  
case plan shall contain information relating to the child's 145  
behavior and progress while in the custody of the department. 146

The school psychologist to whom the records are released 147  
under division (D)(4) of this section shall review those records 148  
and make a recommendation to the superintendent of the school 149  
district as to the appropriate assignment of the child to a school 150  
in the district. The superintendent shall consider that 151  
recommendation in exercising the superintendent's authority under 152  
section 3319.01 of the Revised Code to assign the child to a 153  
school of the district, which may include an alternative school 154  
established under section 3313.533 of the Revised Code. The 155  
district shall release those records only as provided in sections 156  
2317.02, 3319.321, 4732.19, and 5139.05 of the Revised Code and 157  
the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, as 158  
amended. 159

(5) Within fourteen days after ~~discharging or~~ releasing a 160  
child from an institution under its control, the department of 161  
youth services shall provide the court ~~and the school~~ with an 162  
updated copy of the child's school transcript and a summary of the 163  
institutional record of the child. The department also shall 164  
provide the court with a copy of any portion of the child's 165  
institutional record that the court specifically requests, within 166  
five working days of the request. 167

(E) At any hearing at which a child is adjudicated a 168  
delinquent child or as soon as possible after the hearing, the 169  
court shall notify all victims of the delinquent act who may be 170  
entitled to a recovery under any of the following sections of the 171  
right of the victims to recover, pursuant to section 3109.09 of 172  
the Revised Code, compensatory damages from the child's parents; 173  
of the right of the victims to recover, pursuant to section 174

3109.10 of the Revised Code, compensatory damages from the child's 175  
parents for willful and malicious assaults committed by the child; 176  
and of the right of the victims to recover an award of reparations 177  
pursuant to sections 2743.51 to 2743.72 of the Revised Code. 178

**Sec. 3313.533.** (A) The board of education of a city, exempted 179  
village, or local school district may adopt a resolution to 180  
establish and maintain an alternative school in accordance with 181  
this section. The resolution shall specify, but not necessarily be 182  
limited to, all of the following: 183

(1) The purpose of the school, which purpose shall be to 184  
serve students who are on suspension, who are having truancy 185  
problems, who are experiencing academic failure, who have a 186  
history of class disruption, ~~or~~ who are exhibiting other academic 187  
or behavioral problems specified in the resolution, or who have 188  
been discharged or released from the custody of the department of 189  
youth services under section 5139.51 of the Revised Code; 190

(2) The grades served by the school, which may include any of 191  
grades kindergarten through twelve; 192

(3) A requirement that the school be operated in accordance 193  
with this section. The board of education adopting the resolution 194  
under division (A) of this section shall be the governing board of 195  
the alternative school. The board shall develop and implement a 196  
plan for the school in accordance with the resolution establishing 197  
the school and in accordance with this section. Each plan shall 198  
include, but not necessarily be limited to, all of the following: 199

(a) Specification of the reasons for which students will be 200  
accepted for assignment to the school and any criteria for 201  
admission that are to be used by the board to approve or 202  
disapprove the assignment of students to the school; 203

(b) Specification of the criteria and procedures that will be 204

used for returning students who have been assigned to the school	205
back to the regular education program of the district;	206
(c) An evaluation plan for assessing the effectiveness of the	207
school and its educational program and reporting the results of	208
the evaluation to the public.	209
(B) Notwithstanding any provision of Title XXXIII of the	210
Revised Code to the contrary, the alternative school plan may	211
include any of the following:	212
(1) A requirement that on each school day students must	213
attend school or participate in other programs specified in the	214
plan or by the chief administrative officer of the school for a	215
period equal to the minimum school day set by the state board of	216
education under section 3313.48 of the Revised Code plus any	217
additional time required in the plan or by the chief	218
administrative officer;	219
(2) Restrictions on student participation in extracurricular	220
or interscholastic activities;	221
(3) A requirement that students wear uniforms prescribed by	222
the district board of education.	223
(C) In accordance with the alternative school plan, the	224
district board of education may employ teachers and nonteaching	225
employees necessary to carry out its duties and fulfill its	226
responsibilities or may contract with a nonprofit or for profit	227
entity to operate the alternative school, including the provision	228
of personnel, supplies, equipment, or facilities.	229
(D) An alternative school may be established in all or part	230
of a school building.	231
(E) If a district board of education elects under this	232
section, or is required by section 3313.534 of the Revised Code,	233
to establish an alternative school, the district board may join	234



with the board of education of one or more other districts to form 235  
a joint alternative school by forming a cooperative education 236  
school district under section 3311.52 or 3311.521 of the Revised 237  
Code, or a joint educational program under section 3313.842 of the 238  
Revised Code. The authority to employ personnel or to contract 239  
with a nonprofit or for profit entity under division (C) of this 240  
section applies to any alternative school program established 241  
under this division. 242

(F) Any individual employed as a teacher at an alternative 243  
school operated by a nonprofit or for profit entity under this 244  
section shall be licensed and shall be subject to background 245  
checks, as described in section 3319.39 of the Revised Code, in 246  
the same manner as an individual employed by a school district. 247

(G) Division (G) of this section applies only to any 248  
alternative school that is operated by a nonprofit or for profit 249  
entity under contract with the school district. 250

(1) In addition to the specifications authorized under 251  
division (B) of this section, any plan adopted under that division 252  
for an alternative school to which division (G) of this section 253  
also applies shall include the following: 254

(a) A description of the educational program provided at the 255  
alternative school, which shall include: 256

(i) Provisions for the school to be configured in clusters or 257  
small learning communities; 258

(ii) Provisions for the incorporation of education technology 259  
into the curriculum; 260

(iii) Provisions for accelerated learning programs in reading 261  
and mathematics. 262

(b) A method to determine the reading and mathematics level 263  
of each student assigned to the alternative school and a method to 264

continuously monitor each student's progress in those areas. The 265  
methods employed under this division shall be aligned with the 266  
curriculum adopted by the school district board of education under 267  
section 3313.60 of the Revised Code. 268

(c) A plan for social services to be provided at the 269  
alternative school, such as, but not limited to, counseling 270  
services, psychological support services, and enrichment programs; 271

(d) A plan for a student's transition from the alternative 272  
school back to a school operated by the school district; 273

(e) A requirement that the alternative school maintain 274  
financial records in a manner that is compatible with the form 275  
prescribed for school districts by the auditor of state to enable 276  
the district to comply with any rules adopted by the auditor of 277  
state. 278

(2) Notwithstanding division (A)(2) of this section, any 279  
alternative school to which division (G) of this section applies 280  
shall include only grades six through twelve. 281

(3) Notwithstanding anything in division (A)(3)(a) of this 282  
section to the contrary, the characteristics of students who may 283  
be assigned to an alternative school to which division (G) of this 284  
section applies shall include only disruptive and low-performing 285  
students. 286

(H) When any district board of education determines to 287  
contract with a nonprofit or for profit entity to operate an 288  
alternative school under this section, the board shall use the 289  
procedure set forth in this division. 290

(1) The board shall publish notice of a request for proposals 291  
in a newspaper of general circulation in the district once each 292  
week for a period of at least two consecutive weeks prior to the 293  
date specified by the board for receiving proposals. Notices of 294  
requests for proposals shall contain a general description of the 295

subject of the proposed contract and the location where the 296  
request for proposals may be obtained. The request for proposals 297  
shall include all of the following information: 298

(a) Instructions and information to respondents concerning 299  
the submission of proposals, including the name and address of the 300  
office where proposals are to be submitted; 301

(b) Instructions regarding communications, including at least 302  
the names, titles, and telephone numbers of persons to whom 303  
questions concerning a proposal may be directed; 304

(c) A description of the performance criteria that will be 305  
used to evaluate whether a respondent to which a contract is 306  
awarded is meeting the district's educational standards or the 307  
method by which such performance criteria will be determined; 308

(d) Factors and criteria to be considered in evaluating 309  
proposals, the relative importance of each factor or criterion, 310  
and a description of the evaluation procedures to be followed; 311

(e) Any terms or conditions of the proposed contract, 312  
including any requirement for a bond and the amount of such bond; 313

(f) Documents that may be incorporated by reference into the 314  
request for proposals, provided that the request for proposals 315  
specifies where such documents may be obtained and that such 316  
documents are readily available to all interested parties. 317

(2) After the date specified for receiving proposals, the 318  
board shall evaluate the submitted proposals and may hold 319  
discussions with any respondent to ensure a complete understanding 320  
of the proposal and the qualifications of such respondent to 321  
execute the proposed contract. Such qualifications shall include, 322  
but are not limited to, all of the following: 323

(a) Demonstrated competence in performance of the required 324  
services as indicated by effective implementation of educational 325

programs in reading and mathematics and at least three years of 326  
experience successfully serving a student population similar to 327  
the student population assigned to the alternative school; 328

(b) Demonstrated performance in the areas of cost 329  
containment, the provision of educational services of a high 330  
quality, and any other areas determined by the board; 331

(c) Whether the respondent has the resources to undertake the 332  
operation of the alternative school and to provide qualified 333  
personnel to staff the school; 334

(d) Financial responsibility. 335

(3) The board shall select for further review at least three 336  
proposals from respondents the board considers qualified to 337  
operate the alternative school in the best interests of the 338  
students and the district. If fewer than three proposals are 339  
submitted, the board shall select each proposal submitted. The 340  
board may cancel a request for proposals or reject all proposals 341  
at any time prior to the execution of a contract. 342

The board may hold discussions with any of the three selected 343  
respondents to clarify or revise the provisions of a proposal or 344  
the proposed contract to ensure complete understanding between the 345  
board and the respondent of the terms under which a contract will 346  
be entered. Respondents shall be accorded fair and equal treatment 347  
with respect to any opportunity for discussion regarding 348  
clarifications or revisions. The board may terminate or 349  
discontinue any further discussion with a respondent upon written 350  
notice. 351

(4) Upon further review of the three proposals selected by 352  
the board, the board shall award a contract to the respondent the 353  
board considers to have the most merit, taking into consideration 354  
the scope, complexity, and nature of the services to be performed 355  
by the respondent under the contract. 356

(5) Except as provided in division (H)(6) of this section, 357  
the request for proposals, submitted proposals, and related 358  
documents shall become public records under section 149.43 of the 359  
Revised Code after the award of the contract. 360

(6) Any respondent may request in writing that the board not 361  
disclose confidential or proprietary information or trade secrets 362  
contained in the proposal submitted by the respondent to the 363  
board. Any such request shall be accompanied by an offer of 364  
indemnification from the respondent to the board. The board shall 365  
determine whether to agree to the request and shall inform the 366  
respondent in writing of its decision. If the board agrees to 367  
nondisclosure of specified information in a proposal, such 368  
information shall not become a public record under section 149.43 369  
of the Revised Code. If the respondent withdraws its proposal at 370  
any time prior to the execution of a contract, the proposal shall 371  
not be a public record under section 149.43 of the Revised Code. 372

(I) Upon a recommendation from the department and in 373  
accordance with section 3301.16 of the Revised Code, the state 374  
board of education may revoke the charter of any alternative 375  
school operated by a school district that violates this section. 376

**Sec. 3313.672.** (A)(1) At the time of ~~his~~ initial entry to a 377  
public or nonpublic school, a pupil shall present to the person in 378  
charge of admission any records given ~~him~~ the pupil by the public 379  
or nonpublic elementary or secondary school ~~he~~ the pupil most 380  
recently attended; a certified copy of an order or decree, or 381  
modification of such an order or decree allocating parental rights 382  
and responsibilities for the care of a child and designating a 383  
residential parent and legal custodian of the child, as provided 384  
in division (B) of this section, if that type of order or decree 385  
has been issued; and a certification of birth issued pursuant to 386  
Chapter 3705. of the Revised Code, a comparable certificate or 387

certification issued pursuant to the statutes of another state, 388  
territory, possession, or nation, or a document in lieu of a 389  
certificate or certification as described in divisions (A)(1)(a) 390  
to (e) of this section. Any of the following shall be accepted in 391  
lieu of a certificate or certification of birth by the person in 392  
charge of admission: 393

(a) A passport or attested transcript of a passport filed 394  
with a registrar of passports at a point of entry of the United 395  
States showing the date and place of birth of the child; 396

(b) An attested transcript of the certificate of birth; 397

(c) An attested transcript of the certificate of baptism or 398  
other religious record showing the date and place of birth of the 399  
child; 400

(d) An attested transcript of a hospital record showing the 401  
date and place of birth of the child; 402

(e) A birth affidavit. 403

~~(2) Within (2)(a) If a pupil requesting admission to a school 404  
of the school district in which the pupil is entitled to attend 405  
school under section 3313.64 or 3313.65 of the Revised Code has 406  
been discharged or released from the custody of the department of 407  
youth services under section 5139.51 of the Revised Code just 408  
prior to requesting admission to the school, the superintendent of 409  
the district shall make a written request to the department of 410  
youth services to provide the records described in divisions 411  
(D)(4)(a) and (b) of section 2152.18 of the Revised Code to a 412  
school psychologist identified in accordance with division 413  
(A)(2)(b) of this section. 414~~

(b) The superintendent shall request that the records be 415  
provided only to the following: 416

(i) If the school district employs only one school 417

psychologist, to that school psychologist; 418

(ii) If the school district employs more than one school 419  
psychologist, and one of the school psychologists reports directly 420  
to the superintendent, to the school psychologist who reports 421  
directly to the superintendent; 422

(iii) If the school district employs more than one school 423  
psychologist, and more than one of the school psychologists 424  
reports directly to the superintendent, to the school psychologist 425  
reporting directly to the superintendent who the superintendent 426  
designates; 427

(iv) If the school district employs more than one school 428  
psychologist but no school psychologist reports directly to the 429  
superintendent, to a school psychologist employed by the district 430  
who the superintendent designates; 431

(v) If the school district does not employ a school 432  
psychologist, but receives the services of a school psychologist 433  
from an educational service center or pursuant to a contract for 434  
such services, to a school psychologist who the superintendent 435  
designates. 436

(c) The superintendent shall include in the request the name 437  
and address of the school psychologist to whom the records should 438  
be sent. 439

No school official shall admit the pupil until the records 440  
described in divisions (D)(4)(a) and (b) of section 2152.18 of the 441  
Revised Code have been received by the school psychologist named 442  
in the request. 443

(3) Except as otherwise provided in division (A)(2) of this 444  
section, within twenty-four hours of the entry into the school of 445  
a pupil described in division (A)(1) of this section, a school 446  
official shall request the pupil's official records from the 447

public or nonpublic elementary or secondary school ~~he~~ the pupil 448  
most recently attended. If the public or nonpublic school the 449  
pupil claims to have most recently attended indicates that it has 450  
no record of the pupil's attendance or the records are not 451  
received within fourteen days of the date of request, or if the 452  
pupil does not present a certification of birth described in 453  
division (A)(1) of this section, a comparable certificate or 454  
certification from another state, territory, possession, or 455  
nation, or another document specified in divisions (A)(1)(a) to 456  
(d) of this section, the principal or chief administrative officer 457  
of the school shall notify the law enforcement agency having 458  
jurisdiction in the area where the pupil resides of this fact and 459  
of the possibility that the pupil may be a missing child, as 460  
defined in section 2901.30 of the Revised Code. 461

(B) Whenever an order or decree allocating parental rights 462  
and responsibilities for the care of a child and designating a 463  
residential parent and legal custodian of the child, including a 464  
temporary order, is issued resulting from an action of divorce, 465  
alimony, annulment, or dissolution of marriage, and the order or 466  
decree pertains to a child who is a pupil in a public or nonpublic 467  
school, the residential parent of the child shall notify the 468  
school of those allocations and designations by providing the 469  
person in charge of admission at the pupil's school with a 470  
certified copy of the order or decree that made the allocation and 471  
designation. Whenever there is a modification of any order or 472  
decree allocating parental rights and responsibilities for the 473  
care of a child and designating a residential parent and legal 474  
custodian of the child that has been submitted to a school, the 475  
residential parent shall provide the person in charge of admission 476  
at the pupil's school with a certified copy of the order or decree 477  
that makes the modification. 478

(C) If, at the time of a pupil's initial entry to a public or 479



nonpublic school, the pupil is under the care of a shelter for 480  
victims of domestic violence, as defined in section 3113.33 of the 481  
Revised Code, the pupil or ~~his~~ the pupil's parent shall notify the 482  
school of that fact. Upon being so informed, the school shall 483  
inform the elementary or secondary school from which it requests 484  
the pupil's records of that fact. 485

**Sec. 5139.05.** (A) The juvenile court may commit any child to 486  
the department of youth services as authorized in Chapter 2152. of 487  
the Revised Code, provided that any child so committed shall be at 488  
least ten years of age at the time of the child's delinquent act, 489  
and, if the child is ten or eleven years of age, the delinquent 490  
act is a violation of section 2909.03 of the Revised Code or would 491  
be aggravated murder, murder, or a first or second degree felony 492  
offense of violence if committed by an adult. Any order to commit 493  
a child to an institution under the control and management of the 494  
department shall have the effect of ordering that the child be 495  
committed to the department and assigned to an institution as 496  
follows: 497

(1) For an indefinite term consisting of the prescribed 498  
minimum period specified by the court under division (A)(1) of 499  
section 2152.16 of the Revised Code and a maximum period not to 500  
exceed the child's attainment of twenty-one years of age, if the 501  
child was committed pursuant to section 2152.16 of the Revised 502  
Code; 503

(2) Until the child's attainment of twenty-one years of age, 504  
if the child was committed for aggravated murder or murder 505  
pursuant to section 2152.16 of the Revised Code; 506

(3) For a period of commitment that shall be in addition to, 507  
and shall be served consecutively with and prior to, a period of 508  
commitment described in division (A)(1) or (2) of this section, if 509  
the child was committed pursuant to section 2152.17 of the Revised 510

Code; 511

(4) If the child is ten or eleven years of age, to an 512  
institution, a residential care facility, a residential facility, 513  
or a facility licensed by the department of job and family 514  
services that the department of youth services considers best 515  
designated for the training and rehabilitation of the child and 516  
protection of the public. The child shall be housed separately 517  
from children who are twelve years of age or older until the child 518  
is released or discharged or until the child attains twelve years 519  
of age, whichever occurs first. Upon the child's attainment of 520  
twelve years of age, if the child has not been released or 521  
discharged, the department is not required to house the child 522  
separately. 523

(B)(1) Except as otherwise provided in section 5139.54 of the 524  
Revised Code, the release authority of the department of youth 525  
services, in accordance with section 5139.51 of the Revised Code 526  
and at any time after the end of the minimum period specified 527  
under division (A)(1) of section 2152.16 of the Revised Code, may 528  
grant the release from custody of any child committed to the 529  
department. 530

The order committing a child to the department of youth 531  
services shall state that the child has been adjudicated a 532  
delinquent child and state the minimum period. The jurisdiction of 533  
the court terminates at the end of the minimum period except as 534  
follows: 535

(a) In relation to judicial release procedures, supervision, 536  
and violations; 537

(b) With respect to functions of the court related to the 538  
revocation of supervised release that are specified in sections 539  
5139.51 and 5139.52 of the Revised Code; 540

(c) In relation to its duties relating to serious youthful 541

offender dispositional sentences under sections 2152.13 and 542  
2152.14 of the Revised Code. 543

(2) When a child has been committed to the department under 544  
section 2152.16 of the Revised Code, the department shall retain 545  
legal custody of the child until one of the following: 546

(a) The department discharges the child to the exclusive 547  
management, control, and custody of the child's parent or the 548  
guardian of the child's person or, if the child is eighteen years 549  
of age or older, discharges the child. 550

(b) The committing court, upon its own motion, upon petition 551  
of the parent, guardian of the person, or next friend of a child, 552  
or upon petition of the department, terminates the department's 553  
legal custody of the child. 554

(c) The committing court grants the child a judicial release 555  
to court supervision under section 2152.22 of the Revised Code. 556

(d) The department's legal custody of the child is terminated 557  
automatically by the child attaining twenty-one years of age. 558

(e) If the child is subject to a serious youthful offender 559  
dispositional sentence, the adult portion of that dispositional 560  
sentence is imposed under section 2152.14 of the Revised Code. 561

(C) When a child is committed to the department of youth 562  
services, the department may assign the child to a hospital for 563  
mental, physical, and other examination, inquiry, or treatment for 564  
the period of time that is necessary. The department may remove 565  
any child in its custody to a hospital for observation, and a 566  
complete report of every observation at the hospital shall be made 567  
in writing and shall include a record of observation, treatment, 568  
and medical history and a recommendation for future treatment, 569  
custody, and maintenance. The department shall thereupon order the 570  
placement and treatment that it determines to be most conducive to 571  
the purposes of Chapters 2151. and 5139. of the Revised Code. The 572

committing court and all public authorities shall make available 573  
to the department all pertinent data in their possession with 574  
respect to the case. 575

(D) Records maintained by the department of youth services 576  
pertaining to the children in its custody shall be accessible only 577  
to department employees, except by consent of the department ~~or~~, 578  
upon the order of the judge of a court of record, or as provided 579  
in divisions (D)(1) and (2) of this section. These records shall 580  
not be considered "public records," as defined in section 149.43 581  
of the Revised Code. 582

(1) Except as otherwise provided by a law of this state or 583  
the United States, the department of youth services may release 584  
records that are maintained by the department of youth services 585  
and that pertain to children in its custody to the department of 586  
rehabilitation and correction regarding persons who are under the 587  
jurisdiction of the department of rehabilitation and correction 588  
and who have previously been committed to the department of youth 589  
services. The department of rehabilitation and correction may use 590  
those records for the limited purpose of carrying out the duties 591  
of the department of rehabilitation and correction. Records 592  
released by the department of youth services to the department of 593  
rehabilitation and correction shall remain confidential and shall 594  
not be considered public records as defined in section 149.43 of 595  
the Revised Code. 596

(2) The department of youth services shall provide the 597  
records described in divisions (D)(4)(a) and (b) of section 598  
2152.18 of the Revised Code to the school psychologist named by 599  
the school district in which a child discharged or released from 600  
the custody of the department is entitled to attend school under 601  
section 3313.64 or 3313.65 of the Revised Code. Subject to the 602  
provisions of this section and sections 2317.02, 3319.321, and 603  
4732.19 of the Revised Code and the Family Educational Rights and 604

Privacy Act, 20 U.S.C. 1232g, as amended, the records released  
shall remain confidential and shall not be considered public  
records as defined in section 149.43 of the Revised Code.

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

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

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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.

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(b) If a parent, guardian, or custodian of a child who is

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committed to the department of youth services, orally or in 636  
writing, asks the superintendent of the institution in which the 637  
child is located whether the child is being disciplined by the 638  
personnel of the institution, what disciplinary measure the 639  
personnel of the institution are using for the child, or why the 640  
child is being disciplined, the superintendent or the 641  
superintendent's designee, on or before the next business day 642  
after the day on which the request is made, shall provide the 643  
parent, guardian, or custodian with written or oral responses to 644  
the questions. 645

(c) If a parent, guardian, or custodian of a child who is 646  
committed to the department of youth services, orally or in 647  
writing, asks the superintendent of the institution in which the 648  
child is held whether the child is receiving any medication from 649  
personnel of the institution, what type of medication the child is 650  
receiving, or what condition of the child the medication is 651  
intended to treat, the superintendent or the superintendent's 652  
designee, on or before the next business day after the day on 653  
which the request is made, shall provide the parent, guardian, or 654  
custodian with oral or written responses to the questions. 655

(d) When a major incident occurs with respect to a child who 656  
is committed to the department of youth services, the department, 657  
as soon as reasonably possible after the major incident occurs, 658  
shall notify the parent, guardian, or custodian of the child that 659  
a major incident has occurred with respect to the child and of all 660  
the details of that incident that the department has ascertained. 661

(2) The failure of the department of youth services to 662  
provide any notification required by or answer any requests made 663  
pursuant to division (E) of this section does not create a cause 664  
of action against the state. 665

(F) The department of youth services, as a means of 666  
punishment while the child is in its custody, shall not prohibit a 667

child who is committed to the department from seeing that child's 668  
parent, guardian, or custodian during standard visitation periods 669  
allowed by the department of youth services unless the 670  
superintendent of the institution in which the child is held 671  
determines that permitting that child to visit with the child's 672  
parent, guardian, or custodian would create a safety risk to that 673  
child, that child's parents, guardian, or custodian, the personnel 674  
of the institution, or other children held in that institution. 675

(G) As used in this section: 676

(1) "Permanent assignment" means the assignment or transfer 677  
for an extended period of time of a child who is committed to the 678  
department of youth services to a facility in which the child will 679  
receive training or participate in activities that are directed 680  
toward the child's successful rehabilitation. "Permanent 681  
assignment" does not include the transfer of a child to a facility 682  
for judicial release hearings pursuant to section 2152.22 of the 683  
Revised Code or for any other temporary assignment or transfer to 684  
a facility. 685

(2) "Major incident" means the escape or attempted escape of 686  
a child who has been committed to the department of youth services 687  
from the facility to which the child is assigned; the return to 688  
the custody of the department of a child who has escaped or 689  
otherwise fled the custody and control of the department without 690  
authorization; the allegation of any sexual activity with a child 691  
committed to the department; physical injury to a child committed 692  
to the department as a result of alleged abuse by department 693  
staff; an accident resulting in injury to a child committed to the 694  
department that requires medical care or treatment outside the 695  
institution in which the child is located; the discovery of a 696  
controlled substance upon the person or in the property of a child 697  
committed to the department; a suicide attempt by a child 698  
committed to the department; a suicide attempt by a child 699

committed to the department that results in injury to the child 700  
requiring emergency medical services outside the institution in 701  
which the child is located; the death of a child committed to the 702  
department; an injury to a visitor at an institution under the 703  
control of the department that is caused by a child committed to 704  
the department; and the commission or suspected commission of an 705  
act by a child committed to the department that would be an 706  
offense if committed by an adult. 707

(3) "Sexual activity" has the same meaning as in section 708  
2907.01 of the Revised Code. 709

(4) "Controlled substance" has the same meaning as in section 710  
3719.01 of the Revised Code. 711

(5) "Residential care facility" and "residential facility" 712  
have the same meanings as in section 2151.011 of the Revised Code. 713

**Section 2.** That existing sections 2152.18, 3313.533, 714  
3313.672, and 5139.05 of the Revised Code are hereby repealed. 715

**Section 3.** Section 2152.18 of the Revised Code is presented 716  
in this act as a composite of the section as amended by both Sub. 717  
H.B. 247 and Sub. H.B. 393 of the 124th General Assembly. The 718  
General Assembly, applying the principle stated in division (B) of 719  
section 1.52 of the Revised Code that amendments are to be 720  
harmonized if reasonably capable of simultaneous operation, finds 721  
that the composite is the resulting version of the section in 722  
effect prior to the effective date of the section as presented in 723  
this act. 724