

As Reported by the Senate Judiciary--Civil Justice Committee

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 51

Representatives Hughes, Willamowski, Oelslager, Harwood, Book, Brown,
Carmichael, C. Evans, Fessler, Flowers, Gilb, Hartnett, Latta, Martin,
McGregor, T. Patton, Perry, Reidelbach, Schmidt, Schneider, Skindell,
S. Smith, D. Stewart, Yates

A BILL

To amend sections 109.572, 313.12, 2106.01, 2106.02, 1
2107.19, 2108.50, 2109.301, 2109.32, 2113.53, 2
2117.06, 2117.07, 2117.11, 2117.12, 2151.421, 3
2311.14, 2930.03, 5120.173, 5123.081, 5123.50, 4
5123.51, 5123.61, 5123.99, 5126.28, 5126.30, and 5
5126.33 and to enact sections 2101.163, 2108.521, 6
2152.821, 2903.341, 2930.061, 2945.482, 2945.491, 7
5123.541, 5123.542, 5123.614, 5126.058, 5126.331, 8
5126.332, and 5126.333 of the Revised Code 9
relative to the election by a surviving spouse, 10
notice of admission of a will to probate, accounts 11
of administrators and executors, distribution of 12
estate assets, presentation of creditors' claims 13
to distributees, dispute resolution procedures in 14
probate court, time for presenting claims against 15
an estate, to implement the recommendations of the 16
MR/DD Victims of Crime Task Force, to make related 17
changes in the law, and to amend the version of 18
section 5123.50 of the Revised Code that is 19
scheduled to take effect December 31, 2003, to 20
continue the provisions of this act on and after 21

that effective date.

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

Section 1. That sections 109.572, 313.12, 2106.01, 2106.02, 23
2107.19, 2108.50, 2109.301, 2109.32, 2113.53, 2117.06, 2117.07, 24
2117.11, 2117.12, 2151.421, 2311.14, 2930.03, 5120.173, 5123.081, 25
5123.50, 5123.51, 5123.61, 5123.99, 5126.28, 5126.30, and 5126.33 26
be amended and sections 2101.163, 2108.521, 2152.821, 2903.341, 27
2930.061, 2945.482, 2945.491, 5123.541, 5123.542, 5123.614, 28
5126.058, 5126.331, 5126.332, and 5126.333 of the Revised Code be 29
enacted to read as follows: 30

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 31
section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, 32
or 5153.111 of the Revised Code, a completed form prescribed 33
pursuant to division (C)(1) of this section, and a set of 34
fingerprint impressions obtained in the manner described in 35
division (C)(2) of this section, the superintendent of the bureau 36
of criminal identification and investigation shall conduct a 37
criminal records check in the manner described in division (B) of 38
this section to determine whether any information exists that 39
indicates that the person who is the subject of the request 40
previously has been convicted of or pleaded guilty to any of the 41
following: 42

(a) A violation of section 2903.01, 2903.02, 2903.03, 43
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 44
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 45
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 46
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 47
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 48
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 49

2925.06, or 3716.11 of the Revised Code, felonious sexual
penetration in violation of former section 2907.12 of the Revised
Code, a violation of section 2905.04 of the Revised Code as it
existed prior to July 1, 1996, a violation of section 2919.23 of
the Revised Code that would have been a violation of section
2905.04 of the Revised Code as it existed prior to July 1, 1996,
had the violation been committed prior to that date, or a
violation of section 2925.11 of the Revised Code that is not a
minor drug possession offense;

(b) A violation of an existing or former law of this state,
any other state, or the United States that is substantially
equivalent to any of the offenses listed in division (A)(1)(a) of
this section.

(2) On receipt of a request pursuant to section 5123.081 of
the Revised Code with respect to an applicant for employment in
any position with the department of mental retardation and
developmental disabilities, pursuant to section 5126.28 of the
Revised Code with respect to an applicant for employment in any
position with a county board of mental retardation and
developmental disabilities, or pursuant to section 5126.281 of the
Revised Code with respect to an applicant for employment in a
direct services position with an entity contracting with a county
board for employment, a completed form prescribed pursuant to
division (C)(1) of this section, and a set of fingerprint
impressions obtained in the manner described in division (C)(2) of
this section, the superintendent of the bureau of criminal
identification and investigation shall conduct a criminal records
check. The superintendent shall conduct the criminal records check
in the manner described in division (B) of this section to
determine whether any information exists that indicates that the
person who is the subject of the request has been convicted of or
pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 82
2903.341, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 83
2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 84
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 85
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 86
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 87
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 88
2925.03, or 3716.11 of the Revised Code; 89

(b) An existing or former municipal ordinance or law of this 90
state, any other state, or the United States that is substantially 91
equivalent to any of the offenses listed in division (A)(2)(a) of 92
this section. 93

(3) On receipt of a request pursuant to section 173.41, 94
3712.09, 3721.121, or 3722.151 of the Revised Code, a completed 95
form prescribed pursuant to division (C)(1) of this section, and a 96
set of fingerprint impressions obtained in the manner described in 97
division (C)(2) of this section, the superintendent of the bureau 98
of criminal identification and investigation shall conduct a 99
criminal records check with respect to any person who has applied 100
for employment in a position that involves providing direct care 101
to an older adult. The superintendent shall conduct the criminal 102
records check in the manner described in division (B) of this 103
section to determine whether any information exists that indicates 104
that the person who is the subject of the request previously has 105
been convicted of or pleaded guilty to any of the following: 106

(a) A violation of section 2903.01, 2903.02, 2903.03, 107
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 108
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 109
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 110
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 111
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 112
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 113

2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13,
2925.22, 2925.23, or 3716.11 of the Revised Code; 114
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(b) An existing or former law of this state, any other state,
or the United States that is substantially equivalent to any of
the offenses listed in division (A)(3)(a) of this section. 116
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(4) On receipt of a request pursuant to section 3701.881 of
the Revised Code with respect to an applicant for employment with
a home health agency as a person responsible for the care,
custody, or control of a child, a completed form prescribed
pursuant to division (C)(1) of this section, and a set of
fingerprint impressions obtained in the manner described in
division (C)(2) of this section, the superintendent of the bureau
of criminal identification and investigation shall conduct a
criminal records check. The superintendent shall conduct the
criminal records check in the manner described in division (B) of
this section to determine whether any information exists that
indicates that the person who is the subject of the request
previously has been convicted of or pleaded guilty to any of the
following: 119
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(a) A violation of section 2903.01, 2903.02, 2903.03,
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04,
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21,
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322,
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22,
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03,
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a
violation of section 2925.11 of the Revised Code that is not a
minor drug possession offense; 133
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(b) An existing or former law of this state, any other state,
or the United States that is substantially equivalent to any of 143
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the offenses listed in division (A)(4)(a) of this section. 145

(5) On receipt of a request pursuant to section 3701.881 of 146
the Revised Code with respect to an applicant for employment with 147
a home health agency in a position that involves providing direct 148
care to an older adult, a completed form prescribed pursuant to 149
division (C)(1) of this section, and a set of fingerprint 150
impressions obtained in the manner described in division (C)(2) of 151
this section, the superintendent of the bureau of criminal 152
identification and investigation shall conduct a criminal records 153
check. The superintendent shall conduct the criminal records check 154
in the manner described in division (B) of this section to 155
determine whether any information exists that indicates that the 156
person who is the subject of the request previously has been 157
convicted of or pleaded guilty to any of the following: 158

(a) A violation of section 2903.01, 2903.02, 2903.03, 159
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 160
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 161
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 162
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 163
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 164
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 165
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 166
2925.22, 2925.23, or 3716.11 of the Revised Code; 167

(b) An existing or former law of this state, any other state, 168
or the United States that is substantially equivalent to any of 169
the offenses listed in division (A)(5)(a) of this section. 170

(6) When conducting a criminal records check upon a request 171
pursuant to section 3319.39 of the Revised Code for an applicant 172
who is a teacher, in addition to the determination made under 173
division (A)(1) of this section, the superintendent shall 174
determine whether any information exists that indicates that the 175

person who is the subject of the request previously has been 176
convicted of or pleaded guilty to any offense specified in section 177
3319.31 of the Revised Code. 178

(7) When conducting a criminal records check on a request 179
pursuant to section 2151.86 of the Revised Code for a person who 180
is a prospective foster caregiver or who is eighteen years old or 181
older and resides in the home of a prospective foster caregiver, 182
the superintendent, in addition to the determination made under 183
division (A)(1) of this section, shall determine whether any 184
information exists that indicates that the person has been 185
convicted of or pleaded guilty to a violation of: 186

(a) Section 2909.02 or 2909.03 of the Revised Code; 187

(b) An existing or former law of this state, any other state, 188
or the United States that is substantially equivalent to section 189
2909.02 or 2909.03 of the Revised Code. 190

(8) Not later than thirty days after the date the 191
superintendent receives the request, completed form, and 192
fingerprint impressions, the superintendent shall send the person, 193
board, or entity that made the request any information, other than 194
information the dissemination of which is prohibited by federal 195
law, the superintendent determines exists with respect to the 196
person who is the subject of the request that indicates that the 197
person previously has been convicted of or pleaded guilty to any 198
offense listed or described in division (A)(1), (2), (3), (4), 199
(5), (6), or (7) of this section, as appropriate. The 200
superintendent shall send the person, board, or entity that made 201
the request a copy of the list of offenses specified in division 202
(A)(1), (2), (3), (4), (5), (6), or (7) of this section, as 203
appropriate. If the request was made under section 3701.881 of the 204
Revised Code with regard to an applicant who may be both 205
responsible for the care, custody, or control of a child and 206

involved in providing direct care to an older adult, the 207
superintendent shall provide a list of the offenses specified in 208
divisions (A)(4) and (5) of this section. 209

(B) The superintendent shall conduct any criminal records 210
check requested under section 173.41, 2151.86, 3301.32, 3301.541, 211
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 212
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 213
Code as follows: 214

(1) The superintendent shall review or cause to be reviewed 215
any relevant information gathered and compiled by the bureau under 216
division (A) of section 109.57 of the Revised Code that relates to 217
the person who is the subject of the request, including any 218
relevant information contained in records that have been sealed 219
under section 2953.32 of the Revised Code; 220

(2) If the request received by the superintendent asks for 221
information from the federal bureau of investigation, the 222
superintendent shall request from the federal bureau of 223
investigation any information it has with respect to the person 224
who is the subject of the request and shall review or cause to be 225
reviewed any information the superintendent receives from that 226
bureau. 227

(C)(1) The superintendent shall prescribe a form to obtain 228
the information necessary to conduct a criminal records check from 229
any person for whom a criminal records check is required by 230
section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 231
3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5123.081, 232
5126.28, 5126.281, or 5153.111 of the Revised Code. The form that 233
the superintendent prescribes pursuant to this division may be in 234
a tangible format, in an electronic format, or in both tangible 235
and electronic formats. 236

(2) The superintendent shall prescribe standard impression 237

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sheets to obtain the fingerprint impressions of any person for whom a criminal records check is required by section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

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(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request.

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(4) The superintendent of the bureau of criminal identification and investigation may prescribe methods of

forwarding fingerprint impressions and information necessary to 270
conduct a criminal records check, which methods shall include, but 271
not be limited to, an electronic method. 272

(D) A determination whether any information exists that 273
indicates that a person previously has been convicted of or 274
pleaded guilty to any offense listed or described in division 275
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 276
(b), (A)(5)(a) or (b), (A)(6), or (A)(7)(a) or (b) of this section 277
that is made by the superintendent with respect to information 278
considered in a criminal records check in accordance with this 279
section is valid for the person who is the subject of the criminal 280
records check for a period of one year from the date upon which 281
the superintendent makes the determination. During the period in 282
which the determination in regard to a person is valid, if another 283
request under this section is made for a criminal records check 284
for that person, the superintendent shall provide the information 285
that is the basis for the superintendent's initial determination 286
at a lower fee than the fee prescribed for the initial criminal 287
records check. 288

(E) As used in this section: 289

(1) "Criminal records check" means any criminal records check 290
conducted by the superintendent of the bureau of criminal 291
identification and investigation in accordance with division (B) 292
of this section. 293

(2) "Minor drug possession offense" has the same meaning as 294
in section 2925.01 of the Revised Code. 295

(3) "Older adult" means a person age sixty or older. 296

Sec. 313.12. (A) When any person dies as a result of criminal 297
or other violent means, by casualty, by suicide, or in any 298
suspicious or unusual manner, ~~or~~ when any person, including a 299

child under two years of age, dies suddenly when in apparent good 300
health, or when any mentally retarded person or developmentally 301
disabled person dies regardless of the circumstances, the 302
physician called in attendance, or any member of an ambulance 303
service, emergency squad, or law enforcement agency who obtains 304
knowledge thereof arising from ~~his~~ the person's duties, shall 305
immediately notify the office of the coroner of the known facts 306
concerning the time, place, manner, and circumstances of the 307
death, and any other information ~~which~~ that is required pursuant 308
to sections 313.01 to 313.22 of the Revised Code. In such cases, 309
if a request is made for cremation, the funeral director called in 310
attendance shall immediately notify the coroner. 311

(B) As used in this section, "mentally retarded person" and 312
"developmentally disabled person" have the same meanings as in 313
section 5123.01 of the Revised Code. 314

Sec. 2101.163. (A) A probate judge may establish by rule 315
procedures for the resolution of disputes between parties to any 316
civil action or proceeding that is within the jurisdiction of the 317
probate court. Any procedures so adopted shall include, but are 318
not limited to, mediation. If the probate judge establishes any 319
procedures under this division, the probate judge may charge, in 320
addition to the fees and costs authorized under section 2101.16 of 321
the Revised Code, a reasonable fee, not to exceed fifteen dollars, 322
that is to be collected on the filing of each action or proceeding 323
and that is to be used to implement the procedures. 324

(B) The probate court shall pay to the county treasurer of 325
the county in which the court is located all fees collected under 326
division (A) of this section. The treasurer shall place the funds 327
from the fees in a separate fund to be disbursed upon an order of 328
the probate judge. 329

(C) If the probate judge determines that the amount of the moneys in the fund described in division (B) of this section is more than the amount that is sufficient to satisfy the purpose for which the additional fee described in division (A) of this section was imposed, the probate judge may declare a surplus in the fund and expend the surplus moneys for other appropriate judicial expenses of the probate court.

Sec. 2106.01. (A) After the 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 to take under the will or under section 2105.06 of the Revised Code.

A surviving spouse may waive the service of the citation required under this division by filing in the probate court a written waiver of the citation. The waiver shall include an acknowledgment of receipt of the description of the general rights of the surviving spouse required by division (B) of section 2106.02 of the Revised Code.

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

(C) If the surviving spouse elects to take under section 2105.06 of the Revised Code, the surviving spouse shall take not to exceed one-half of the net estate, unless two or more of the

decedent's children or their lineal descendants survive, in which 361
case the surviving spouse shall take not to exceed one-third of 362
the net estate. 363

For purposes of this division, the net estate shall be 364
determined before payment of federal estate tax, estate taxes 365
under Chapter 5731. of the Revised Code, or any other tax that is 366
subject to apportionment under section 2113.86 or 2113.861 of the 367
Revised Code. 368

(D) Unless the will expressly provides that in case of an 369
election under division (A) of this section there shall be no 370
acceleration of remainder or other interests bequeathed or devised 371
by the will, the balance of the net estate shall be disposed of as 372
though the surviving spouse had predeceased the testator. If there 373
is a disposition by a will to an inter vivos trust that was 374
created by the testator, if under the terms of the trust the 375
surviving spouse is entitled to any interest in the trust or is 376
granted any power or nomination with respect to the trust, and if 377
the surviving spouse makes an election to take under section 378
2105.06 of the Revised Code, then, unless the trust instrument 379
provides otherwise, the surviving spouse is deemed for purposes of 380
the trust to have predeceased the testator, and there shall be an 381
acceleration of remainder or other interests in all property 382
bequeathed or devised to the trust by the will, in all property 383
held by the trustee at the time of the death of the decedent, and 384
in all property that comes into the hands of the trustee by reason 385
of the death of the decedent. 386

(E) The election of a surviving spouse to take under a will 387
or under section 2105.06 of the Revised Code may be made at any 388
time after the death of the decedent, but the surviving spouse 389
shall not make the election later than five months from the date 390
of the initial appointment of an administrator or executor of the 391
estate. On a motion filed before the expiration of the five-month 392

period, and for good cause shown, the court may allow further time 393
for the making of the election. If no action is taken by the 394
surviving spouse before the expiration of the five-month period, 395
it is conclusively presumed that the surviving spouse elects to 396
take under the will. The election shall be entered on the journal 397
of the court. 398

When proceedings for advice or to contest the validity of a 399
will are begun within the time allowed by this division for making 400
the election, the election may be made within three months after 401
the final disposition of the proceedings, if the will is not set 402
aside. 403

(F) When a surviving spouse succeeds to the entire estate of 404
the testator, having been named the sole devisee and legatee, it 405
shall be presumed that the spouse elects to take under the will of 406
the testator, unless the surviving spouse manifests a contrary 407
intention. 408

Sec. 2106.02. (A) The citation to make the election referred 409
to in section 2106.01 of the Revised Code shall be ~~sent to~~ served 410
on the surviving spouse ~~by certified mail~~ pursuant to Civil Rule 411
73. Notice that the citation has been issued by the court shall be 412
given to the administrator or executor of the estate of the 413
deceased spouse. 414

(B) The citation shall be accompanied by a general 415
description of the effect of the election to take under the will 416
or under section 2105.06 of the Revised Code and the general 417
rights of the surviving spouse under Chapter 2106. of the Revised 418
Code. The description shall include a specific reference to the 419
procedures available to the surviving spouse under section 2106.03 420
of the Revised Code and to the presumption that arises if the 421
surviving spouse does not make the election in accordance with 422
division (E) of section 2106.01 of the Revised Code. The 423

description of the general rights of the surviving spouse under 424
Chapter 2106. of the Revised Code shall include a specific 425
reference to the presumption that arises if the surviving spouse 426
does not ~~make~~ exercise the election rights under Chapter 2106. of 427
the Revised Code within the time period specified by section 428
2106.25 of the Revised Code. The description of the effect of the 429
election and of the general rights of the surviving spouse need 430
not relate to the nature of any particular estate. 431

(C) A surviving spouse electing to take under the will may 432
manifest the election in writing within the times described in 433
division (E) of section 2106.01 of the Revised Code. 434

Sec. 2107.19. (A)(1) Subject to divisions (A)(2) and (B) of 435
this section, when a will has been admitted to probate, the 436
fiduciary for the estate or another person specified in division 437
(A)(4) of this section shall, within two weeks of the admission of 438
the will to probate, give a notice as described in this division 439
and in the manner provided by Civil Rule 73(E) to the surviving 440
spouse of the testator, to all persons who would be entitled to 441
inherit from the testator under Chapter 2105. of the Revised Code 442
if the testator had died intestate, and to all legatees and 443
devisees named in the will. The notice shall mention the probate 444
of the will and, if a particular person being given the notice is 445
a legatee or devisee named in the will, shall state that the 446
person is named in the will as beneficiary. A copy of the will 447
admitted to probate is not required to be given with the notice. 448

(2) A person entitled to be given the notice described in 449
division (A)(1) of this section may waive that right by filing a 450
written waiver of the right to receive the notice in the probate 451
court. The person may file the waiver of the right to receive the 452
notice at any time prior to or after the will has been admitted to 453
probate. 454

(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 or, if no fiduciary has been appointed, not later than two months after the admission of the will to probate, unless the court grants an extension of that time. Failure to file the certificate in a timely manner shall subject the fiduciary or applicant 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. 487

Sec. 2108.50. (A) ~~An~~ Subject to section 2108.521 of the 488
Revised Code, an autopsy or post-mortem examination may be 489
performed upon the body of a deceased person by a licensed 490
physician or surgeon if consent has been given in the order named 491
by one of the following persons of sound mind and eighteen years 492
of age or older in a written instrument executed by the person or 493
on the person's behalf at the person's express direction: 494

(1) The deceased person during the deceased person's 495
lifetime; 496

(2) The decedent's spouse; 497

(3) If there is no surviving spouse, if the address of the 498
surviving spouse is unknown or outside the United States, if the 499
surviving spouse is physically or mentally unable or incapable of 500
giving consent, or if the deceased person was separated and living 501
apart from such surviving spouse, then a person having the first 502
named degree of relationship in the following list in which a 503
relative of the deceased person survives and is physically and 504
mentally able and capable of giving consent may execute consent: 505

(a) Children; 506

(b) Parents; 507

(c) Brothers or sisters. 508

(4) If there are no surviving persons of any degree of 509
relationship listed in division (A)(3) of this section, any other 510
relative or person who assumes custody of the body for burial-; 511

(5) A person authorized by written instrument executed by the 512
deceased person to make arrangements for burial-; 513

(6) A person who, at the time of death of the deceased 514
person, was serving as guardian of the person for the deceased 515

person. 516

(B) Consent to an autopsy or post-mortem examination given 517
under this section may be revoked only by the person executing the 518
consent and in the same manner as required for execution of 519
consent under this section. 520

(C) As used in this section, "written instrument" includes a 521
telegram or cablegram. 522

Sec. 2108.521. (A) If a mentally retarded person or a 523
developmentally disabled person dies, if the department of mental 524
retardation and developmental disabilities or a county board of 525
mental retardation and developmental disabilities has a good faith 526
reason to believe that the deceased person's death occurred under 527
suspicious circumstances, if the coroner was apprised of the 528
circumstances of the death, and if the coroner after being so 529
apprised of the circumstances declines to conduct an autopsy, the 530
department or the board may file a petition in a court of common 531
pleas seeking an order authorizing an autopsy or post-mortem 532
examination under this section. 533

(B) Upon the filing of a petition under division (A) of this 534
section, the court may conduct, but is not required to conduct, a 535
hearing on the petition. The court may determine whether to grant 536
the petition without a hearing. The department or board, and all 537
other interested parties, may submit information and statements to 538
the court that are relevant to the petition, and, if the court 539
conducts a hearing, may present evidence and testimony at the 540
hearing. The court shall order the requested autopsy or 541
post-mortem examination if it finds that, under the circumstances, 542
the department or board has demonstrated a need for the autopsy or 543
post-mortem examination. The court shall order an autopsy or 544
post-mortem examination in the circumstances specified in this 545
division regardless of whether any consent has been given, or has 546

been given and withdrawn, under section 2108.50 of the Revised 547
Code, and regardless of whether any information was presented to 548
the coroner pursuant to section 313.131 of the Revised Code or to 549
the court under this section regarding an autopsy being contrary 550
to the deceased person's religious beliefs. 551

(C) An autopsy or post-mortem examination ordered under this 552
section may be performed upon the body of the deceased person by a 553
licensed physician or surgeon. The court may identify in the order 554
the person who is to perform the autopsy or post-mortem 555
examination. If an autopsy or post-mortem examination is ordered 556
under this section, the department or board that requested the 557
autopsy or examination shall pay the physician or surgeon who 558
performs the autopsy or examination for costs and expenses 559
incurred in performing the autopsy or examination. 560

Sec. 2109.301. (A) An administrator or executor shall render 561
an account at any time other than a time otherwise mentioned in 562
this section upon an order of the probate court issued for good 563
cause shown either at its own instance or upon the motion of any 564
person interested in the estate. Except as otherwise provided in 565
division (B)(2) of this section, an administrator or executor 566
shall render a final account within thirty days after completing 567
the administration of the estate or within any other period of 568
time that the court may order. 569

Every account shall include an itemized statement of all 570
receipts of the administrator or executor during the accounting 571
period and of all disbursements and distributions made by the 572
executor or administrator during the accounting period. In 573
addition, the account shall include an itemized statement of all 574
funds, assets, and investments of the estate known to or in the 575
possession of the administrator or executor at the end of the 576
accounting period and shall show any changes in investments since 577

the last previous account. 578

Every account shall be upon the signature of the 579
administrator or executor. When two or more administrators or 580
executors render an account, the court may allow the account upon 581
the signature of one of them. The court may examine the 582
administrator or executor under oath concerning the account. 583

When an administrator or executor is authorized by law or by 584
the instrument governing distribution to distribute the assets of 585
the estate, in whole or in part, the administrator or executor may 586
do so and include a report of the distribution in the 587
administrator's or executor's succeeding account. 588

In estates of decedents in which none of the legatees, 589
devisees, or heirs is under a legal disability, each partial 590
accounting of an executor or administrator may be waived by the 591
written consent of all the legatees, devisees, or heirs filed in 592
lieu of a partial accounting otherwise required. 593

(B)(1) Every administrator and executor, within six months 594
after appointment, shall render a final and distributive account 595
of the administrator's or executor's administration of the estate 596
unless one or more of the following circumstances apply: 597

(a) An Ohio estate tax return must be filed for the estate. 598

(b) A proceeding contesting the validity of the decedent's 599
will pursuant to section 2107.71 of the Revised Code has been 600
commenced. 601

(c) The surviving spouse has filed an election to take 602
against the will. 603

(d) The administrator or executor is a party in a civil 604
action. 605

(e) The estate is insolvent. 606

(f) For other reasons set forth by the administrator or 607

executor, subject to court approval, it would be detrimental to 608
the estate and its beneficiaries or heirs to file a final and 609
distributive account. 610

(2) In estates of decedents in which the sole legatee, 611
devisee, or heir is also the administrator or executor of the 612
estate, no partial accountings are required, ~~and the.~~ The 613
administrator or executor of an estate of that type shall ~~not~~ file 614
a final account or final and distributive account. ~~In or, in~~ lieu 615
of filing a final account, the administrator or executor ~~of an~~ 616
~~estate of that type shall be discharged by filing~~ may file with 617
the court within thirty days after completing the administration 618
of the estate a certificate of termination of an estate that 619
states all of the following: 620

(a) All debts and claims presented to the estate have been 621
paid in full or settled finally. 622

(b) An estate tax return, if required under the provisions of 623
the Internal Revenue Code or Chapter 5731. of the Revised Code, 624
has been filed, and any estate tax has been paid. 625

(c) All attorney's fees have been waived by or paid to 626
counsel of record of the estate, and all executor or administrator 627
fees have been waived or paid. 628

(d) The amount of attorney's fees and the amount of 629
administrator or executor fees that have been paid. 630

(e) All assets remaining after completion of the activities 631
described in divisions (B)(2)(a) to (d) of this section have been 632
distributed to the sole legatee, devisee, or heir. 633

(3) In an estate of the type described in division (B)(2) of 634
this section, a sole legatee, devisee, or heir of a decedent may 635
be liable to creditors for debts of and claims against the estate 636
that are presented after the filing of the certificate of 637
termination described in that division and within the time allowed 638

by section 2117.06 of the Revised Code for presentation of the 639
creditors' claims. 640

(4) Not later than thirteen months after appointment, every 641
administrator and executor shall render an account of the 642
administrator's or executor's administration, unless a certificate 643
of termination is filed under division (B)(2) of this section. 644
Except as provided in divisions (B)(1) and (2) of this section, 645
after the initial account is rendered, every administrator and 646
executor shall render further accounts at least once each year. 647

Sec. 2109.32. (A) Every fiduciary's account required by 648
section 2109.301, 2109.302, or 2109.303 of the Revised Code shall 649
be set for hearing before the probate court. The hearing on the 650
account shall be set not earlier than thirty days after the filing 651
of the account. 652

At the hearing upon an account required by section 2109.302 653
or 2109.303 of the Revised Code and, if ordered by the court, upon 654
an account required by section 2109.301 of the Revised Code, the 655
court shall inquire into, consider, and determine all matters 656
relative to the account and the manner in which the fiduciary has 657
executed the fiduciary's trust, including the investment of trust 658
funds, and may order the account approved and settled or make any 659
other order as the court considers proper. If, at the hearing upon 660
an account, the court finds that the fiduciary has fully and 661
lawfully administered the estate or trust and has distributed the 662
assets of the estate or trust in accordance with the law or the 663
instrument governing distribution, as shown in the account, the 664
court shall order the account approved and settled and may order 665
the fiduciary discharged. Upon approval of a final and 666
distributive account required by division (B)(1) of section 667
2109.301 of the Revised Code, the court may order the surety bond 668
for the fiduciary terminated. Unless otherwise ordered by the 669

court, the fiduciary shall be discharged without further order 670
twelve months following the approval of the final and distributive 671
account. 672

(B)(1) An administrator or executor filing an account 673
pursuant to section 2109.301 of the Revised Code shall provide at 674
the time of filing the account a copy of the account to each heir 675
of an intestate estate or to each beneficiary of a testate estate. 676
An administrator or executor is not required to provide a copy of 677
the account to any of the following: 678

(a) An heir or a beneficiary whose residence is unknown; 679

(b) A beneficiary of a specific bequest or devise who has 680
received his or her distribution and for which a receipt has been 681
filed or exhibited with the court. 682

(2) An administrator or executor filing an account pursuant 683
to section 2109.301 of the Revised Code shall file with the 684
probate court a certificate of service of account prior to or 685
simultaneously with the filing of the account. 686

(3) The probate court shall not approve the final account of 687
any executor or administrator until the following events have 688
occurred: 689

(a) Three months have passed since the death of the decedent. 690

(b) The surviving spouse has filed an election to take under 691
or against the will, or the time for making the election has 692
expired. 693

~~(3)~~(4) If an administrator or executor learns of the 694
existence of newly discovered assets after the filing of the final 695
account or otherwise comes into possession of assets belonging to 696
the estate after the filing of the final account, the executor or 697
administrator shall file a supplemental final account with respect 698
to the disposition of the assets and shall provide a copy of the 699

supplemental final account to each heir of an intestate estate or 700
to each beneficiary of a testate estate, as provided in division 701
(B)(1) of this section and subject to the exceptions specified in 702
divisions (B)(1)(a) and (b) of this section. 703

(C) The rights of any person with a pecuniary interest in the 704
estate are not barred by approval of an account pursuant to 705
divisions (A) and (B) of this section. These rights may be barred 706
following a hearing on the account pursuant to section 2109.33 of 707
the Revised Code. 708

Sec. 2113.53. (A) At any time after the appointment of an 709
executor or administrator, the executor or administrator may 710
distribute to the beneficiaries entitled to assets of the estate 711
under the will, if there is no action pending to set aside the 712
will, or to the heirs entitled to assets of the estate by law, in 713
cash or in kind, any part or all of the assets of the estate. Each 714
beneficiary or heir is liable to return the assets, or the 715
proceeds from the assets, to the estate if they are necessary to 716
satisfy the share of a surviving spouse who elects to take against 717
the will pursuant to section 2106.01 of the Revised Code, ~~if they~~ 718
~~are necessary to satisfy any claims against the estate as provided~~ 719
~~in this section,~~ or if the will is set aside. 720

(B) After distribution pursuant to division (A) of this 721
section, a distributee shall be personally liable to a claimant 722
who presents a valid claim within the time set forth in division 723
(B) of section 2117.06 of the Revised Code, subject to the 724
limitations described in this division. 725

If presentation of a claim is made pursuant to division 726
(A)(2) of section 2117.06 of the Revised Code, only those 727
distributees who have received timely presentation of the claim 728
pursuant to division (B) of that section have any liability for 729
the claim, subject to the limitations described in this division. 730

The personal liability of any distributee shall not exceed 731
the lesser of the following: 732

(1) The amount the distributee has received reduced by the 733
amount, if any, previously returned or otherwise used for the 734
payment of the spouse's share or claims finally allowed; 735

(2) The distributee's proportionate share of the spouse's 736
share or of claims finally allowed. Any distributee's 737
proportionate share of the spouse's share or of claims finally 738
allowed shall be determined by the following fraction: 739

(a) The numerator shall be the total amount received by the 740
distributee, reduced by all amounts, if any, previously returned 741
or otherwise used for the payment of the spouse's share or claims 742
finally allowed. 743

(b) The denominator shall be the total amount received by all 744
distributees reduced by all amounts, if any, previously returned 745
or otherwise used for the payment of the spouse's share or claims 746
finally allowed. 747

(C) If there is a surviving spouse and if the executor or 748
administrator distributes any part of the assets of the estate 749
before the expiration of the times described in division (E) of 750
section 2106.01 of the Revised Code for the making of an election 751
by a surviving spouse, the executor or administrator shall be 752
personally liable to any surviving spouse who subsequently elects 753
to take against the will. If the executor or administrator 754
distributes any part of the assets of the estate within three 755
months after the death of the decedent, the executor or 756
administrator shall be personally liable only to those claimants 757
who present their claims within that three-month period. If the 758
executor or administrator distributes any part of the assets of 759
the estate more than three months but less than one year after the 760
death of the decedent, the executor or administrator shall be 761

personally liable only to those claimants who present their claims 762
before the time of distribution and within the time set forth in 763
division (B) of section 2117.06 of the Revised Code. 764

The executor or administrator shall be liable only to the 765
extent that the sum of the remaining assets of the estate and the 766
assets returned by the beneficiaries or heirs is insufficient to 767
satisfy the share of the surviving spouse and to satisfy the 768
claims against the estate. The executor or administrator shall not 769
be liable in any case for an amount greater than the value of the 770
estate that existed at the time that the distribution of assets 771
was made and that was subject to the spouse's share or to the 772
claims. 773

(D) The executor or administrator may provide for the payment 774
of rejected claims or claims in suit by setting aside a sufficient 775
amount of the assets of the estate for paying the claims. The 776
assets shall be set aside for the payment of the claims in a 777
manner approved by the probate court. Each claimant for whom 778
assets are to be set aside shall be given notice, in the manner as 779
the court shall order, of the hearing upon the application to set 780
aside assets and shall have the right to be fully heard as to the 781
nature and amount of the assets to be set aside for payment of the 782
claim and as to all other conditions in connection with the claim. 783
In any case in which the executor or administrator may set aside 784
assets as provided in this section, the court, upon its own motion 785
or upon application of the executor or administrator, as a 786
condition precedent to any distribution, may require any 787
beneficiary or heir to give a bond to the state with surety 788
approved and in an amount fixed by the court, conditioned to 789
secure the return of the assets to be distributed, or the proceeds 790
from the assets or as much of the assets as may be necessary to 791
satisfy the claims that may be recovered against the estate, and 792
to indemnify the executor or administrator against loss and damage 793

on account of such distribution. The bond may be in addition to 794
the assets to be set aside or partially or wholly in lieu of the 795
assets, as the court shall determine. 796

Sec. 2117.06. (A) All creditors having claims against an 797
estate, including claims arising out of contract, out of tort, on 798
cognovit notes, or on judgments, whether due or not due, secured 799
or unsecured, liquidated or unliquidated, shall present their 800
claims in one of the following manners: 801

(1) After the appointment of an executor or administrator and 802
prior to the filing of a final account or a certificate of 803
termination, in one of the following manners: 804

(a) To the executor or administrator in a writing; 805

~~(2)~~(b) To the executor or administrator in a writing, and to 806
the probate court by filing a copy of the writing with it; 807

~~(3)~~(c) In a writing that is sent by ordinary mail addressed 808
to the decedent and that is actually received by the executor or 809
administrator within the appropriate time specified in division 810
(B) of this section. For purposes of this division, if an executor 811
or administrator is not a natural person, the writing shall be 812
considered as being actually received by the executor or 813
administrator only if the person charged with the primary 814
responsibility of administering the estate of the decedent 815
actually receives the writing within the appropriate time 816
specified in division (B) of this section. 817

(2) If the final account or certificate of termination has 818
been filed, in a writing to those distributees of the decedent's 819
estate who may share liability for the payment of the claim. 820

(B) All claims shall be presented within ~~one year~~ six months 821
after the death of the decedent, whether or not the estate is 822
released from administration or an executor or administrator is 823

appointed during that ~~one-year~~ six-month period. Every claim 824
presented shall set forth the claimant's address. 825

(C) A claim that is not presented within ~~one-year~~ six months 826
after the death of the decedent shall be forever barred as to all 827
parties, including, but not limited to, devisees, legatees, and 828
distributees. No payment shall be made on the claim and no action 829
shall be maintained on the claim, except as otherwise provided in 830
sections 2117.37 to 2117.42 of the Revised Code with reference to 831
contingent claims. 832

(D) In the absence of any prior demand for allowance, the 833
executor or administrator shall allow or reject all claims, except 834
tax assessment claims, within thirty days after their 835
presentation, provided that failure of the executor or 836
administrator to allow or reject within that time shall not 837
prevent the executor or administrator from doing so after that 838
time and shall not prejudice the rights of any claimant. Upon the 839
allowance of a claim, the executor or the administrator, on demand 840
of the creditor, shall furnish the creditor with a written 841
statement or memorandum of the fact and date of the allowance. 842

(E) If the executor or administrator has actual knowledge of 843
a pending action commenced against the decedent prior to the 844
decedent's death in a court of record in this state, the executor 845
or administrator shall file a notice of the appointment of the 846
executor or administrator in the pending action within ten days 847
after acquiring that knowledge. If the administrator or executor 848
is not a natural person, actual knowledge of a pending suit 849
against the decedent shall be limited to the actual knowledge of 850
the person charged with the primary responsibility of 851
administering the estate of the decedent. Failure to file the 852
notice within the ten-day period does not extend the claim period 853
established by this section. 854

(F) This section applies to any person who is required to 855

give written notice to the executor or administrator of a motion 856
or application to revive an action pending against the decedent at 857
the date of the death of the decedent. 858

(G) Nothing in this section or in section 2117.07 of the 859
Revised Code shall be construed to reduce the time mentioned in 860
section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 861
of the Revised Code, provided that no portion of any recovery on a 862
claim brought pursuant to any of those sections shall come from 863
the assets of an estate unless the claim has been presented 864
against the estate in accordance with Chapter 2117. of the Revised 865
Code. 866

(H) Any person whose claim has been presented and has not 867
been rejected after presentment is a creditor as that term is used 868
in Chapters 2113. to 2125. of the Revised Code. Claims that are 869
contingent need not be presented except as provided in sections 870
2117.37 to 2117.42 of the Revised Code, but, whether presented 871
pursuant to those sections or this section, contingent claims may 872
be presented in any of the manners described in division (A) of 873
this section. 874

(I) If a creditor presents a claim against an estate in 875
accordance with division (A)~~(2)~~(1)(b) of this section, the probate 876
court shall not close the administration of the estate until that 877
claim is allowed or rejected. 878

(J) The probate court shall not require an executor or 879
administrator to make and return into the court a schedule of 880
claims against the estate. 881

(K) If the executor or administrator makes a distribution of 882
the assets of the estate pursuant to section 2113.53 of the 883
Revised Code and prior to the expiration of the time for the 884
filing presentation of claims as set forth in this section, the 885
executor or administrator shall provide notice on the account 886

delivered to each distributee that the distributee may be liable 887
to the estate if a claim is presented prior to the filing of the 888
final account and may be liable to the claimant if the claim is 889
presented after the filing of the final account up to the value of 890
the distribution and may be required to return all or any part of 891
the value of the distribution if a valid claim is subsequently 892
made against the estate within the time permitted under this 893
section. 894

Sec. 2117.07. An executor or administrator may accelerate the 895
bar against claims against the estate established by section 896
2117.06 of the Revised Code by giving written notice to a 897
potential claimant that identifies the decedent by name, states 898
the date of the death of the decedent, identifies the executor or 899
administrator by name and mailing address, and informs the 900
potential claimant that any claims ~~he~~ the claimant may have 901
against the estate are required to be presented to the executor or 902
administrator in a writing within the earlier of thirty days after 903
receipt of the notice by the potential claimant or ~~one year~~ six 904
months after the date of the death of the decedent. A claim of 905
that potential claimant that is not presented in the manner 906
provided by section 2117.06 of the Revised Code within the earlier 907
of thirty days after receipt of the notice by the potential 908
claimant or ~~one year~~ six months after the date of the death of the 909
decedent is barred by section 2117.06 of the Revised Code in the 910
same manner as if it was not presented within ~~one year~~ six months 911
after the date of the death of the decedent. 912

Sec. 2117.11. An executor or administrator, or a distributee 913
who receives the presentation of a claim as provided in division 914
(A)(2) of section 2117.06 of the Revised Code, shall reject a 915
creditor's claim against the estate ~~he represents~~ by giving the 916
claimant written notice of the disallowance ~~thereof~~ of the claim. 917

~~Such~~ The notice shall be given to the claimant ~~personally or by~~ 918
~~registered mail with return receipt requested, addressed to the~~ 919
~~claimant at the address given on the claim pursuant to Civil Rule~~ 920
73. Notice by mail shall be effective on delivery of the mail at 921
the address given. A claim may be rejected in whole or in part. A 922
claim ~~which~~ that has been allowed may be rejected at any time 923
~~thereafter~~ after allowance of the claim. 924

A claim is rejected if the executor or administrator, or a 925
distributee who receives the presentation of a claim as provided 926
in division (A)(2) of section 2117.06 of the Revised Code, on 927
demand in writing by the claimant for an allowance ~~thereof of the~~ 928
claim within five days, which demand may be made at presentation 929
or at any time ~~thereafter~~ after presentation, fails to give to the 930
claimant, within ~~such~~ that five-day period, a written statement of 931
the allowance of ~~such~~ the claim. ~~Such~~ The rejection shall become 932
effective at the expiration of ~~such~~ that period. 933

Sec. 2117.12. When a claim against an estate has been 934
rejected in whole or in part but not referred to referees, or when 935
a claim has been allowed in whole or in part and thereafter 936
rejected, the claimant must commence an action on the claim, or 937
that part ~~thereof~~ of the claim that was rejected, within two 938
months after ~~such~~ the rejection if the debt or that part ~~thereof~~ 939
of the debt that was rejected is then due, or within two months 940
after ~~the same~~ that debt or part of the debt that was rejected 941
becomes due, or be forever barred from maintaining an action 942
~~thereon~~ on the claim or part of the claim that was rejected. If 943
the executor or administrator dies, resigns, or is removed within 944
~~such two months~~ that two-month period and before action is 945
commenced ~~thereon~~ on the claim or part of the claim that was 946
rejected, the action may be commenced within two months after the 947
appointment of a successor. 948

For the purposes of this section, the action of a claimant is 949
commenced when the ~~petition~~ complaint and praecipe for service of 950
summons on the executor or administrator, or on the distributee 951
who received the presentation of the claim as provided in division 952
(A)(2) of section 2117.06 of the Revised Code, have been filed. 953

Sec. 2151.421. (A)(1)(a) No person described in division 954
(A)(1)(b) of this section who is acting in an official or 955
professional capacity and knows or suspects that a child under 956
eighteen years of age or a mentally retarded, developmentally 957
disabled, or physically impaired child under twenty-one years of 958
age has suffered or faces a threat of suffering any physical or 959
mental wound, injury, disability, or condition of a nature that 960
reasonably indicates abuse or neglect of the child, shall fail to 961
immediately report that knowledge or suspicion to the entity or 962
persons specified in this division. Except as provided in section 963
5120.173 of the Revised Code, the person making the report shall 964
make it to the public children services agency or a municipal or 965
county peace officer in the county in which the child resides or 966
in which the abuse or neglect is occurring or has occurred. In the 967
circumstances described in section 5120.173 of the Revised Code, 968
the person making the report shall make it to the entity specified 969
in that section. 970

(b) Division (A)(1)(a) of this section applies to any person 971
who is an attorney; physician, including a hospital intern or 972
resident; dentist; podiatrist; practitioner of a limited branch of 973
medicine as specified in section 4731.15 of the Revised Code; 974
registered nurse; licensed practical nurse; visiting nurse; other 975
health care professional; licensed psychologist; licensed school 976
psychologist; independent marriage and family therapist or 977
marriage and family therapist; speech pathologist or audiologist; 978
coroner; administrator or employee of a child day-care center; 979

administrator or employee of a residential camp or child day camp; 980
administrator or employee of a certified child care agency or 981
other public or private children services agency; school teacher; 982
school employee; school authority; person engaged in social work 983
or the practice of professional counseling; agent of a county 984
humane society; ~~or~~ a person rendering spiritual treatment through 985
prayer in accordance with the tenets of a well-recognized 986
religion; superintendent, board member, or employee of a county 987
board of mental retardation; investigative agent contracted with 988
by a county board of mental retardation; or employee of the 989
department of mental retardation and developmental disabilities. 990

(2) An attorney or a physician is not required to make a 991
report pursuant to division (A)(1) of this section concerning any 992
communication the attorney or physician receives from a client or 993
patient in an attorney-client or physician-patient relationship, 994
if, in accordance with division (A) or (B) of section 2317.02 of 995
the Revised Code, the attorney or physician could not testify with 996
respect to that communication in a civil or criminal proceeding, 997
except that the client or patient is deemed to have waived any 998
testimonial privilege under division (A) or (B) of section 2317.02 999
of the Revised Code with respect to that communication and the 1000
attorney or physician shall make a report pursuant to division 1001
(A)(1) of this section with respect to that communication, if all 1002
of the following apply: 1003

(a) The client or patient, at the time of the communication, 1004
is either a child under eighteen years of age or a mentally 1005
retarded, developmentally disabled, or physically impaired person 1006
under twenty-one years of age. 1007

(b) The attorney or physician knows or suspects, as a result 1008
of the communication or any observations made during that 1009
communication, that the client or patient has suffered or faces a 1010
threat of suffering any physical or mental wound, injury, 1011

disability, or condition of a nature that reasonably indicates 1012
abuse or neglect of the client or patient. 1013

(c) The attorney-client or physician-patient relationship 1014
does not arise out of the client's or patient's attempt to have an 1015
abortion without the notification of her parents, guardian, or 1016
custodian in accordance with section 2151.85 of the Revised Code. 1017

(B) Anyone, who knows or suspects that a child under eighteen 1018
years of age or a mentally retarded, developmentally disabled, or 1019
physically impaired person under twenty-one years of age has 1020
suffered or faces a threat of suffering any physical or mental 1021
wound, injury, disability, or other condition of a nature that 1022
reasonably indicates abuse or neglect of the child may report or 1023
cause reports to be made of that knowledge or suspicion to the 1024
entity or persons specified in this division. Except as provided 1025
in section 5120.173 of the Revised Code, a person making a report 1026
or causing a report to be made under this division shall make it 1027
or cause it to be made to the public children services agency or 1028
to a municipal or county peace officer. In the circumstances 1029
described in section 5120.173 of the Revised Code, a person making 1030
a report or causing a report to be made under this division shall 1031
make it or cause it to be made to the entity specified in that 1032
section. 1033

(C) Any report made pursuant to division (A) or (B) of this 1034
section shall be made forthwith either by telephone or in person 1035
and shall be followed by a written report, if requested by the 1036
receiving agency or officer. The written report shall contain: 1037

(1) The names and addresses of the child and the child's 1038
parents or the person or persons having custody of the child, if 1039
known; 1040

(2) The child's age and the nature and extent of the child's 1041
known or suspected injuries, abuse, or neglect or of the known or 1042

suspected threat of injury, abuse, or neglect, including any 1043
evidence of previous injuries, abuse, or neglect; 1044

(3) Any other information that might be helpful in 1045
establishing the cause of the known or suspected injury, abuse, or 1046
neglect or of the known or suspected threat of injury, abuse, or 1047
neglect. 1048

Any person, who is required by division (A) of this section 1049
to report known or suspected child abuse or child neglect, may 1050
take or cause to be taken color photographs of areas of trauma 1051
visible on a child and, if medically indicated, cause to be 1052
performed radiological examinations of the child. 1053

(D)(1) When a municipal or county peace officer receives a 1054
report concerning the possible abuse or neglect of a child or the 1055
possible threat of abuse or neglect of a child, upon receipt of 1056
the report, the municipal or county peace officer who receives the 1057
report shall refer the report to the appropriate public children 1058
services agency. 1059

(2) When a public children services agency receives a report 1060
pursuant to this division or division (A) or (B) of this section, 1061
upon receipt of the report, the public children services agency 1062
shall comply with section 2151.422 of the Revised Code. 1063

(E) No township, municipal, or county peace officer shall 1064
remove a child about whom a report is made pursuant to this 1065
section from the child's parents, stepparents, or guardian or any 1066
other persons having custody of the child without consultation 1067
with the public children services agency, unless, in the judgment 1068
of the officer, and, if the report was made by physician, the 1069
physician, immediate removal is considered essential to protect 1070
the child from further abuse or neglect. The agency that must be 1071
consulted shall be the agency conducting the investigation of the 1072
report as determined pursuant to section 2151.422 of the Revised 1073

Code. 1074

(F)(1) Except as provided in section 2151.422 of the Revised 1075
Code, the public children services agency shall investigate, 1076
within twenty-four hours, each report of known or suspected child 1077
abuse or child neglect and of a known or suspected threat of child 1078
abuse or child neglect that is referred to it under this section 1079
to determine the circumstances surrounding the injuries, abuse, or 1080
neglect or the threat of injury, abuse, or neglect, the cause of 1081
the injuries, abuse, neglect, or threat, and the person or persons 1082
responsible. The investigation shall be made in cooperation with 1083
the law enforcement agency and in accordance with the memorandum 1084
of understanding prepared under division (J) of this section. A 1085
failure to make the investigation in accordance with the 1086
memorandum is not grounds for, and shall not result in, the 1087
dismissal of any charges or complaint arising from the report or 1088
the suppression of any evidence obtained as a result of the report 1089
and does not give, and shall not be construed as giving, any 1090
rights or any grounds for appeal or post-conviction relief to any 1091
person. The public children services agency shall report each case 1092
to a central registry which the department of job and family 1093
services shall maintain in order to determine whether prior 1094
reports have been made in other counties concerning the child or 1095
other principals in the case. The public children services agency 1096
shall submit a report of its investigation, in writing, to the law 1097
enforcement agency. 1098

(2) The public children services agency shall make any 1099
recommendations to the county prosecuting attorney or city 1100
director of law that it considers necessary to protect any 1101
children that are brought to its attention. 1102

(G)(1)(a) Except as provided in division (H)(3) of this 1103
section, anyone or any hospital, institution, school, health 1104
department, or agency participating in the making of reports under 1105

division (A) of this section, anyone or any hospital, institution, 1106
school, health department, or agency participating in good faith 1107
in the making of reports under division (B) of this section, and 1108
anyone participating in good faith in a judicial proceeding 1109
resulting from the reports, shall be immune from any civil or 1110
criminal liability for injury, death, or loss to person or 1111
property that otherwise might be incurred or imposed as a result 1112
of the making of the reports or the participation in the judicial 1113
proceeding. 1114

(b) Notwithstanding section 4731.22 of the Revised Code, the 1115
physician-patient privilege shall not be a ground for excluding 1116
evidence regarding a child's injuries, abuse, or neglect, or the 1117
cause of the injuries, abuse, or neglect in any judicial 1118
proceeding resulting from a report submitted pursuant to this 1119
section. 1120

(2) In any civil or criminal action or proceeding in which it 1121
is alleged and proved that participation in the making of a report 1122
under this section was not in good faith or participation in a 1123
judicial proceeding resulting from a report made under this 1124
section was not in good faith, the court shall award the 1125
prevailing party reasonable attorney's fees and costs and, if a 1126
civil action or proceeding is voluntarily dismissed, may award 1127
reasonable attorney's fees and costs to the party against whom the 1128
civil action or proceeding is brought. 1129

(H)(1) Except as provided in divisions (H)(4), (M), and (N) 1130
of this section, a report made under this section is confidential. 1131
The information provided in a report made pursuant to this section 1132
and the name of the person who made the report shall not be 1133
released for use, and shall not be used, as evidence in any civil 1134
action or proceeding brought against the person who made the 1135
report. In a criminal proceeding, the report is admissible in 1136
evidence in accordance with the Rules of Evidence and is subject 1137

to discovery in accordance with the Rules of Criminal Procedure. 1138

(2) No person shall permit or encourage the unauthorized 1139
dissemination of the contents of any report made under this 1140
section. 1141

(3) A person who knowingly makes or causes another person to 1142
make a false report under division (B) of this section that 1143
alleges that any person has committed an act or omission that 1144
resulted in a child being an abused child or a neglected child is 1145
guilty of a violation of section 2921.14 of the Revised Code. 1146

(4) If a report is made pursuant to division (A) or (B) of 1147
this section and the child who is the subject of the report dies 1148
for any reason at any time after the report is made, but before 1149
the child attains eighteen years of age, the public children 1150
services agency or municipal or county peace officer to which the 1151
report was made or referred, on the request of the child fatality 1152
review board, shall submit a summary sheet of information 1153
providing a summary of the report to the review board of the 1154
county in which the deceased child resided at the time of death. 1155
On the request of the review board, the agency or peace officer 1156
may, at its discretion, make the report available to the review 1157
board. 1158

(5) A public children services agency shall advise a person 1159
alleged to have inflicted abuse or neglect on a child who is the 1160
subject of a report made pursuant to this section in writing of 1161
the disposition of the investigation. The agency shall not provide 1162
to the person any information that identifies the person who made 1163
the report, statements of witnesses, or police or other 1164
investigative reports. 1165

(I) Any report that is required by this section, other than a 1166
report that is made to the state highway patrol as described in 1167
section 5120.173 of the Revised Code, shall result in protective 1168

services and emergency supportive services being made available by 1169
the public children services agency on behalf of the children 1170
about whom the report is made, in an effort to prevent further 1171
neglect or abuse, to enhance their welfare, and, whenever 1172
possible, to preserve the family unit intact. The agency required 1173
to provide the services shall be the agency conducting the 1174
investigation of the report pursuant to section 2151.422 of the 1175
Revised Code. 1176

(J)(1) Each public children services agency shall prepare a 1177
memorandum of understanding that is signed by all of the 1178
following: 1179

(a) If there is only one juvenile judge in the county, the 1180
juvenile judge of the county or the juvenile judge's 1181
representative; 1182

(b) If there is more than one juvenile judge in the county, a 1183
juvenile judge or the juvenile judges' representative selected by 1184
the juvenile judges or, if they are unable to do so for any 1185
reason, the juvenile judge who is senior in point of service or 1186
the senior juvenile judge's representative; 1187

(c) The county peace officer; 1188

(d) All chief municipal peace officers within the county; 1189

(e) Other law enforcement officers handling child abuse and 1190
neglect cases in the county; 1191

(f) The prosecuting attorney of the county; 1192

(g) If the public children services agency is not the county 1193
department of job and family services, the county department of 1194
job and family services; 1195

(h) The county humane society. 1196

(2) A memorandum of understanding shall set forth the normal 1197
operating procedure to be employed by all concerned officials in 1198

the execution of their respective responsibilities under this 1199
section and division (C) of section 2919.21, division (B)(1) of 1200
section 2919.22, division (B) of section 2919.23, and section 1201
2919.24 of the Revised Code and shall have as two of its primary 1202
goals the elimination of all unnecessary interviews of children 1203
who are the subject of reports made pursuant to division (A) or 1204
(B) of this section and, when feasible, providing for only one 1205
interview of a child who is the subject of any report made 1206
pursuant to division (A) or (B) of this section. A failure to 1207
follow the procedure set forth in the memorandum by the concerned 1208
officials is not grounds for, and shall not result in, the 1209
dismissal of any charges or complaint arising from any reported 1210
case of abuse or neglect or the suppression of any evidence 1211
obtained as a result of any reported child abuse or child neglect 1212
and does not give, and shall not be construed as giving, any 1213
rights or any grounds for appeal or post-conviction relief to any 1214
person. 1215

(3) A memorandum of understanding shall include all of the 1216
following: 1217

(a) The roles and responsibilities for handling emergency and 1218
nonemergency cases of abuse and neglect; 1219

(b) Standards and procedures to be used in handling and 1220
coordinating investigations of reported cases of child abuse and 1221
reported cases of child neglect, methods to be used in 1222
interviewing the child who is the subject of the report and who 1223
allegedly was abused or neglected, and standards and procedures 1224
addressing the categories of persons who may interview the child 1225
who is the subject of the report and who allegedly was abused or 1226
neglected. 1227

(K)(1) Except as provided in division (K)(4) of this section, 1228
a person who is required to make a report pursuant to division (A) 1229
of this section may make a reasonable number of requests of the 1230

public children services agency that receives or is referred the	1231
report to be provided with the following information:	1232
(a) Whether the agency has initiated an investigation of the	1233
report;	1234
(b) Whether the agency is continuing to investigate the	1235
report;	1236
(c) Whether the agency is otherwise involved with the child	1237
who is the subject of the report;	1238
(d) The general status of the health and safety of the child	1239
who is the subject of the report;	1240
(e) Whether the report has resulted in the filing of a	1241
complaint in juvenile court or of criminal charges in another	1242
court.	1243
(2) A person may request the information specified in	1244
division (K)(1) of this section only if, at the time the report is	1245
made, the person's name, address, and telephone number are	1246
provided to the person who receives the report.	1247
When a municipal or county peace officer or employee of a	1248
public children services agency receives a report pursuant to	1249
division (A) or (B) of this section the recipient of the report	1250
shall inform the person of the right to request the information	1251
described in division (K)(1) of this section. The recipient of the	1252
report shall include in the initial child abuse or child neglect	1253
report that the person making the report was so informed and, if	1254
provided at the time of the making of the report, shall include	1255
the person's name, address, and telephone number in the report.	1256
Each request is subject to verification of the identity of	1257
the person making the report. If that person's identity is	1258
verified, the agency shall provide the person with the information	1259
described in division (K)(1) of this section a reasonable number	1260

of times, except that the agency shall not disclose any 1261
confidential information regarding the child who is the subject of 1262
the report other than the information described in those 1263
divisions. 1264

(3) A request made pursuant to division (K)(1) of this 1265
section is not a substitute for any report required to be made 1266
pursuant to division (A) of this section. 1267

(4) If an agency other than the agency that received or was 1268
referred the report is conducting the investigation of the report 1269
pursuant to section 2151.422 of the Revised Code, the agency 1270
conducting the investigation shall comply with the requirements of 1271
division (K) of this section. 1272

(L) The director of job and family services shall adopt rules 1273
in accordance with Chapter 119. of the Revised Code to implement 1274
this section. The department of job and family services may enter 1275
into a plan of cooperation with any other governmental entity to 1276
aid in ensuring that children are protected from abuse and 1277
neglect. The department shall make recommendations to the attorney 1278
general that the department determines are necessary to protect 1279
children from child abuse and child neglect. 1280

(M) No later than the end of the day following the day on 1281
which a public children services agency receives a report of 1282
alleged child abuse or child neglect, or a report of an alleged 1283
threat of child abuse or child neglect, that allegedly occurred in 1284
or involved an out-of-home care entity, the agency shall provide 1285
written notice of the allegations contained in and the person 1286
named as the alleged perpetrator in the report to the 1287
administrator, director, or other chief administrative officer of 1288
the out-of-home care entity that is the subject of the report 1289
unless the administrator, director, or other chief administrative 1290
officer is named as an alleged perpetrator in the report. If the 1291
administrator, director, or other chief administrative officer of 1292

an out-of-home care entity is named as an alleged perpetrator in a 1293
report of alleged child abuse or child neglect, or a report of an 1294
alleged threat of child abuse or child neglect, that allegedly 1295
occurred in or involved the out-of-home care entity, the agency 1296
shall provide the written notice to the owner or governing board 1297
of the out-of-home care entity that is the subject of the report. 1298
The agency shall not provide witness statements or police or other 1299
investigative reports. 1300

(N) No later than three days after the day on which a public 1301
children services agency that conducted the investigation as 1302
determined pursuant to section 2151.422 of the Revised Code makes 1303
a disposition of an investigation involving a report of alleged 1304
child abuse or child neglect, or a report of an alleged threat of 1305
child abuse or child neglect, that allegedly occurred in or 1306
involved an out-of-home care entity, the agency shall send written 1307
notice of the disposition of the investigation to the 1308
administrator, director, or other chief administrative officer and 1309
the owner or governing board of the out-of-home care entity. The 1310
agency shall not provide witness statements or police or other 1311
investigative reports. 1312

Sec. 2152.821. (A) As used in this section: 1313

(1) "Mentally retarded person" and "developmentally disabled 1314
person" have the same meanings as in section 5123.01 of the 1315
Revised Code. 1316

(2) "Mentally retarded or developmentally disabled victim" 1317
includes any of the following persons: 1318

(a) A mentally retarded person or developmentally disabled 1319
person who was a victim of a violation identified in division 1320

(B)(1) of this section or an act that would be an offense of 1321
violence if committed by an adult; 1322

(b) A mentally retarded person or developmentally disabled person against whom was directed any conduct that constitutes, or that is an element of, a violation identified in division (B)(1) of this section or an act that would be an offense of violence if committed by an adult. 1323
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(B)(1) In any proceeding in juvenile court involving a complaint, indictment, or information in which a child is charged with a violation of section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code or an act that would be an offense of violence if committed by an adult and in which an alleged victim of the violation or act was a mentally retarded person or developmentally disabled person, the juvenile judge, upon motion of the prosecution, shall order that the testimony of the mentally retarded or developmentally disabled victim be taken by deposition. The prosecution also may request that the deposition be videotaped in accordance with division (B)(2) of this section. The judge shall notify the mentally retarded or developmentally disabled victim whose deposition is to be taken, the prosecution, and the attorney for the child who is charged with the violation or act of the date, time, and place for taking the deposition. The notice shall identify the mentally retarded or developmentally disabled victim who is to be examined and shall indicate whether a request that the deposition be videotaped has been made. The child who is charged with the violation or act shall have the right to attend the deposition and the right to be represented by counsel. Depositions shall be taken in the manner provided in civil cases, except that the judge in the proceeding shall preside at the taking of the deposition and shall rule at that time on any objections of the prosecution or the attorney for the child charged with the violation or act. The prosecution and the attorney for the child charged with the violation or act shall 1328
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have the right, as at an adjudication hearing, to full examination 1355
and cross-examination of the mentally retarded or developmentally 1356
disabled victim whose deposition is to be taken. 1357

If a deposition taken under this division is intended to be 1358
offered as evidence in the proceeding, it shall be filed in the 1359
juvenile court in which the action is pending and is admissible in 1360
the manner described in division (C) of this section. If a 1361
deposition of a mentally retarded or developmentally disabled 1362
victim taken under this division is admitted as evidence at the 1363
proceeding under division (C) of this section, the mentally 1364
retarded or developmentally disabled victim shall not be required 1365
to testify in person at the proceeding. 1366

At any time before the conclusion of the proceeding, the 1367
attorney for the child charged with the violation or act may file 1368
a motion with the judge requesting that another deposition of the 1369
mentally retarded or developmentally disabled victim be taken 1370
because new evidence material to the defense of the child charged 1371
has been discovered that the attorney for the child charged could 1372
not with reasonable diligence have discovered prior to the taking 1373
of the admitted deposition. Any motion requesting another 1374
deposition shall be accompanied by supporting affidavits. Upon the 1375
filing of the motion and affidavits, the court may order that 1376
additional testimony of the mentally retarded or developmentally 1377
disabled victim relative to the new evidence be taken by another 1378
deposition. If the court orders the taking of another deposition 1379
under this provision, the deposition shall be taken in accordance 1380
with this division. If the admitted deposition was a videotaped 1381
deposition taken in accordance with division (B)(2) of this 1382
section, the new deposition also shall be videotaped in accordance 1383
with that division. In other cases, the new deposition may be 1384
videotaped in accordance with that division. 1385

(2) If the prosecution requests that a deposition to be taken 1386

under division (B)(1) of this section be videotaped, the juvenile 1387
judge shall order that the deposition be videotaped in accordance 1388
with this division. If a juvenile judge issues an order to video 1389
tape the deposition, the judge shall exclude from the room in 1390
which the deposition is to be taken every person except the 1391
mentally retarded or developmentally disabled victim giving the 1392
testimony, the judge, one or more interpreters if needed, the 1393
attorneys for the prosecution and the child who is charged with 1394
the violation or act, any person needed to operate the equipment 1395
to be used, one person chosen by the mentally retarded or 1396
developmentally disabled victim giving the deposition, and any 1397
person whose presence the judge determines would contribute to the 1398
welfare and well-being of the mentally retarded or developmentally 1399
disabled victim giving the deposition. The person chosen by the 1400
mentally retarded or developmentally disabled victim shall not be 1401
a witness in the proceeding and, both before and during the 1402
deposition, shall not discuss the testimony of the victim with any 1403
other witness in the proceeding. To the extent feasible, any 1404
person operating the recording equipment shall be restricted to a 1405
room adjacent to the room in which the deposition is being taken, 1406
or to a location in the room in which the deposition is being 1407
taken that is behind a screen or mirror so that the person 1408
operating the recording equipment can see and hear, but cannot be 1409
seen or heard by, the mentally retarded or developmentally 1410
disabled victim giving the deposition during the deposition. 1411

The child who is charged with the violation or act shall be 1412
permitted to observe and hear the testimony of the mentally 1413
retarded or developmentally disabled victim giving the deposition 1414
on a monitor, shall be provided with an electronic means of 1415
immediate communication with the attorney of the child who is 1416
charged with the violation or act during the testimony, and shall 1417
be restricted to a location from which the child who is charged 1418

with the violation or act cannot be seen or heard by the mentally 1419
retarded or developmentally disabled victim giving the deposition, 1420
except on a monitor provided for that purpose. The mentally 1421
retarded or developmentally disabled victim giving the deposition 1422
shall be provided with a monitor on which the mentally retarded or 1423
developmentally disabled victim can observe, while giving 1424
testimony, the child who is charged with the violation or act. The 1425
judge, at the judge's discretion, may preside at the deposition by 1426
electronic means from outside the room in which the deposition is 1427
to be taken; if the judge presides by electronic means, the judge 1428
shall be provided with monitors on which the judge can see each 1429
person in the room in which the deposition is to be taken and with 1430
an electronic means of communication with each person in that 1431
room, and each person in the room shall be provided with a monitor 1432
on which that person can see the judge and with an electronic 1433
means of communication with the judge. A deposition that is 1434
videotaped under this division shall be taken and filed in the 1435
manner described in division (B)(1) of this section and is 1436
admissible in the manner described in this division and division 1437
(C) of this section. If a deposition that is videotaped under this 1438
division is admitted as evidence at the proceeding, the mentally 1439
retarded or developmentally disabled victim shall not be required 1440
to testify in person at the proceeding. No deposition videotaped 1441
under this division shall be admitted as evidence at any 1442
proceeding unless division (C) of this section is satisfied 1443
relative to the deposition and all of the following apply relative 1444
to the recording: 1445

(a) The recording is both aural and visual and is recorded on 1446
film or videotape, or by other electronic means. 1447

(b) The recording is authenticated under the Rules of 1448
Evidence and the Rules of Criminal Procedure as a fair and 1449
accurate representation of what occurred, and the recording is not 1450

altered other than at the direction and under the supervision of 1451
the judge in the proceeding. 1452

(c) Each voice on the recording that is material to the 1453
testimony on the recording or the making of the recording, as 1454
determined by the judge, is identified. 1455

(d) Both the prosecution and the child who is charged with 1456
the violation or act are afforded an opportunity to view the 1457
recording before it is shown in the proceeding. 1458

(C)(1) At any proceeding in relation to which a deposition 1459
was taken under division (B) of this section, the deposition or a 1460
part of it is admissible in evidence upon motion of the 1461
prosecution if the testimony in the deposition or the part to be 1462
admitted is not excluded by the hearsay rule and if the deposition 1463
or the part to be admitted otherwise is admissible under the Rules 1464
of Evidence. For purposes of this division, testimony is not 1465
excluded by the hearsay rule if the testimony is not hearsay under 1466
Evidence Rule 801; the testimony is within an exception to the 1467
hearsay rule set forth in Evidence Rule 803; the mentally retarded 1468
or developmentally disabled victim who gave the testimony is 1469
unavailable as a witness, as defined in Evidence Rule 804, and the 1470
testimony is admissible under that rule; or both of the following 1471
apply: 1472

(a) The child who is charged with the violation or act had an 1473
opportunity and similar motive at the time of the taking of the 1474
deposition to develop the testimony by direct, cross, or redirect 1475
examination. 1476

(b) The judge determines that there is reasonable cause to 1477
believe that, if the mentally retarded or developmentally disabled 1478
victim who gave the testimony in the deposition were to testify in 1479
person at the proceeding, the mentally retarded or developmentally 1480
disabled victim would experience serious emotional trauma as a 1481

result of the mentally retarded or developmentally disabled 1482
victim's participation at the proceeding. 1483

(2) Objections to receiving in evidence a deposition or a 1484
part of it under division (C) of this section shall be made as 1485
provided in civil actions. 1486

(3) The provisions of divisions (B) and (C) of this section 1487
are in addition to any other provisions of the Revised Code, the 1488
Rules of Juvenile Procedure, the Rules of Criminal Procedure, or 1489
the Rules of Evidence that pertain to the taking or admission of 1490
depositions in a juvenile court proceeding and do not limit the 1491
admissibility under any of those other provisions of any 1492
deposition taken under division (B) of this section or otherwise 1493
taken. 1494

(D) In any proceeding in juvenile court involving a 1495
complaint, indictment, or information in which a child is charged 1496
with a violation listed in division (B)(1) of this section or an 1497
act that would be an offense of violence if committed by an adult 1498
and in which an alleged victim of the violation or offense was a 1499
mentally retarded or developmentally disabled person, the 1500
prosecution may file a motion with the juvenile judge requesting 1501
the judge to order the testimony of the mentally retarded or 1502
developmentally disabled victim to be taken in a room other than 1503
the room in which the proceeding is being conducted and be 1504
televised, by closed circuit equipment, into the room in which the 1505
proceeding is being conducted to be viewed by the child who is 1506
charged with the violation or act and any other persons who are 1507
not permitted in the room in which the testimony is to be taken 1508
but who would have been present during the testimony of the 1509
mentally retarded or developmentally disabled victim had it been 1510
given in the room in which the proceeding is being conducted. 1511
Except for good cause shown, the prosecution shall file a motion 1512
under this division at least seven days before the date of the 1513

proceeding. The juvenile judge may issue the order upon the motion 1514
of the prosecution filed under this division, if the judge 1515
determines that the mentally retarded or developmentally disabled 1516
victim is unavailable to testify in the room in which the 1517
proceeding is being conducted in the physical presence of the 1518
child charged with the violation or act for one or more of the 1519
reasons set forth in division (F) of this section. If a juvenile 1520
judge issues an order of that nature, the judge shall exclude from 1521
the room in which the testimony is to be taken every person except 1522
a person described in division (B)(2) of this section. The judge, 1523
at the judge's discretion, may preside during the giving of the 1524
testimony by electronic means from outside the room in which it is 1525
being given, subject to the limitations set forth in division 1526
(B)(2) of this section. To the extent feasible, any person 1527
operating the televising equipment shall be hidden from the sight 1528
and hearing of the mentally retarded or developmentally disabled 1529
victim giving the testimony, in a manner similar to that described 1530
in division (B)(2) of this section. The child who is charged with 1531
the violation or act shall be permitted to observe and hear the 1532
testimony of the mentally retarded or developmentally disabled 1533
victim giving the testimony on a monitor, shall be provided with 1534
an electronic means of immediate communication with the attorney 1535
of the child who is charged with the violation or act during the 1536
testimony, and shall be restricted to a location from which the 1537
child who is charged with the violation or act cannot be seen or 1538
heard by the mentally retarded or developmentally disabled victim 1539
giving the testimony, except on a monitor provided for that 1540
purpose. The mentally retarded or developmentally disabled victim 1541
giving the testimony shall be provided with a monitor on which the 1542
mentally retarded or developmentally disabled victim can observe, 1543
while giving testimony, the child who is charged with the 1544
violation or act. 1545

(E) In any proceeding in juvenile court involving a 1546
complaint, indictment, or information in which a child is charged 1547
with a violation listed in division (B)(1) of this section or an 1548
act that would be an offense of violence if committed by an adult 1549
and in which an alleged victim of the violation or offense was a 1550
mentally retarded or developmentally disabled person, the 1551
prosecution may file a motion with the juvenile judge requesting 1552
the judge to order the testimony of the mentally retarded or 1553
developmentally disabled victim to be taken outside of the room in 1554
which the proceeding is being conducted and be recorded for 1555
showing in the room in which the proceeding is being conducted 1556
before the judge, the child who is charged with the violation or 1557
act, and any other persons who would have been present during the 1558
testimony of the mentally retarded or developmentally disabled 1559
victim had it been given in the room in which the proceeding is 1560
being conducted. Except for good cause shown, the prosecution 1561
shall file a motion under this division at least seven days before 1562
the date of the proceeding. The juvenile judge may issue the order 1563
upon the motion of the prosecution filed under this division, if 1564
the judge determines that the mentally retarded or developmentally 1565
disabled victim is unavailable to testify in the room in which the 1566
proceeding is being conducted in the physical presence of the 1567
child charged with the violation or act, due to one or more of the 1568
reasons set forth in division (F) of this section. If a juvenile 1569
judge issues an order of that nature, the judge shall exclude from 1570
the room in which the testimony is to be taken every person except 1571
a person described in division (B)(2) of this section. To the 1572
extent feasible, any person operating the recording equipment 1573
shall be hidden from the sight and hearing of the mentally 1574
retarded or developmentally disabled victim giving the testimony, 1575
in a manner similar to that described in division (B)(2) of this 1576
section. The child who is charged with the violation or act shall 1577
be permitted to observe and hear the testimony of the mentally 1578

retarded or developmentally disabled victim giving the testimony 1579
on a monitor, shall be provided with an electronic means of 1580
immediate communication with the attorney of the child who is 1581
charged with the violation or act during the testimony, and shall 1582
be restricted to a location from which the child who is charged 1583
with the violation or act cannot be seen or heard by the mentally 1584
retarded or developmentally disabled victim giving the testimony, 1585
except on a monitor provided for that purpose. The mentally 1586
retarded or developmentally disabled victim giving the testimony 1587
shall be provided with a monitor on which the mentally retarded or 1588
developmentally disabled victim can observe, while giving 1589
testimony, the child who is charged with the violation or act. No 1590
order for the taking of testimony by recording shall be issued 1591
under this division unless the provisions set forth in divisions 1592
(B)(2)(a), (b), (c), and (d) of this section apply to the 1593
recording of the testimony. 1594

(F) For purposes of divisions (D) and (E) of this section, a 1595
juvenile judge may order the testimony of a mentally retarded or 1596
developmentally disabled victim to be taken outside of the room in 1597
which a proceeding is being conducted if the judge determines that 1598
the mentally retarded or developmentally disabled victim is 1599
unavailable to testify in the room in the physical presence of the 1600
child charged with the violation or act due to one or more of the 1601
following circumstances: 1602

(1) The persistent refusal of the mentally retarded or 1603
developmentally disabled victim to testify despite judicial 1604
requests to do so; 1605

(2) The inability of the mentally retarded or developmentally 1606
disabled victim to communicate about the alleged violation or 1607
offense because of extreme fear, failure of memory, or another 1608
similar reason; 1609

(3) The substantial likelihood that the mentally retarded or developmentally disabled victim will suffer serious emotional trauma from so testifying. 1610
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(G)(1) If a juvenile judge issues an order pursuant to division (D) or (E) of this section that requires the testimony of a mentally retarded or developmentally disabled victim in a juvenile court proceeding to be taken outside of the room in which the proceeding is being conducted, the order shall specifically identify the mentally retarded or developmentally disabled victim to whose testimony it applies, the order applies only during the testimony of the specified mentally retarded or developmentally disabled victim, and the mentally retarded or developmentally disabled victim giving the testimony shall not be required to testify at the proceeding other than in accordance with the order. The authority of a judge to close the taking of a deposition under division (B)(2) of this section or a proceeding under division (D) or (E) of this section is in addition to the authority of a judge to close a hearing pursuant to section 2151.35 of the Revised Code. 1613
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(2) A juvenile judge who makes any determination regarding the admissibility of a deposition under divisions (B) and (C) of this section, the videotaping of a deposition under division (B)(2) of this section, or the taking of testimony outside of the room in which a proceeding is being conducted under division (D) or (E) of this section shall enter the determination and findings on the record in the proceeding. 1629
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Sec. 2311.14. (A)(1) Whenever because of a hearing, speech, or other impairment a party to or witness in a legal proceeding cannot readily understand or communicate, the court shall appoint a qualified interpreter to assist such person. Before appointing any interpreter under this division for a party or witness who is 1636
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a mentally retarded person or developmentally disabled person, the 1641
court shall evaluate the qualifications of the interpreter and 1642
shall make a determination as to the ability of the interpreter to 1643
effectively interpret on behalf of the party or witness that the 1644
interpreter will assist, and the court may appoint the interpreter 1645
only if the court is satisfied that the interpreter is able to 1646
effectively interpret on behalf of that party or witness. 1647

(2) This section is not limited to a person who speaks a 1648
language other than English. It also applies to the language and 1649
descriptions of any mentally retarded person or developmentally 1650
disabled person who cannot be reasonably understood, or who cannot 1651
understand questioning, without the aid of an interpreter. The 1652
interpreter may aid the parties in formulating methods of 1653
questioning the person with mental retardation or a developmental 1654
disability and in interpreting the answers of the person. 1655

(B) Before entering upon ~~his~~ official duties, the interpreter 1656
shall take an oath that ~~he~~ the interpreter will make a true 1657
interpretation of the proceedings to the party or witness, and 1658
that ~~he~~ the interpreter will truly repeat the statements made by 1659
such party or witness to the court, to the best of ~~his~~ the 1660
interpreter's ability. If the interpreter is appointed to assist a 1661
mentally retarded person or developmentally disabled person as 1662
described in division (A)(2) of this section, the oath also shall 1663
include an oath that the interpreter will not prompt, lead, 1664
suggest, or otherwise improperly influence the testimony of the 1665
witness or party. 1666

(C) The court shall determine a reasonable fee for all such 1667
interpreter service which shall be paid out of the same funds as 1668
witness fees. 1669

(D) As used in this section, "mentally retarded person" and 1670
"developmentally disabled person" have the same meanings as in 1671

section 5123.01 of the Revised Code.

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Sec. 2903.341. (A) As used in this section:

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(1) "MR/DD caretaker" means any MR/DD employee or any person who assumes the duty to provide for the care and protection of a mentally retarded person or a developmentally disabled person on a voluntary basis, by contract, through receipt of payment for care and protection, as a result of a family relationship, or by order of a court of competent jurisdiction. "MR/DD caretaker" includes a person who is an employee of a care facility and a person who is an employee of an entity under contract with a provider. "MR/DD caretaker" does not include a person who owns, operates, or administers a care facility or who is an agent of a care facility unless that person also personally provides care to persons with mental retardation or a developmental disability.

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(2) "Mentally retarded person" and "developmentally disabled person" have the same meanings as in section 5123.01 of the Revised Code.

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(3) "MR/DD employee" has the same meaning as in section 5123.50 of the Revised Code.

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(B) No MR/DD caretaker shall create a substantial risk to the health or safety of a mentally retarded person or a developmentally disabled person. An MR/DD caretaker does not create a substantial risk to the health or safety of a mentally retarded person or a developmentally disabled person under this division when the MR/DD caretaker treats a physical or mental illness or defect of the mentally retarded person or developmentally disabled person by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

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(C) No person who owns, operates, or administers a care

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facility or who is an agent of a care facility shall condone, or 1702
knowingly permit, any conduct by an MR/DD caretaker who is 1703
employed by or under the control of the owner, operator, 1704
administrator, or agent that is in violation of division (B) of 1705
this section and that involves a mentally retarded person or a 1706
developmentally disabled person who is under the care of the 1707
owner, operator, administrator, or agent. A person who relies upon 1708
treatment by spiritual means through prayer alone, in accordance 1709
with the tenets of a recognized religious denomination, shall not 1710
be considered endangered under this division for that reason 1711
alone. 1712

(D)(1) It is an affirmative defense to a charge of a 1713
violation of division (B) or (C) of this section that the actor's 1714
conduct was committed in good faith solely because the actor was 1715
ordered to commit the conduct by a person to whom one of the 1716
following applies: 1717

(a) The person has supervisory authority over the actor. 1718

(b) The person has authority over the actor's conduct 1719
pursuant to a contract for the provision of services. 1720

(2) It is an affirmative defense to a charge of a violation 1721
of division (C) of this section that the person who owns, 1722
operates, or administers a care facility or who is an agent of a 1723
care facility and who is charged with the violation is following 1724
the individual service plan for the involved mentally retarded 1725
person or a developmentally disabled person or that the admission, 1726
discharge, and transfer rule set forth in the Administrative Code 1727
is being followed. 1728

(3) It is an affirmative defense to a charge of a violation 1729
of division (C) of this section that the actor did not have 1730
readily available a means to prevent either the harm to the person 1731
with mental retardation or a developmental disability or the death 1732

of such a person and the actor took reasonable steps to summon 1733
aid. 1734

(E)(1) Except as provided in division (E)(2) or (E)(3) of 1735
this section, whoever violates division (B) or (C) of this section 1736
is guilty of patient endangerment, a misdemeanor of the first 1737
degree. 1738

(2) If the offender previously has been convicted of, or 1739
pleaded guilty to, a violation of this section, patient 1740
endangerment is a felony of the fourth degree. 1741

(3) If the violation results in serious physical harm to the 1742
person with mental retardation or a developmental disability, 1743
patient endangerment is a felony of the third degree. 1744

Sec. 2930.03. (A) A person or entity required or authorized 1745
under this chapter to give notice to a victim shall give the 1746
notice to the victim by any means reasonably calculated to provide 1747
prompt actual notice. Except when a provision requires that notice 1748
is to be given in a specific manner, a notice may be oral or 1749
written. 1750

(B) Except for receipt of the initial information and notice 1751
required to be given to a victim under divisions (A) and (B) of 1752
section 2930.04, section 2930.05, and divisions (A) and (B) of 1753
section 2930.06 of the Revised Code, a victim who wishes to 1754
receive any notice authorized by this chapter shall make a request 1755
for the notice to the prosecutor or the custodial agency that is 1756
to provide the notice, as specified in this chapter. If the victim 1757
does not make a request as described in this division, the 1758
prosecutor or custodial agency is not required to provide any 1759
notice described in this chapter other than the initial 1760
information and notice required to be given to a victim under 1761
divisions (A) and (B) of section 2930.04, section 2930.05, and 1762

divisions (A) and (B) of section 2930.06 of the Revised Code. 1763

(C) A person or agency that is required to furnish notice 1764
under this chapter shall give the notice to the victim at the 1765
address or telephone number provided to the person or agency by 1766
the victim. A victim who requests to receive notice under this 1767
chapter as described in division (B) of this section shall inform 1768
the person or agency of the name, address, or telephone number of 1769
the victim and of any change to that information. 1770

(D) A person or agency that has furnished information to a 1771
victim in accordance with any requirement or authorization under 1772
this chapter shall notify the victim promptly of any significant 1773
changes to that information. 1774

(E) Divisions (A) to (D) of this section do not apply 1775
regarding a notice that a prosecutor is required to provide under 1776
section 2930.061 of the Revised Code. A prosecutor required to 1777
provide notice under that section shall provide the notice as 1778
specified in that section. 1779

Sec. 2930.061. (A) If a person is charged in a complaint, 1780
indictment, or information with any crime or specified delinquent 1781
act or with any other violation of law, and if the case involves a 1782
victim that the prosecutor in the case knows is a mentally 1783
retarded person or a developmentally disabled person, in addition 1784
to any other notices required under this chapter or under any 1785
other provision of law, the prosecutor in the case shall send 1786
written notice of the charges to the department of mental 1787
retardation and developmental disabilities. The written notice 1788
shall specifically identify the person so charged. 1789

(B) As used in this section, "mentally retarded person" and 1790
"developmentally disabled person" have the same meanings as in 1791
section 5123.01 of the Revised Code. 1792

<u>Sec. 2945.482. (A) As used in this section:</u>	1793
<u>(1) "Mentally retarded person" and "developmentally disabled person" have the same meanings as in section 5123.01 of the Revised Code.</u>	1794 1795 1796
<u>(2) "Mentally retarded or developmentally disabled victim" includes a mentally retarded or developmentally disabled person who was a victim of a violation identified in division (B)(1) of this section or an offense of violence or against whom was directed any conduct that constitutes, or that is an element of, a violation identified in division (B)(1) of this section or an offense of violence.</u>	1797 1798 1799 1800 1801 1802 1803
<u>(B)(1) In any proceeding in the prosecution of a charge of a violation of section 2903.16, 2903.34, 2903.341, 2905.03, 2907.02, 2907.03, 2907.05, 2907.06, 2907.09, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code or an offense of violence and in which an alleged victim of the violation or offense was a mentally retarded or developmentally disabled person, the judge of the court in which the prosecution is being conducted, upon motion of an attorney for the prosecution, shall order that the testimony of the mentally retarded or developmentally disabled victim be taken by deposition. The prosecution also may request that the deposition be videotaped in accordance with division (B)(2) of this section. The judge shall notify the mentally retarded or developmentally disabled victim whose deposition is to be taken, the prosecution, and the defense of the date, time, and place for taking the deposition. The notice shall identify the mentally retarded or developmentally disabled victim who is to be examined and shall indicate whether a request that the deposition be videotaped has been made. The defendant shall have the right to attend the deposition and the right to be represented by counsel. Depositions</u>	1804 1805 1806 1807 1808 1809 1810 1811 1812 1813 1814 1815 1816 1817 1818 1819 1820 1821 1822 1823

shall be taken in the manner provided in civil cases, except that 1824
the judge shall preside at the taking of the deposition and shall 1825
rule at the time on any objections of the prosecution or the 1826
attorney for the defense. The prosecution and the attorney for the 1827
defense shall have the right, as at trial, to full examination and 1828
cross-examination of the mentally retarded or developmentally 1829
disabled victim whose deposition is to be taken. If a deposition 1830
taken under this division is intended to be offered as evidence in 1831
the proceeding, it shall be filed in the court in which the action 1832
is pending and is admissible in the manner described in division 1833
(C) of this section. 1834

If a deposition of a mentally retarded or developmentally 1835
disabled victim taken under this division is admitted as evidence 1836
at the proceeding under division (C) of this section, the mentally 1837
retarded or developmentally disabled victim shall not be required 1838
to testify in person at the proceeding. 1839

At any time before the conclusion of the proceeding, the 1840
attorney for the defense may file a motion with the judge 1841
requesting that another deposition of the mentally retarded or 1842
developmentally disabled victim be taken because new evidence 1843
material to the defense has been discovered that the attorney for 1844
the defense could not with reasonable diligence have discovered 1845
prior to the taking of the admitted deposition. If the court 1846
orders the taking of another deposition under this provision, the 1847
deposition shall be taken in accordance with this division. If the 1848
admitted deposition was a videotaped deposition taken in 1849
accordance with division (B)(2) of this section, the new 1850
deposition shall be videotaped in accordance with that division. 1851
In other cases, the new deposition may be videotaped in accordance 1852
with that division. 1853

(2) If the prosecution requests that a deposition to be taken 1854
under division (B)(2) of this section be videotaped, the judge 1855

shall order that the deposition be videotaped in accordance with 1856
this division. If a judge issues an order that the deposition be 1857
videotaped, the judge shall exclude from the room in which the 1858
deposition is to be taken every person except the mentally 1859
retarded or developmentally disabled victim giving the testimony, 1860
the judge, one or more interpreters if needed, the attorneys for 1861
the prosecution and the defense, any person needed to operate the 1862
equipment to be used, one person chosen by the mentally retarded 1863
or developmentally disabled victim giving the deposition, and any 1864
person whose presence the judge determines would contribute to the 1865
welfare and well-being of the mentally retarded or developmentally 1866
disabled victim giving the deposition. The person chosen by the 1867
mentally retarded or developmentally disabled victim shall not be 1868
a witness in the proceeding and, both before and during the 1869
deposition, shall not discuss the testimony of the mentally 1870
retarded or developmentally disabled victim with any other witness 1871
in the proceeding. To the extent feasible, any person operating 1872
the recording equipment shall be restricted to a room adjacent to 1873
the room in which the deposition is being taken, or to a location 1874
in the room in which the deposition is being taken that is behind 1875
a screen or mirror, so that the person operating the recording 1876
equipment can see and hear, but cannot be seen or heard by, the 1877
mentally retarded or developmentally disabled victim giving the 1878
deposition during the deposition. 1879

The defendant shall be permitted to observe and hear the 1880
testimony of the mentally retarded or developmentally disabled 1881
victim giving the deposition on a monitor, shall be provided with 1882
an electronic means of immediate communication with the 1883
defendant's attorney during the testimony, and shall be restricted 1884
to a location from which the defendant cannot be seen or heard by 1885
the mentally retarded or developmentally disabled victim giving 1886
the deposition, except on a monitor provided for that purpose. The 1887

mentally retarded or developmentally disabled victim giving the 1888
deposition shall be provided with a monitor on which the victim 1889
can observe, during the testimony, the defendant. The judge, at 1890
the judge's discretion, may preside at the deposition by 1891
electronic means from outside the room in which the deposition is 1892
to be taken. If the judge presides by electronic means, the judge 1893
shall be provided with monitors on which the judge can see each 1894
person in the room in which the deposition is to be taken and with 1895
an electronic means of communication with each person, and each 1896
person in the room shall be provided with a monitor on which that 1897
person can see the judge and with an electronic means of 1898
communication with the judge. A deposition that is videotaped 1899
under this division shall be taken and filed in the manner 1900
described in division (B)(1) of this section and is admissible in 1901
the manner described in this division and division (C) of this 1902
section, and, if a deposition that is videotaped under this 1903
division is admitted as evidence at the proceeding, the mentally 1904
retarded or developmentally disabled victim shall not be required 1905
to testify in person at the proceeding. No deposition videotaped 1906
under this division shall be admitted as evidence at any 1907
proceeding unless division (C) of this section is satisfied 1908
relative to the deposition and all of the following apply relative 1909
to the recording: 1910

(a) The recording is both aural and visual and is recorded on 1911
film or videotape, or by other electronic means. 1912

(b) The recording is authenticated under the Rules of 1913
Evidence and the Rules of Criminal Procedure as a fair and 1914
accurate representation of what occurred, and the recording is not 1915
altered other than at the direction and under the supervision of 1916
the judge in the proceeding. 1917

(c) Each voice on the recording that is material to the 1918
testimony on the recording or the making of the recording, as 1919

determined by the judge, is identified. 1920

(d) Both the prosecution and the defendant are afforded an opportunity to view the recording before it is shown in the proceeding. 1921
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(C)(1) At any proceeding in a prosecution in relation to which a deposition was taken under division (B) of this section, the deposition or a part of it is admissible in evidence upon motion of the prosecution if the testimony in the deposition or the part to be admitted is not excluded by the hearsay rule and if the deposition or the part to be admitted otherwise is admissible under the Rules of Evidence. For purposes of this division, testimony is not excluded by the hearsay rule if the testimony is not hearsay under Evidence Rule 801; the testimony is within an exception to the hearsay rule set forth in Evidence Rule 803; the mentally retarded or developmentally disabled victim who gave the testimony is unavailable as a witness, as defined in Evidence Rule 804, and the testimony is admissible under that rule; or both of the following apply: 1924
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(a) The defendant had an opportunity and similar motive at the time of the taking of the deposition to develop the testimony by direct, cross, or redirect examination. 1938
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(b) The judge determines that there is reasonable cause to believe that, if the mentally retarded or developmentally disabled victim who gave the testimony in the deposition were to testify in person at the proceeding, the mentally retarded or developmentally disabled victim would experience serious emotional trauma as a result of the mentally retarded or developmentally disabled victim's participation at the proceeding. 1941
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(2) Objections to receiving in evidence a deposition or a part of it under division (C) of this section shall be made as provided in civil actions. 1948
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(3) The provisions of divisions (B) and (C) of this section 1951
are in addition to any other provisions of the Revised Code, the 1952
Rules of Criminal Procedure, or the Rules of Evidence that pertain 1953
to the taking or admission of depositions in a criminal proceeding 1954
and do not limit the admissibility under any of those other 1955
provisions of any deposition taken under division (B) of this 1956
section or otherwise taken. 1957

(D) In any proceeding in the prosecution of any charge of a 1958
violation listed in division (B)(1) of this section or an offense 1959
of violence and in which an alleged victim of the violation or 1960
offense was a mentally retarded or developmentally disabled 1961
person, the prosecution may file a motion with the judge 1962
requesting the judge to order the testimony of the mentally 1963
retarded or developmentally disabled victim to be taken in a room 1964
other than the room in which the proceeding is being conducted and 1965
be televised, by closed circuit equipment, into the room in which 1966
the proceeding is being conducted to be viewed by the jury, if 1967
applicable, the defendant, and any other persons who are not 1968
permitted in the room in which the testimony is to be taken but 1969
who would have been present during the testimony of the mentally 1970
retarded or developmentally disabled victim had it been given in 1971
the room in which the proceeding is being conducted. Except for 1972
good cause shown, the prosecution shall file a motion under this 1973
division at least seven days before the date of the proceeding. 1974
The judge may issue the order upon the motion of the prosecution 1975
filed under this section, if the judge determines that the 1976
mentally retarded or developmentally disabled victim is 1977
unavailable to testify in the room in which the proceeding is 1978
being conducted in the physical presence of the defendant for one 1979
or more of the reasons set forth in division (F) of this section. 1980
If a judge issues an order of that nature, the judge shall exclude 1981
from the room in which the testimony is to be taken every person 1982

except a person described in division (B)(2) of this section. The judge, at the judge's discretion, may preside during the giving of the testimony by electronic means from outside the room in which it is being given, subject to the limitations set forth in division (B)(2) of this section. To the extent feasible, any person operating the televising equipment shall be hidden from the sight and hearing of the mentally retarded or developmentally disabled victim giving the testimony, in a manner similar to that described in division (B)(2) of this section. The defendant shall be permitted to observe and hear the testimony of the mentally retarded or developmentally disabled victim giving the testimony on a monitor, shall be provided with an electronic means of immediate communication with the defendant's attorney during the testimony, and shall be restricted to a location from which the defendant cannot be seen or heard by the mentally retarded or developmentally disabled victim giving the testimony, except on a monitor provided for that purpose. The mentally retarded or developmentally disabled victim giving the testimony shall be provided with a monitor on which the mentally retarded or developmentally disabled victim can observe, during the testimony, the defendant.

(E) In any proceeding in the prosecution of any charge of a violation listed in division (B)(1) of this section or an offense of violence and in which an alleged victim of the violation or offense was a mentally retarded or developmentally disabled victim, the prosecution may file a motion with the judge requesting the judge to order the testimony of the mentally retarded or developmentally disabled victim to be taken outside of the room in which the proceeding is being conducted and be recorded for showing in the room in which the proceeding is being conducted before the judge, the jury, if applicable, the defendant, and any other persons who would have been present

during the testimony of the mentally retarded or developmentally disabled victim had it been given in the room in which the proceeding is being conducted. Except for good cause shown, the prosecution shall file a motion under this division at least seven days before the date of the proceeding. The judge may issue the order upon the motion of the prosecution filed under this division, if the judge determines that the mentally retarded or developmentally disabled victim is unavailable to testify in the room in which the proceeding is being conducted in the physical presence of the defendant, for one or more of the reasons set forth in division (F) of this section. If a judge issues an order of that nature, the judge shall exclude from the room in which the testimony is to be taken every person except a person described in division (B)(2) of this section. To the extent feasible, any person operating the recording equipment shall be hidden from the sight and hearing of the mentally retarded or developmentally disabled victim giving the testimony, in a manner similar to that described in division (B)(2) of this section. The defendant shall be permitted to observe and hear the testimony of the mentally retarded or developmentally disabled victim who is giving the testimony on a monitor, shall be provided with an electronic means of immediate communication with the defendant's attorney during the testimony, and shall be restricted to a location from which the defendant cannot be seen or heard by the mentally retarded or developmentally disabled victim giving the testimony, except on a monitor provided for that purpose. The mentally retarded or developmentally disabled victim giving the testimony shall be provided with a monitor on which the victim can observe, during the testimony, the defendant. No order for the taking of testimony by recording shall be issued under this division unless the provisions set forth in divisions (B)(2)(a), (b), (c), and (d) of this section apply to the recording of the testimony.

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(F) For purposes of divisions (D) and (E) of this section, a judge may order the testimony of a mentally retarded or developmentally disabled victim to be taken outside the room in which the proceeding is being conducted if the judge determines that the mentally retarded or developmentally disabled victim is unavailable to testify in the room in the physical presence of the defendant due to one or more of the following:

(1) The persistent refusal of the mentally retarded or developmentally disabled victim to testify despite judicial requests to do so;

(2) The inability of the mentally retarded or developmentally disabled victim to communicate about the alleged violation or offense because of extreme fear, failure of memory, or another similar reason;

(3) The substantial likelihood that the mentally retarded or developmentally disabled victim will suffer serious emotional trauma from so testifying.

(G)(1) If a judge issues an order pursuant to division (D) or (E) of this section that requires the testimony of a mentally retarded or developmentally disabled victim in a criminal proceeding to be taken outside of the room in which the proceeding is being conducted, the order shall specifically identify the mentally retarded or developmentally disabled victim to whose testimony it applies, the order applies only during the testimony of the specified mentally retarded or developmentally disabled victim, and the mentally retarded or developmentally disabled victim giving the testimony shall not be required to testify at the proceeding other than in accordance with the order.

(2) A judge who makes any determination regarding the admissibility of a deposition under divisions (B) and (C) of this section, the videotaping of a deposition under division (B)(2) of

this section, or the taking of testimony outside of the room in 2078
which a proceeding is being conducted under division (D) or (E) of 2079
this section shall enter the determination and findings on the 2080
record in the proceeding. 2081

Sec. 2945.491. (A) As used in this section: 2082

(1) "Mentally retarded person" and "developmentally disabled 2083
person" have the same meanings as in section 5123.01 of the 2084
Revised Code. 2085

(2) "Mentally retarded or developmentally disabled victim" 2086
includes a mentally retarded or developmentally disabled person 2087
who was a victim of a felony violation identified in division 2088
(B)(1) of this section or a felony offense of violence or against 2089
whom was directed any conduct that constitutes, or that is an 2090
element of, a felony violation identified in division (B)(1) of 2091
this section or a felony offense of violence. 2092

(B)(1) At a trial on a charge of a felony violation of 2093
section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 2094
2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2095
2907.323 of the Revised Code or an offense of violence and in 2096
which an alleged victim of the violation or offense was a mentally 2097
retarded or developmentally disabled person, the court, upon 2098
motion of the prosecutor in the case, may admit videotaped 2099
preliminary hearing testimony of the mentally retarded or 2100
developmentally disabled victim as evidence at the trial, in lieu 2101
of the mentally retarded or developmentally disabled victim 2102
appearing as a witness and testifying at trial, if all of the 2103
following apply: 2104

(a) The videotape of the testimony was made at the 2105
preliminary hearing at which probable cause of the violation 2106
charged was found. 2107

(b) The videotape of the testimony was made in accordance with division (C) of section 2937.11 of the Revised Code. 2108
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(c) The testimony in the videotape is not excluded by the hearsay rule and otherwise is admissible under the Rules of Evidence. For purposes of this division, testimony is not excluded by the hearsay rule if the testimony is not hearsay under Evidence Rule 801, the testimony is within an exception to the hearsay rule set forth in Evidence Rule 803, the mentally retarded or developmentally disabled victim who gave the testimony is unavailable as a witness, as defined in Evidence Rule 804, and the testimony is admissible under that rule, or both of the following apply: 2110
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(i) The accused had an opportunity and similar motive at the preliminary hearing to develop the testimony of the mentally retarded or developmentally disabled victim by direct, cross, or redirect examination. 2120
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(ii) The court determines that there is reasonable cause to believe that if the mentally retarded or developmentally disabled victim who gave the testimony at the preliminary hearing were to testify in person at the trial, the mentally retarded or developmentally disabled victim would experience serious emotional trauma as a result of the victim's participation at the trial. 2124
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(2) If a mentally retarded or developmentally disabled victim of an alleged felony violation of section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code or an alleged felony offense of violence testifies at the preliminary hearing in the case, if the testimony of the mentally retarded or developmentally disabled victim at the preliminary hearing was videotaped pursuant to division (C) of section 2937.11 of the Revised Code, and if the defendant in the case files a written 2130
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objection to the use, pursuant to division (B)(1) of this section, 2139
of the videotaped testimony at the trial, the court, immediately 2140
after the filing of the objection, shall hold a hearing to 2141
determine whether the videotaped testimony of the mentally 2142
retarded or developmentally disabled victim should be admissible 2143
at trial under division (B)(1) of this section and, if it is 2144
admissible, whether the mentally retarded or developmentally 2145
disabled victim should be required to provide limited additional 2146
testimony of the type described in this division. At the hearing 2147
held pursuant to this division, the defendant and the prosecutor 2148
in the case may present any evidence that is relevant to the 2149
issues to be determined at the hearing, but the mentally retarded 2150
or developmentally disabled victim shall not be required to 2151
testify at the hearing. 2152

After the hearing, the court shall not require the mentally 2153
retarded or developmentally disabled victim to testify at the 2154
trial, unless it determines that both of the following apply: 2155

(a) That the testimony of the mentally retarded or 2156
developmentally disabled victim at trial is necessary for one or 2157
more of the following reasons: 2158

(i) Evidence that was not available at the time of the 2159
testimony of the mentally retarded or developmentally disabled 2160
victim at the preliminary hearing has been discovered. 2161

(ii) The circumstances surrounding the case have changed 2162
sufficiently to necessitate that the mentally retarded or 2163
developmentally disabled victim testify at the trial. 2164

(b) That the testimony of the mentally retarded or 2165
developmentally disabled victim at the trial is necessary to 2166
protect the right of the defendant to a fair trial. 2167

The court shall enter its finding and the reasons for it in 2168
the journal. If the court requires the mentally retarded or 2169

developmentally disabled victim to testify at the trial, the 2170
testimony of the victim shall be limited to the new evidence and 2171
changed circumstances, and the mentally retarded or 2172
developmentally disabled victim shall not otherwise be required to 2173
testify at the trial. The required testimony of the mentally 2174
retarded or developmentally disabled victim may be given in person 2175
or, upon motion of the prosecution, may be taken by deposition in 2176
accordance with division (B) of section 2945.482 of the Revised 2177
Code provided the deposition is admitted as evidence under 2178
division (C) of that section, may be taken outside of the 2179
courtroom and televised into the courtroom in accordance with 2180
division (D) of that section, or may be taken outside of the 2181
courtroom and recorded for showing in the courtroom in accordance 2182
with division (E) of that section. 2183

(3) If videotaped testimony of a mentally retarded or 2184
developmentally disabled victim is admitted at trial in accordance 2185
with division (B)(1) of this section, the mentally retarded or 2186
developmentally disabled victim shall not be compelled in any way 2187
to appear as a witness at the trial, except as provided in 2188
division (B)(2) of this section. 2189

(C) An order issued pursuant to division (B) of this section 2190
shall specifically identify the mentally retarded or 2191
developmentally disabled victim concerning whose testimony it 2192
pertains. The order shall apply only during the testimony of the 2193
mentally retarded or developmentally disabled victim it 2194
specifically identifies. 2195

Sec. 5120.173. Any person who is required to report suspected 2196
abuse or neglect of a child under eighteen years of age pursuant 2197
to division (A) of section 2151.421 of the Revised Code, ~~and~~ any 2198
person who is permitted to report or cause a report to be made of 2199
suspected abuse or neglect of a child under eighteen years of age 2200

pursuant to division (B) of that section, any person who is 2201
required to report suspected abuse or neglect of a person with 2202
mental retardation or a developmental disability pursuant to 2203
division (C) of section 5123.61 of the Revised Code, and any 2204
person who is permitted to report suspected abuse or neglect of a 2205
person with mental retardation or a developmental disability 2206
pursuant to division (F) of that section and who makes or causes 2207
the report to be made, shall direct that report to the state 2208
highway patrol if the child or the person with mental retardation 2209
or a developmental disability is an inmate in the custody of a 2210
state correctional institution. If the state highway patrol 2211
determines after receipt of the report that it is probable that 2212
abuse or neglect of the inmate occurred, the patrol shall report 2213
its findings to the department of rehabilitation and correction, 2214
to the court that sentenced the inmate for the offense for which 2215
the inmate is in the custody of the department, and to the 2216
chairman and vice-chairman of the correctional institution 2217
inspection committee established by section 103.71 of the Revised 2218
Code. 2219

Sec. 5123.081. (A) As used in this section: 2220

(1) "Applicant" means a person who is under final 2221
consideration for appointment to or employment with the department 2222
of mental retardation and developmental disabilities, including, 2223
but not limited to, a person who is being transferred to the 2224
department and an employee who is being recalled or reemployed 2225
after a layoff. 2226

(2) "Criminal records check" has the same meaning as in 2227
section 109.572 of the Revised Code. 2228

(3) "Minor drug possession offense" has the same meaning as 2229
in section 2925.01 of the Revised Code. 2230

(B) The director of mental retardation and developmental disabilities shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to each applicant, except that the director is not required to request a criminal records check for an employee of the department who is being considered for a different position or is returning after a leave of absence or seasonal break in employment, as long as the director has no reason to believe that the employee has committed any of the offenses listed or described in division (E) of this section.

If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested, the director shall request that the superintendent of the bureau obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the director may request that the superintendent of the bureau include information from the federal bureau of investigation in the criminal records check. For purposes of this division, an applicant may provide proof of residency in this state by presenting, with a notarized statement asserting that the applicant has been a resident of this state for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's permanent residence, or any other document the director considers acceptable.

(C) The director shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed

pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the criminal records check is requested.

Any applicant who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the material with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the director shall not employ the applicant.

(D) The director may request any other state or federal agency to supply the director with a written report regarding the criminal record of each applicant. With regard to an applicant who becomes a department employee, if the employee holds an occupational or professional license or other credentials, the director may request that the state or federal agency that regulates the employee's occupation or profession supply the director with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials.

(E) Except as provided in division (K)(2) of this section and in rules adopted by the director in accordance with division (M) of this section, the director shall not employ a person to fill a position with the department who has been convicted of or pleaded

guilty to any of the following:	2295
(1) A violation of section 2903.01, 2903.02, 2903.03,	2296
<u>2903.341</u> , 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21,	2297
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04,	2298
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22,	2299
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323,	2300
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24,	2301
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04,	2302
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of	2303
section 2905.04 of the Revised Code as it existed prior to July 1,	2304
1996, a violation of section 2919.23 of the Revised Code that	2305
would have been a violation of section 2905.04 of the Revised Code	2306
as it existed prior to July 1, 1996, had the violation occurred	2307
prior to that date, a violation of section 2925.11 of the Revised	2308
Code that is not a minor drug possession offense, or felonious	2309
sexual penetration in violation of former section 2907.12 of the	2310
Revised Code;	2311
(2) A felony contained in the Revised Code that is not listed	2312
in this division, if the felony bears a direct and substantial	2313
relationship to the duties and responsibilities of the position	2314
being filled;	2315
(3) Any offense contained in the Revised Code constituting a	2316
misdemeanor of the first degree on the first offense and a felony	2317
on a subsequent offense, if the offense bears a direct and	2318
substantial relationship to the position being filled and the	2319
nature of the services being provided by the department;	2320
(4) A violation of an existing or former municipal ordinance	2321
or law of this state, any other state, or the United States, if	2322
the offense is substantially equivalent to any of the offenses	2323
listed or described in division (E)(1), (2), or (3) of this	2324
section.	2325

(F) Prior to employing an applicant, the director shall 2326
require the applicant to submit a statement with the applicant's 2327
signature attesting that the applicant has not been convicted of 2328
or pleaded guilty to any of the offenses listed or described in 2329
division (E) of this section. The director also shall require the 2330
applicant to sign an agreement under which the applicant agrees to 2331
notify the director within fourteen calendar days if, while 2332
employed with the department, the applicant is ever formally 2333
charged with, convicted of, or pleads guilty to any of the 2334
offenses listed or described in division (E) of this section. The 2335
agreement shall inform the applicant that failure to report formal 2336
charges, a conviction, or a guilty plea may result in being 2337
dismissed from employment. 2338

(G) The director shall pay to the bureau of criminal 2339
identification and investigation the fee prescribed pursuant to 2340
division (C)(3) of section 109.572 of the Revised Code for each 2341
criminal records check requested and conducted pursuant to this 2342
section. 2343

(H)(1) Any report obtained pursuant to this section is not a 2344
public record for purposes of section 149.43 of the Revised Code 2345
and shall not be made available to any person, other than the 2346
applicant who is the subject of the records check or criminal 2347
records check or the applicant's representative, the department or 2348
its representative, a county board of mental retardation and 2349
developmental disabilities, and any court, hearing officer, or 2350
other necessary individual involved in a case dealing with the 2351
denial of employment to the applicant or the denial, suspension, 2352
or revocation of a certificate or evidence of registration under 2353
section 5123.082 of the Revised Code. 2354

(2) An individual for whom the director has obtained reports 2355
under this section may submit a written request to the director to 2356
have copies of the reports sent to any state agency, entity of 2357

local government, or private entity. The individual shall specify 2358
in the request the agencies or entities to which the copies are to 2359
be sent. On receiving the request, the director shall send copies 2360
of the reports to the agencies or entities specified. 2361

The director may request that a state agency, entity of local 2362
government, or private entity send copies to the director of any 2363
report regarding a records check or criminal records check that 2364
the agency or entity possesses, if the director obtains the 2365
written consent of the individual who is the subject of the 2366
report. 2367

(I) The director shall request the registrar of motor 2368
vehicles to supply the director with a certified abstract 2369
regarding the record of convictions for violations of motor 2370
vehicle laws of each applicant who will be required by the 2371
applicant's employment to transport individuals with mental 2372
retardation or a developmental disability or to operate the 2373
department's vehicles for any other purpose. For each abstract 2374
provided under this section, the director shall pay the amount 2375
specified in section 4509.05 of the Revised Code. 2376

(J) The director shall provide each applicant with a copy of 2377
any report or abstract obtained about the applicant under this 2378
section. 2379

(K)(1) The director shall inform each person, at the time of 2380
the person's initial application for employment, that the person 2381
is required to provide a set of impressions of the person's 2382
fingerprints and that a criminal records check is required to be 2383
conducted and satisfactorily completed in accordance with section 2384
109.572 of the Revised Code if the person comes under final 2385
consideration for employment as a precondition to employment in a 2386
position. 2387

(2) The director may employ an applicant pending receipt of 2388

reports requested under this section. The director shall terminate 2389
employment of any such applicant if it is determined from the 2390
reports that the applicant failed to inform the director that the 2391
applicant had been convicted of or pleaded guilty to any of the 2392
offenses listed or described in division (E) of this section. 2393

(L) The director may charge an applicant a fee for costs the 2394
director incurs in obtaining reports, abstracts, or fingerprint 2395
impressions under this section. A fee charged under this division 2396
shall not exceed the amount of the fees the director pays under 2397
divisions (G) and (I) of this section. If a fee is charged under 2398
this division, the director shall notify the applicant of the 2399
amount of the fee at the time of the applicant's initial 2400
application for employment and that, unless the fee is paid, the 2401
director will not consider the applicant for employment. 2402

(M) The director shall adopt rules in accordance with Chapter 2403
119. of the Revised Code to implement this section, including 2404
rules specifying circumstances under which the director may employ 2405
a person who has been convicted of or pleaded guilty to an offense 2406
listed or described in division (E) of this section but who meets 2407
standards in regard to rehabilitation set by the director. 2408

Sec. 5123.50. As used in this section and sections 5123.51 2409
~~and~~, 5123.52, and 5123.541 of the Revised Code: 2410

(A) "Abuse" means all of the following: 2411

(1) The use of physical force that can reasonably be expected 2412
to result in physical harm or serious physical harm; 2413

(2) Sexual abuse; 2414

(3) Verbal abuse. 2415

(B) "Misappropriation" means depriving, defrauding, or 2416
otherwise obtaining the real or personal property of an individual 2417
by any means prohibited by the Revised Code, including violations 2418

of Chapter 2911. or 2913. of the Revised Code.	2419
(C) "MR/DD employee" means all of the following:	2420
(1) An employee of the department of mental retardation and developmental disabilities;	2421 2422
(2) An employee of a county board of mental retardation and developmental disabilities;	2423 2424
(3) An "ICF/MR worker," as defined in section 5123.193 of the Revised Code;	2425 2426
(4) An individual who is employed in a position that includes providing specialized services to an individual with mental retardation or a <u>another</u> developmental disability.	2427 2428 2429
(D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual.	2430 2431 2432 2433
(E) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code.	2434 2435
(F) "Sexual abuse" means unlawful sexual conduct or sexual contact, as those terms are defined in section 2907.01 of the Revised Code.	2436 2437 2438
(G) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the department of mental retardation and developmental disabilities. A program or service available to the general public is not a specialized service.	2439 2440 2441 2442 2443 2444 2445
(H) "Verbal abuse" means purposely using words to threaten, coerce, intimidate, harass, or humiliate an individual.	2446 2447
(I) <u>"Sexual conduct," "sexual contact," and "spouse" have the</u>	2448

same meanings as in section 2907.01 of the Revised Code.

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Sec. 5123.51. (A) In addition to any other action required by sections 5123.61 and 5126.31 of the Revised Code, the department of mental retardation and developmental disabilities shall review each report the department receives of abuse or neglect of an individual with mental retardation or a developmental disability or misappropriation of an individual's property that includes an allegation that an MR/DD employee committed or was responsible for the abuse, neglect, or misappropriation. The department shall review a report it receives from a public children services agency only after the agency completes its investigation pursuant to section 2151.421 of the Revised Code. On receipt of a notice under section 2930.061 or 5123.541 of the Revised Code, the department shall review the notice.

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(B) The department shall do both of the following:

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(1) Investigate the allegation or adopt the findings of an investigation or review of the allegation conducted by another person or government entity and determine whether there is a reasonable basis for the allegation;

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(2) If the department determines that there is a reasonable basis for the allegation, conduct an adjudication pursuant to Chapter 119. of the Revised Code.

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(C)(1) The department shall appoint an independent hearing officer to conduct any hearing conducted pursuant to division (B)(2) of this section, except that, if the hearing is regarding an employee of the department who is represented by a union, the department and a representative of the union shall jointly select the hearing officer.

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(2) ~~No~~ (a) Except as provided in division (C)(2)(b) of this

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section, no hearing shall be conducted under division (B)(2) of 2479
this section until any criminal proceeding or collective 2480
bargaining arbitration concerning the same allegation has 2481
concluded. 2482

(b) The department may conduct a hearing pursuant to division 2483
(B)(2) of this section before a criminal proceeding concerning the 2484
same allegation is concluded if both of the following are the 2485
case: 2486

(i) The department notifies the prosecutor responsible for 2487
the criminal proceeding that the department proposes to conduct a 2488
hearing. 2489

(ii) The prosecutor consents to the hearing. 2490

(3) In conducting a hearing pursuant to division (B)(2) of 2491
this section, the hearing officer shall do ~~both~~ all of the 2492
following: 2493

(a) Determine whether there is clear and convincing evidence 2494
that the MR/DD employee has done any of the following: 2495

(i) Misappropriated ~~the~~ property of ~~an individual~~ one or more 2496
individuals with mental retardation or a developmental disability 2497
that has a value, either separately or taken together, of one 2498
hundred dollars or more; 2499

(ii) Misappropriated property of an individual with mental 2500
retardation or a developmental disability that is designed to be 2501
used as a check, draft, negotiable instrument, credit card, charge 2502
card, or device for initiating an electronic fund transfer at a 2503
point of sale terminal, automated teller machine, or cash 2504
dispensing machine; 2505

~~(ii)~~(iii) Knowingly abused ~~or neglected~~ such an individual; 2506

~~(iii)~~(iv) Recklessly abused or neglected such an individual, 2507
with resulting physical harm; 2508

~~(iv)~~(v) Negligently abused or neglected such an individual, 2509
with resulting serious physical harm; 2510

(vi) Recklessly neglected such an individual, creating a 2511
substantial risk of serious physical harm; 2512

(vii) Engaged in sexual conduct or had sexual contact with an 2513
individual with mental retardation or another developmental 2514
disability who was not the MR/DD employee's spouse and for whom 2515
the MR/DD employee was employed or under a contract to provide 2516
care; 2517

(viii) Unreasonably failed to make a report pursuant to 2518
division (C) of section 5123.61 of the Revised Code when the 2519
employee knew or should have known that the failure would result 2520
in a substantial risk of harm to an individual with mental 2521
retardation or a developmental disability. 2522

(b) Give weight to the decision in any collective bargaining 2523
arbitration regarding the same allegation; 2524

(c) Give weight to any relevant facts presented at the 2525
hearing. 2526

(D)(1) Unless the director of mental retardation and 2527
developmental disabilities determines that there are extenuating 2528
circumstances and except as provided in ~~divisions (D)(4) and~~ 2529
division (E) of this section, the director shall include in the 2530
registry established under section 5123.52 of the Revised Code the 2531
name of an MR/DD employee if the director, after considering all 2532
of the factors listed in division (C)(3) of this section, finds 2533
that there is clear and convincing evidence that ~~the~~ an MR/DD 2534
employee has done one or more of the things described in division 2535
(C)(3)(a) of this section the director shall include the name of 2536
the employee in the registry established under section 5123.52 of 2537
the Revised Code. 2538

(2) Extenuating circumstances the director must consider 2539
include the use of physical force by an MR/DD employee that was 2540
necessary as self-defense. 2541

(3) If the director includes an MR/DD employee in the 2542
registry established under section 5123.52 of the Revised Code, 2543
the director shall notify the employee, the person or government 2544
entity that employs or contracts with the employee, the individual 2545
with mental retardation or a developmental disability who was the 2546
subject of the report and that individual's legal guardian, if 2547
any, the attorney general, and the prosecuting attorney or other 2548
law enforcement agency. If the MR/DD employee holds a license, 2549
certificate, registration, or other authorization to engage in a 2550
profession issued pursuant to Title XLVII of the Revised Code, the 2551
director shall notify the appropriate agency, board, department, 2552
or other entity responsible for regulating the employee's 2553
professional practice. 2554

(4) ~~The director shall not include in the registry an~~ 2555
~~individual who has been found not guilty by a court or jury of an~~ 2556
~~offense arising from the same facts~~ If an individual whose name 2557
appears on the registry is involved in a court proceeding or 2558
arbitration arising from the same facts as the allegation 2559
resulting in the individual's placement on the registry, the 2560
disposition of the proceeding or arbitration shall be noted in the 2561
registry next to the individual's name. 2562

(E) In the case of an allegation concerning an employee of 2563
the department, after the hearing conducted pursuant to division 2564
(B)(2) of this section, the director of health or that director's 2565
designee shall review the decision of the hearing officer to 2566
determine whether the standard described in division (C)~~(2)~~(3) of 2567
this section has been met. If the director or designee determines 2568
that the standard has been met and that no extenuating 2569
circumstances exist, the director or designee shall notify the 2570

director of mental retardation and developmental disabilities that 2571
the MR/DD employee is to be included in the registry established 2572
under section 5123.52 of the Revised Code. If the director of 2573
mental retardation and developmental disabilities receives such 2574
notification, the director shall include the MR/DD employee in the 2575
registry, ~~unless division (D)(4) of this section applies,~~ and 2576
shall provide the notification described in division (D)(3) of 2577
this section. 2578

(F) If the department is required by Chapter 119. of the 2579
Revised Code to give notice of an opportunity for a hearing and 2580
the MR/DD employee subject to the notice does not timely request a 2581
hearing in accordance with section 119.07 of the Revised Code, the 2582
department is not required to hold a hearing. 2583

(G) Files and records of investigations conducted pursuant to 2584
this section are not public records as defined in section 149.43 2585
of the Revised Code, but, on request, the department shall provide 2586
copies of those files and records to the attorney general, a 2587
prosecuting attorney, or a law enforcement agency. 2588

Sec. 5123.541. (A) No MR/DD employee shall engage in any 2589
sexual conduct or have any sexual contact with an individual with 2590
mental retardation or another developmental disability for whom 2591
the MR/DD employee is employed or under a contract to provide care 2592
unless the individual is the MR/DD employee's spouse. 2593

(B) Any MR/DD employee who violates division (A) of this 2594
section shall be eligible to be included in the registry regarding 2595
misappropriation, abuse, neglect, or other specified misconduct by 2596
MR/DD employees established under section 5123.52 of the Revised 2597
Code, in addition to any other sanction or penalty authorized or 2598
required by law. 2599

(C)(1) Any person listed in division (C)(2) of section 2600
5123.61 of the Revised Code who has reason to believe that an 2601

MR/DD employee has violated division (A) of this section shall 2602
immediately report that belief to the department of mental 2603
retardation and developmental disabilities. 2604

(2) Any person who has reason to believe that an MR/DD 2605
employee has violated division (A) of this section may report that 2606
belief to the department of mental retardation and developmental 2607
disabilities. 2608

Sec. 5123.542. (A) Each of the following shall annually 2609
provide a written notice to each of its MR/DD employees explaining 2610
the conduct for which an MR/DD employee may be included in the 2611
registry established under section 5123.52 of the Revised Code: 2612

(1) The department of mental retardation and developmental 2613
disabilities; 2614

(2) Each county board of mental retardation and developmental 2615
disabilities; 2616

(3) Each contracting entity, as defined in section 5126.281 2617
of the Revised Code; 2618

(4) Each owner, operator, or administrator of a residential 2619
facility, as defined in section 5123.19 of the Revised Code; 2620

(5) Each owner, operator, or administrator of a program 2621
certified by the department to provide supported living. 2622

(B) The notice described in division (A) of this section 2623
shall be in a form and provided in a manner prescribed by the 2624
department of mental retardation and developmental disabilities. 2625
The form shall be the same for all persons and entities required 2626
to provide notice under division (A) of this section. 2627

(C) The fact that an MR/DD employee does not receive the 2628
notice required by this section does not exempt the employee from 2629
inclusion in the registry established under section 5123.52 of the 2630

Revised Code. 2631

Sec. 5123.61. (A) As used in this section: 2632

(1) "Law enforcement agency" means the state highway patrol, 2633
the police department of a municipal corporation, or a county 2634
sheriff. 2635

(2) "Abuse" has the same meaning as in section 5123.50 of the 2636
Revised Code, except that it includes a misappropriation, as 2637
defined in that section. 2638

(3) "Neglect" has the same meaning as in section 5123.50 of 2639
the Revised Code. 2640

(B) The department of mental retardation and developmental 2641
disabilities shall establish a registry office for the purpose of 2642
maintaining reports of abuse, neglect, and other major unusual 2643
incidents made to the department under this section and reports 2644
received from county boards of mental retardation and 2645
developmental disabilities under section 5126.31 of the Revised 2646
Code. The department shall establish committees to review reports 2647
of abuse, neglect, and other major unusual incidents. 2648

(C)(1) Any person listed in division (C)(2) of this section, 2649
having reason to believe that a person with mental retardation or 2650
a developmental disability has suffered or faces a substantial 2651
risk of suffering any wound, injury, disability, or condition of 2652
such a nature as to reasonably indicate abuse or neglect of that 2653
person, shall immediately report or cause reports to be made of 2654
such information to the entity specified in this division. Except 2655
as provided in section 5120.173 of the Revised Code or as 2656
otherwise provided in this division, the person making the report 2657
shall make it to a law enforcement agency or to the county board 2658
of mental retardation and developmental disabilities, ~~except that~~ 2659
~~if.~~ If the report concerns a resident of a facility operated by 2660

the department of mental retardation and developmental 2661
disabilities the report shall be made either to a law enforcement 2662
agency or to the department. If the report concerns any act or 2663
omission of an employee of a county board of mental retardation 2664
and developmental disabilities, the report immediately shall be 2665
made to the department and to the county board. 2666

(2) All of the following persons are required to make a 2667
report under division (C)(1) of this section: 2668

(a) Any physician, including a hospital intern or resident, 2669
any dentist, podiatrist, chiropractor, practitioner of a limited 2670
branch of medicine as specified in section 4731.15 of the Revised 2671
Code, hospital administrator or employee of a hospital, nurse 2672
licensed under Chapter 4723. of the Revised Code, employee of an 2673
ambulatory health facility as defined in section 5101.61 of the 2674
Revised Code, employee of a home health agency, employee of an 2675
adult care facility licensed under Chapter 3722. of the Revised 2676
Code, or employee of a community mental health facility; 2677

(b) Any school teacher or school authority, social worker, 2678
psychologist, attorney, peace officer, coroner, ~~clergyman~~, or 2679
residents' rights advocate as defined in section 3721.10 of the 2680
Revised Code; 2681

(c) A superintendent, board member, or employee of a county 2682
board of mental retardation and developmental disabilities; an 2683
administrator, board member, or employee of a residential facility 2684
licensed under section 5123.19 of the Revised Code; an 2685
administrator, board member, or employee of any other public or 2686
private provider of services to a person with mental retardation 2687
or a developmental disability, or any MR/DD employee, as defined 2688
in section 5123.50 of the Revised Code; 2689

(d) A member of a citizen's advisory council established at 2690
an institution or branch institution of the department of mental 2691

retardation and developmental disabilities under section 5123.092 2692
of the Revised Code; 2693

(e) A clergyman who is employed in a position that includes 2694
providing specialized services to an individual with mental 2695
retardation or another developmental disability, while acting in 2696
an official or professional capacity in that position, or a person 2697
who is employed in a position that includes providing specialized 2698
services to an individual with mental retardation or another 2699
developmental disability and who, while acting in an official or 2700
professional capacity, renders spiritual treatment through prayer 2701
in accordance with the tenets of an organized religion. 2702

(3)(a) The reporting requirements of this division do not 2703
apply to members of the legal rights service commission or to 2704
employees of the legal rights service. 2705

(b) An attorney or physician is not required to make a report 2706
pursuant to division (C)(1) of this section concerning any 2707
communication the attorney or physician receives from a client or 2708
patient in an attorney-client or physician-patient relationship, 2709
if, in accordance with division (A) or (B) of section 2317.02 of 2710
the Revised Code, the attorney or physician could not testify with 2711
respect to that communication in a civil or criminal proceeding, 2712
except that the client or patient is deemed to have waived any 2713
testimonial privilege under division (A) or (B) of section 2317.02 2714
of the Revised Code with respect to that communication and the 2715
attorney or physician shall make a report pursuant to division 2716
(C)(1) of this section, if both of the following apply: 2717

(i) The client or patient, at the time of the communication, 2718
is a person with mental retardation or a developmental disability. 2719

(ii) The attorney or physician knows or suspects, as a result 2720
of the communication or any observations made during that 2721
communication, that the client or patient has suffered or faces a 2722

substantial risk of suffering any wound, injury, disability, or 2723
condition of a nature that reasonably indicates abuse or neglect 2724
of the client or patient. 2725

(4) Any person who fails to make a report required under 2726
division (C) of this section and who is an MR/DD employee, as 2727
defined in section 5123.50 of the Revised Code, shall be eligible 2728
to be included in the registry regarding misappropriation, abuse, 2729
neglect, or other specified misconduct by MR/DD employees 2730
established under section 5123.52 of the Revised Code. 2731

(D) The reports required under division (C) of this section 2732
shall be made forthwith by telephone or in person and shall be 2733
followed by a written report. The reports shall contain the 2734
following: 2735

(1) The names and addresses of the person with mental 2736
retardation or a developmental disability and the person's 2737
custodian, if known; 2738

(2) The age of the person with mental retardation or a 2739
developmental disability; 2740

(3) Any other information that would assist in the 2741
investigation of the report. 2742

(E) When a physician performing services as a member of the 2743
staff of a hospital or similar institution has reason to believe 2744
that a person with mental retardation or a developmental 2745
disability has suffered injury, abuse, or physical neglect, the 2746
physician shall notify the person in charge of the institution or 2747
that person's designated delegate, who shall make the necessary 2748
reports. 2749

(F) Any person having reasonable cause to believe that a 2750
person with mental retardation or a developmental disability has 2751
suffered or faces a substantial risk of suffering abuse or neglect 2752

may report ~~the belief,~~ or cause a report to be made, of that 2753
belief to the entity specified in this division. Except as 2754
provided in section 5120.173 of the Revised Code or as otherwise 2755
provided in this division, the person making the report shall make 2756
it to a law enforcement agency or the county board of mental 2757
retardation and developmental disabilities, ~~or, if.~~ If the person 2758
is a resident of a facility operated by the department of mental 2759
retardation and developmental disabilities, the report shall be 2760
made to a law enforcement agency or to the department. If the 2761
report concerns any act or omission of an employee of a county 2762
board of mental retardation and developmental disabilities, the 2763
report immediately shall be made to the department and to the 2764
county board. 2765

(G)(1) Upon the receipt of a report concerning the possible 2766
abuse or neglect of a person with mental retardation or a 2767
developmental disability, the law enforcement agency shall inform 2768
the county board of mental retardation and developmental 2769
disabilities or, if the person is a resident of a facility 2770
operated by the department of mental retardation and developmental 2771
disabilities, the director of the department or the director's 2772
designee. 2773

(2) On receipt of a report under this section that includes 2774
an allegation of action or inaction that may constitute a crime 2775
under federal law or the law of this state, the department of 2776
mental retardation and developmental disabilities shall notify the 2777
law enforcement agency. 2778

(3) When a county board of mental retardation and 2779
developmental disabilities receives a report under this section 2780
that includes an allegation of action or inaction that may 2781
constitute a crime under federal law or the law of this state, the 2782
superintendent of the board or an individual the superintendent 2783
designates under division (H) of this section shall notify the law 2784

enforcement agency. The superintendent or individual shall notify 2785
the department of mental retardation and developmental 2786
disabilities when it receives any report under this section. 2787

(4) When a county board of mental retardation and 2788
developmental disabilities receives a report under this section 2789
and believes that the degree of risk to the person is such that 2790
the report is an emergency, the superintendent of the board or an 2791
employee of the board the superintendent designates shall attempt 2792
a face-to-face contact with the person with mental retardation or 2793
a developmental disability who allegedly is the victim within one 2794
hour of the board's receipt of the report. 2795

(H) The superintendent of the board may designate an 2796
individual to be responsible for notifying the law enforcement 2797
agency and the department when the county board receives a report 2798
under this section. 2799

(I) An adult with mental retardation or a developmental 2800
disability about whom a report is made may be removed from the 2801
adult's place of residence only by law enforcement officers who 2802
consider that the adult's immediate removal is essential to 2803
protect the adult from further injury or abuse or in accordance 2804
with the order of a court made pursuant to section 5126.33 of the 2805
Revised Code. 2806

(J) A law enforcement agency shall investigate each report of 2807
abuse or neglect it receives under this section. In addition, the 2808
department, in cooperation with law enforcement officials, shall 2809
investigate each report regarding a resident of a facility 2810
operated by the department to determine the circumstances 2811
surrounding the injury, the cause of the injury, and the person 2812
responsible. The investigation shall be in accordance with the 2813
memorandum of understanding prepared under section 5126.058 of the 2814
Revised Code. The department shall determine, with the registry 2815
office which shall be maintained by the department, whether prior 2816

reports have been made concerning ~~and~~ an adult with mental 2817
retardation or a developmental disability or other principals in 2818
the case. If the department finds that the report involves action 2819
or inaction that may constitute a crime under federal law or the 2820
law of this state, it shall submit a report of its investigation, 2821
in writing, to the law enforcement agency. If the person with 2822
mental retardation or a developmental disability is an adult, with 2823
the consent of the adult, the department shall provide such 2824
protective services as are necessary to protect the adult. The law 2825
enforcement agency shall make a written report of its findings to 2826
the department. 2827

If the person is an adult and is not a resident of a facility 2828
operated by the department, the county board of mental retardation 2829
and developmental disabilities shall review the report of abuse or 2830
neglect in accordance with sections 5126.30 to 5126.33 of the 2831
Revised Code and the law enforcement agency shall make the written 2832
report of its findings to the county board. 2833

(K) Any person or any hospital, institution, school, health 2834
department, or agency participating in the making of reports 2835
pursuant to this section, any person participating as a witness in 2836
an administrative or judicial proceeding resulting from the 2837
reports, or any person or governmental entity that discharges 2838
responsibilities under sections 5126.31 to 5126.33 of the Revised 2839
Code shall be immune from any civil or criminal liability that 2840
might otherwise be incurred or imposed as a result of such actions 2841
except liability for perjury, unless the person or governmental 2842
entity has acted in bad faith or with malicious purpose. 2843

(L) No employer or any person with the authority to do so 2844
shall discharge, demote, transfer, prepare a negative work 2845
performance evaluation, reduce pay or benefits, terminate work 2846
privileges, or take any other action detrimental to an employee or 2847
retaliate against an employee as a result of the employee's having 2848

made a report under this section. This division does not preclude 2849
an employer or person with authority from taking action with 2850
regard to an employee who has made a report under this section if 2851
there is another reasonable basis for the action. 2852

(M) Reports made under this section are not public records as 2853
defined in section 149.43 of the Revised Code. Information 2854
contained in the reports on request shall be made available to the 2855
person who is the subject of the report, to the person's legal 2856
counsel, and to agencies authorized to receive information in the 2857
report by the department or by a county board of mental 2858
retardation and developmental disabilities. 2859

(N) Notwithstanding section 4731.22 of the Revised Code, the 2860
physician-patient privilege shall not be a ground for excluding 2861
evidence regarding the injuries or physical neglect of a person 2862
with mental retardation or a developmental disability or the cause 2863
thereof in any judicial proceeding resulting from a report 2864
submitted pursuant to this section. 2865

Sec. 5123.614. (A) Subject to division (B) of this section, 2866
on receipt of a report of a major unusual incident made pursuant 2867
to section 5123.61 or 5126.31 of the Revised Code or rules adopted 2868
under section 5123.612 of the Revised Code, the department of 2869
mental retardation and developmental disabilities may do either of 2870
the following: 2871

(1) Conduct an independent review or investigation of the 2872
incident; 2873

(2) Request that an independent review or investigation of 2874
the incident be conducted by a county board of mental retardation 2875
and developmental disabilities that is not implicated in the 2876
report, a regional council of government, or any other entity 2877
authorized to conduct such investigations. 2878

(B) If a report described in division (A) of this section 2879
concerning the health or safety of a person with mental 2880
retardation or a developmental disability involves an allegation 2881
that an employee of a county board of mental retardation and 2882
developmental disabilities has created a substantial risk of 2883
serious physical harm to a person with mental retardation or a 2884
developmental disability, the department shall do one of the 2885
following: 2886

(1) Conduct an independent investigation regarding the 2887
incident; 2888

(2) Request that an independent review or investigation of 2889
the incident be conducted by a county board of mental retardation 2890
and developmental disabilities that is not implicated in the 2891
report, a regional council of government, or any other entity 2892
authorized to conduct such investigations. 2893

Sec. 5123.99. (A) Whoever violates section 5123.20 of the 2894
Revised Code is guilty of a misdemeanor of the first degree. 2895

(B) Whoever violates division (C), (E), or (G)(3) of section 2896
5123.61 of the Revised Code ~~shall be fined not more than five~~ 2897
~~hundred dollars~~ is guilty of a misdemeanor of the fourth degree 2898
or, if the abuse or neglect constitutes a felony, a misdemeanor of 2899
the second degree. In addition to any other sanction or penalty 2900
authorized or required by law, if a person who is convicted of or 2901
pleads guilty to a violation of division (C), (E), or (G)(3) of 2902
section 5123.61 of the Revised Code is an MR/DD employee, as 2903
defined in section 5123.50 of the Revised Code, the offender shall 2904
be eligible to be included in the registry regarding 2905
misappropriation, abuse, neglect, or other specified misconduct by 2906
MR/DD employees established under section 5123.52 of the Revised 2907
Code. 2908

(C) Whoever violates division (A) of section 5123.604 of the Revised Code is guilty of a misdemeanor of the second degree.

(D) Whoever violates division (B) of section 5123.604 of the Revised Code shall be fined not more than one thousand dollars. Each violation constitutes a separate offense.

Sec. 5126.058. (A) Each county board of mental retardation and developmental disabilities shall prepare a memorandum of understanding that is developed by all of the following and that is signed by the persons identified in divisions (A)(3) to (8) of this section:

(1) If there is only one probate judge in the county, the probate judge of the county or the probate judge's representative;

(2) If there is more than one probate judge in the county, a probate judge or the probate judge's representative selected by the probate judges or, if they are unable to do so for any reason, the probate judge who is senior in point of service or the senior probate judge's representative;

(3) The county peace officer;

(4) All chief municipal peace officers within the county;

(5) Other law enforcement officers handling abuse, neglect, and exploitation of mentally retarded and developmentally disabled persons in the county;

(6) The prosecuting attorney of the county;

(7) The public children services agency;

(8) The coroner of the county.

(B) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and sections 313.12, 2151.421, 2903.16, 5126.31, and

5126.33 of the Revised Code and shall have as its primary goal the 2938
elimination of all unnecessary interviews of persons who are the 2939
subject of reports made pursuant to this section. A failure to 2940
follow the procedure set forth in the memorandum by the concerned 2941
officials is not grounds for, and shall not result in, the 2942
dismissal of any charge or complaint arising from any reported 2943
case of abuse, neglect, or exploitation or the suppression of any 2944
evidence obtained as a result of any reported abuse, neglect, or 2945
exploitation and does not give any rights or grounds for appeal or 2946
post-conviction relief to any person. 2947

(C) A memorandum of understanding shall include, but is not 2948
limited to, all of the following: 2949

(1) The roles and responsibilities for handling emergency and 2950
nonemergency cases of abuse, neglect, or exploitation; 2951

(2) The roles and responsibilities for handling and 2952
coordinating investigations of reported cases of abuse, neglect, 2953
or exploitation and methods to be used in interviewing the person 2954
who is the subject of the report and who allegedly was abused, 2955
neglected, or exploited; 2956

(3) The roles and responsibilities for addressing the 2957
categories of persons who may interview the person who is the 2958
subject of the report and who allegedly was abused, neglected, or 2959
exploited; 2960

(4) The roles and responsibilities for providing victim 2961
services to mentally retarded and developmentally disabled persons 2962
pursuant to Chapter 2930. of the Revised Code; 2963

(5) The roles and responsibilities for the filing of criminal 2964
charges against persons alleged to have abused, neglected, or 2965
exploited mentally retarded or developmentally disabled persons. 2966

(D) A memorandum of understanding may be signed by victim 2967

advocates, municipal court judges, municipal prosecutors, and any 2968
other person whose participation furthers the goals of a 2969
memorandum of understanding, as set forth in this section. 2970

Sec. 5126.28. (A) As used in this section: 2971

(1) "Applicant" means a person who is under final 2972
consideration for appointment or employment in a position with a 2973
county board of mental retardation and developmental disabilities, 2974
including, but not limited to, a person who is being transferred 2975
to the county board and an employee who is being recalled or 2976
reemployed after a layoff. 2977

(2) "Criminal records check" has the same meaning as in 2978
section 109.572 of the Revised Code. 2979

(3) "Minor drug possession offense" has the same meaning as 2980
in section 2925.01 of the Revised Code. 2981

(B) The superintendent of a county board of mental 2982
retardation and developmental disabilities shall request the 2983
superintendent of the bureau of criminal identification and 2984
investigation to conduct a criminal records check with respect to 2985
any applicant who has applied to the board for employment in any 2986
position, except that a county board superintendent is not 2987
required to request a criminal records check for an employee of 2988
the board who is being considered for a different position or is 2989
returning after a leave of absence or seasonal break in 2990
employment, as long as the superintendent has no reason to believe 2991
that the employee has committed any of the offenses listed or 2992
described in division (E) of this section. 2993

If the applicant does not present proof that the applicant 2994
has been a resident of this state for the five-year period 2995
immediately prior to the date upon which the criminal records 2996
check is requested, the county board superintendent shall request 2997

that the superintendent of the bureau obtain information from the 2998
federal bureau of investigation as a part of the criminal records 2999
check for the applicant. If the applicant presents proof that the 3000
applicant has been a resident of this state for that five-year 3001
period, the county board superintendent may request that the 3002
superintendent of the bureau include information from the federal 3003
bureau of investigation in the criminal records check. For 3004
purposes of this division, an applicant may provide proof of 3005
residency in this state by presenting, with a notarized statement 3006
asserting that the applicant has been a resident of this state for 3007
that five-year period, a valid driver's license, notification of 3008
registration as an elector, a copy of an officially filed federal 3009
or state tax form identifying the applicant's permanent residence, 3010
or any other document the superintendent considers acceptable. 3011

(C) The county board superintendent shall provide to each 3012
applicant a copy of the form prescribed pursuant to division 3013
(C)(1) of section 109.572 of the Revised Code, provide to each 3014
applicant a standard impression sheet to obtain fingerprint 3015
impressions prescribed pursuant to division (C)(2) of section 3016
109.572 of the Revised Code, obtain the completed form and 3017
impression sheet from each applicant, and forward the completed 3018
form and impression sheet to the superintendent of the bureau of 3019
criminal identification and investigation at the time the criminal 3020
records check is requested. 3021

Any applicant who receives pursuant to this division a copy 3022
of the form prescribed pursuant to division (C)(1) of section 3023
109.572 of the Revised Code and a copy of an impression sheet 3024
prescribed pursuant to division (C)(2) of that section and who is 3025
requested to complete the form and provide a set of fingerprint 3026
impressions shall complete the form or provide all the information 3027
necessary to complete the form and shall provide the impression 3028
sheet with the impressions of the applicant's fingerprints. If an 3029

applicant, upon request, fails to provide the information 3030
necessary to complete the form or fails to provide impressions of 3031
the applicant's fingerprints, the county board superintendent 3032
shall not employ that applicant. 3033

(D) A county board superintendent may request any other state 3034
or federal agency to supply the board with a written report 3035
regarding the criminal record of each applicant. With regard to an 3036
applicant who becomes a board employee, if the employee holds an 3037
occupational or professional license or other credentials, the 3038
superintendent may request that the state or federal agency that 3039
regulates the employee's occupation or profession supply the board 3040
with a written report of any information pertaining to the 3041
employee's criminal record that the agency obtains in the course 3042
of conducting an investigation or in the process of renewing the 3043
employee's license or other credentials. 3044

(E) Except as provided in division (K)(2) of this section and 3045
in rules adopted by the department of mental retardation and 3046
developmental disabilities in accordance with division (M) of this 3047
section, no county board of mental retardation and developmental 3048
disabilities shall employ a person to fill a position with the 3049
board who has been convicted of or pleaded guilty to any of the 3050
following: 3051

(1) A violation of section 2903.01, 2903.02, 2903.03, 3052
2903.341, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 3053
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 3054
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 3055
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 3056
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 3057
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 3058
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 3059
section 2905.04 of the Revised Code as it existed prior to July 1, 3060
1996, a violation of section 2919.23 of the Revised Code that 3061

would have been a violation of section 2905.04 of the Revised Code 3062
as it existed prior to July 1, 1996, had the violation occurred 3063
prior to that date, a violation of section 2925.11 of the Revised 3064
Code that is not a minor drug possession offense, or felonious 3065
sexual penetration in violation of former section 2907.12 of the 3066
Revised Code; 3067

(2) A felony contained in the Revised Code that is not listed 3068
in this division, if the felony bears a direct and substantial 3069
relationship to the duties and responsibilities of the position 3070
being filled; 3071

(3) Any offense contained in the Revised Code constituting a 3072
misdemeanor of the first degree on the first offense and a felony 3073
on a subsequent offense, if the offense bears a direct and 3074
substantial relationship to the position being filled and the 3075
nature of the services being provided by the county board; 3076

(4) A violation of an existing or former municipal ordinance 3077
or law of this state, any other state, or the United States, if 3078
the offense is substantially equivalent to any of the offenses 3079
listed or described in division (E)(1), (2), or (3) of this 3080
section. 3081

(F) Prior to employing an applicant, the county board 3082
superintendent shall require the applicant to submit a statement 3083
with the applicant's signature attesting that the applicant has 3084
not been convicted of or pleaded guilty to any of the offenses 3085
listed or described in division (E) of this section. The 3086
superintendent also shall require the applicant to sign an 3087
agreement under which the applicant agrees to notify the 3088
superintendent within fourteen calendar days if, while employed by 3089
the board, the applicant is ever formally charged with, convicted 3090
of, or pleads guilty to any of the offenses listed or described in 3091
division (E) of this section. The agreement shall inform the 3092
applicant that failure to report formal charges, a conviction, or 3093

a guilty plea may result in being dismissed from employment. 3094

(G) A county board of mental retardation and developmental 3095
disabilities shall pay to the bureau of criminal identification 3096
and investigation the fee prescribed pursuant to division (C)(3) 3097
of section 109.572 of the Revised Code for each criminal records 3098
check requested and conducted pursuant to this section. 3099

(H)(1) Any report obtained pursuant to this section is not a 3100
public record for purposes of section 149.43 of the Revised Code 3101
and shall not be made available to any person, other than the 3102
applicant who is the subject of the records check or criminal 3103
records check or the applicant's representative, the board 3104
requesting the records check or criminal records check or its 3105
representative, the department of mental retardation and 3106
developmental disabilities, and any court, hearing officer, or 3107
other necessary individual involved in a case dealing with the 3108
denial of employment to the applicant or the denial, suspension, 3109
or revocation of a certificate or evidence of registration under 3110
section 5126.25 of the Revised Code. 3111

(2) An individual for whom a county board superintendent has 3112
obtained reports under this section may submit a written request 3113
to the county board to have copies of the reports sent to any 3114
state agency, entity of local government, or private entity. The 3115
individual shall specify in the request the agencies or entities 3116
to which the copies are to be sent. On receiving the request, the 3117
county board shall send copies of the reports to the agencies or 3118
entities specified. 3119

A county board may request that a state agency, entity of 3120
local government, or private entity send copies to the board of 3121
any report regarding a records check or criminal records check 3122
that the agency or entity possesses, if the county board obtains 3123
the written consent of the individual who is the subject of the 3124
report. 3125

(I) Each county board superintendent shall request the registrar of motor vehicles to supply the superintendent with a certified abstract regarding the record of convictions for violations of motor vehicle laws of each applicant who will be required by the applicant's employment to transport individuals with mental retardation or developmental disabilities or to operate the board's vehicles for any other purpose. For each abstract provided under this section, the board shall pay the amount specified in section 4509.05 of the Revised Code.

(J) The county board superintendent shall provide each applicant with a copy of any report or abstract obtained about the applicant under this section. At the request of the director of mental retardation and developmental disabilities, the superintendent also shall provide the director with a copy of a report or abstract obtained under this section.

(K)(1) The county board superintendent shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment in a position.

(2) A board may employ an applicant pending receipt of reports requested under this section. The board shall terminate employment of any such applicant if it is determined from the reports that the applicant failed to inform the county board that the applicant had been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section.

(L) The board may charge an applicant a fee for costs it incurs in obtaining reports, abstracts, or fingerprint impressions

under this section. A fee charged under this division shall not 3157
exceed the amount of the fees the board pays under divisions (G) 3158
and (I) of this section. If a fee is charged under this division, 3159
the board shall notify the applicant of the amount of the fee at 3160
the time of the applicant's initial application for employment and 3161
that, unless the fee is paid, the board will not consider the 3162
applicant for employment. 3163

(M) The department of mental retardation and developmental 3164
disabilities shall adopt rules pursuant to Chapter 119. of the 3165
Revised Code to implement this section and section 5126.281 of the 3166
Revised Code, including rules specifying circumstances under which 3167
a county board or contracting entity may hire a person who has 3168
been convicted of or pleaded guilty to an offense listed or 3169
described in division (E) of this section but who meets standards 3170
in regard to rehabilitation set by the department. The rules may 3171
not authorize a county board or contracting entity to hire an 3172
individual who is included in the registry established under 3173
section 5123.52 of the Revised Code. 3174

Sec. 5126.30. As used in sections 5126.30 to 5126.34 of the 3175
Revised Code: 3176

(A) "Adult" means a person eighteen years of age or older 3177
with mental retardation or a developmental disability. 3178

(B) "Caretaker" means a person who is responsible for the 3179
care of an adult by order of a court, including an order of 3180
guardianship, or who assumes the responsibility for the care of an 3181
adult as a volunteer, as a family member, by contract, or by the 3182
acceptance of payment for care. 3183

(C) "Abuse" has the same meaning as in section 5123.50 of the 3184
Revised Code, except that it includes a misappropriation, as 3185
defined in that section. 3186

(D) "Neglect" has the same meaning as in section 5123.50 of the Revised Code. 3187
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(E) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain, including misappropriation, as defined in section 5123.50 of the Revised Code, of an adult's resources. 3189
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(F) "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day is a holiday as defined in section 1.14 of the Revised Code. 3194
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~~(F)~~(G) "Incapacitated" means lacking understanding or capacity, with or without the assistance of a caretaker, to make and carry out decisions regarding food, clothing, shelter, health care, or other necessities, but does not include mere refusal to consent to the provision of services. 3197
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(H) "Emergency protective services" means protective services furnished to a person with mental retardation or a developmental disability to prevent immediate physical harm. 3202
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(I) "Protective services" means services provided by the county board of mental retardation and developmental disabilities to an adult with mental retardation or a developmental disability for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. 3205
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(J) "Protective service plan" means an individualized plan developed by the county board of mental retardation and developmental disabilities to prevent the further abuse, neglect, or exploitation of an adult with mental retardation or a developmental disability. 3210
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(K) "Substantial risk" has the same meaning as in section 2901.01 of the Revised Code. 3215
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<u>(L) "Party" means all of the following:</u>	3217
<u>(1) An adult who is the subject of a probate proceeding under sections 5126.30 to 5126.33 of the Revised Code;</u>	3218
<u>(2) A caretaker, unless otherwise ordered by the probate court;</u>	3219
<u>(3) Any other person designated as a party by the probate court including but not limited to, the adult's spouse, custodian, guardian, or parent.</u>	3220
<u>(M) "Board" has the same meaning as in section 5126.02 of the Revised Code.</u>	3221
Sec. 5126.33. (A) A county board of mental retardation and developmental disabilities may file a complaint with the probate court of the county in which an adult with mental retardation or a developmental disability resides for an order authorizing the board to arrange services described in division (C) of section 5126.31 of the Revised Code for that adult if <u>the adult is eligible to receive services or support under section 5126.041 of the Revised Code and</u> the board has been unable to secure consent. The complaint shall include:	3222
<u>(1) The name, age, and address of the adult;</u>	3223
<u>(2) Facts describing the nature of the abuse or, neglect, or exploitation and supporting the board's belief that services are needed;</u>	3224
<u>(3) The types of services proposed by the board, as set forth in the individualized protective service plan prepared pursuant to described in division (J) of section 5126.31 5126.30 of the Revised Code and filed with the complaint;</u>	3225
<u>(4) Facts showing the board's attempts to obtain the consent of the adult or the adult's guardian to the services.</u>	3226
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(B) The board shall give the adult notice of the filing of the complaint and in simple and clear language shall inform the adult of the adult's rights in the hearing under division (C) of this section and explain the consequences of a court order. This notice shall be personally served upon ~~the adult~~ all parties, and also shall be given to ~~the adult's caretaker~~, the adult's legal counsel, if any, and the legal rights service. The notice shall be given at least twenty-four hours prior to the hearing, although the court may waive this requirement upon a showing that there is a substantial risk that the adult will suffer immediate physical harm in the twenty-four hour period and that the board has made reasonable attempts to give the notice required by this division.

(C) Upon the filing of a complaint for an order under this section, the court shall hold a hearing at least twenty-four hours and no later than seventy-two hours after the notice under division (B) of this section has been given unless the court has waived the notice. ~~The adult~~ All parties shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The Ohio Rules of Evidence shall apply to a hearing conducted pursuant to this division. The adult shall be represented by counsel unless the court finds that the adult has made a voluntary, informed, and knowing waiver of the right to counsel. If the adult is indigent, the court shall appoint counsel to represent the adult. The board shall be represented by the county prosecutor or an attorney designated by the board.

(D)(1) The court shall issue an order authorizing the board to arrange the protective services if it finds, on the basis of clear and convincing evidence, all of the following:

- (a) The adult has been abused ~~or~~, neglected, or exploited;
- (b) The adult is incapacitated;
- (c) There is a substantial risk to the adult of immediate

physical harm or death; 3277

(d) The adult is in need of the services; 3278

(e) No person authorized by law or court order to give 3279
consent for the adult is available or willing to consent to the 3280
services. 3281

(2) The board shall develop a detailed protective service 3282
plan describing the services that the board will provide, or 3283
arrange for the provision of, to the adult to prevent further 3284
abuse, neglect, or exploitation. The board shall submit the plan 3285
to the court for approval. The protective service plan may be 3286
changed only by court order. 3287

(3) In formulating the order, the court shall consider the 3288
individual protective service plan and shall specifically 3289
designate the services that are necessary to deal with the abuse 3290
~~or,~~ neglect, or exploitation or condition resulting from abuse ~~or,~~ 3291
neglect, or exploitation and that are available locally, and 3292
authorize the board to arrange for these services only. The court 3293
shall limit the provision of these services to a period not 3294
exceeding ~~fourteen days~~ six months, renewable for an additional 3295
~~fourteen day~~ six-month period on a showing by the board that 3296
continuation of the order is necessary. 3297

(E) If the court finds that all other options for meeting the 3298
adult's needs have been exhausted, it may order that the adult be 3299
removed from the adult's place of residence and placed in another 3300
residential setting. Before issuing that order, the court shall 3301
consider the adult's choice of residence and shall determine that 3302
the new residential setting is the least restrictive alternative 3303
available for meeting the adult's needs and is a place where the 3304
adult can obtain the necessary requirements for daily living in 3305
safety. The court shall not order an adult to a hospital or public 3306
hospital as defined in section 5122.01 or a state institution as 3307

defined in section 5123.01 of the Revised Code. 3308

(F) The court shall not authorize a change in an adult's 3309
placement ordered under division (E) of this section unless it 3310
finds compelling reasons to justify a change. The parties to whom 3311
notice was given in division (B) of this section shall be given 3312
notice of a proposed change at least five working days prior to 3313
the change. 3314

(G) The adult, the board, or any other person who received 3315
notice of the petition may file a motion for modification of the 3316
court order at any time. 3317

(H) The county board shall pay court costs incurred in 3318
proceedings brought pursuant to this section. The adult shall not 3319
be required to pay for court-ordered services. 3320

(I)(1) After the filing of a complaint for an order under 3321
this section, the court, prior to the final disposition, may enter 3322
any temporary order that the court finds necessary to protect the 3323
adult with mental retardation or a developmental disability from 3324
abuse, neglect, or exploitation including, but not limited to, the 3325
following: 3326

(a) A temporary protection order; 3327

(b) An order requiring the evaluation of the adult; 3328

(c) An order requiring a party to vacate the adult's place of 3329
residence or legal settlement, provided that, subject to division 3330
(K)(1)(d) of this section, no operator of a residential facility 3331
licensed by the department may be removed under this division; 3332

(d) In the circumstances described in, and in accordance with 3333
the procedures set forth in, section 5123.191 of the Revised Code, 3334
an order of the type described in that section that appoints a 3335
receiver to take possession of and operate a residential facility 3336
licensed by the department. 3337

(2) The court may grant an ex parte order pursuant to this division on its own motion or if a party files a written motion or makes an oral motion requesting the issuance of the order and stating the reasons for it if it appears to the court that the best interest and the welfare of the adult require that the court issue the order immediately. The court, if acting on its own motion, or the person requesting the granting of an ex parte order, to the extent possible, shall give notice of its intent or of the request to all parties, the adult's legal counsel, if any, and the legal rights service. If the court issues an ex parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next day after the day on which it is issued, whichever occurs first. The court shall give written notice of the hearing to all parties to the action. 3338
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Sec. 5126.331. (A) A probate court, through a probate judge or magistrate, may issue by telephone an ex parte emergency order authorizing any of the actions described in division (B) of this section if all of the following are the case: 3353
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(1) The court receives notice from the county board of mental retardation and developmental disabilities, or an authorized employee of the board, that the board or employee believes an emergency order is needed as described in this section. 3357
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(2) The adult who is the subject of the notice is eligible to receive services or support under section 5126.041 of the Revised Code. 3361
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(3) There is reasonable cause to believe that the adult is incapacitated. 3364
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(4) There is reasonable cause to believe that there is a substantial risk to the adult of immediate physical harm or death. 3366
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(B) An order issued under this section may authorize the 3368
county board of mental retardation and developmental disabilities 3369
to do any of the following: 3370

(1) Provide, or arrange for the provision of, emergency 3371
protective services for the adult; 3372

(2) Remove the adult from the adult's place of residence or 3373
legal settlement; 3374

(3) Remove the adult from the place where the abuse, neglect, 3375
or exploitation occurred. 3376

(C) A court shall not issue an order under this section to 3377
remove an adult from a place described in division (B)(2) or (3) 3378
of this section until the court is satisfied that reasonable 3379
efforts have been made to notify the adult and any person with 3380
whom the adult resides of the proposed removal and the reasons for 3381
it, except that, the court may issue an order prior to giving the 3382
notice if one of the following is the case: 3383

(1) Notification could jeopardize the physical or emotional 3384
safety of the adult. 3385

(2) The notification could result in the adult being removed 3386
from the court's jurisdiction. 3387

(D) An order issued under this section shall be in effect for 3388
not longer than twenty-four hours, except that if the day 3389
following the day on which the order is issued is a weekend-day or 3390
legal holiday, the order shall remain in effect until the next 3391
business day. 3392

(E)(1) Except as provided in division (E)(2) of this section, 3393
not later than twenty-four hours after an order is issued under 3394
this section, the county board or employee that provided notice to 3395
the probate court shall file a complaint with the court in 3396
accordance with division (A) of section 5126.33 of the Revised 3397

Code. 3398

(2) If the day following the day on which the order was issued is a weekend-day or a holiday, the county board or employee shall file the complaint with the probate court on the next business day. 3399
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(3) Except as provided in section 5126.332 of the Revised Code, proceedings on the complaint filed pursuant to this division shall be conducted in accordance with section 5126.33 of the Revised Code. 3403
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Sec. 5126.332. (A) If an order is issued pursuant to section 5126.331 of the Revised Code, the court shall hold a hearing not later than twenty-four hours after the issuance to determine whether there is probable cause for the order, except that if the day following the day on which the order is issued is a weekend-day or legal holiday, the court shall hold the hearing on the next business day. 3407
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(B) At the hearing, the court: 3414

(1) Shall consider the adult's choice of residence and determine whether protective services are the least restrictive alternative available for meeting the adult's needs; 3415
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(2) May issue temporary orders to protect the adult from immediate physical harm, including, but not limited to, temporary protection orders, evaluations, and orders requiring a party to vacate the adult's place of residence or legal settlement; 3418
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(3) May order emergency protective services. 3422

(C) A temporary order issued pursuant to division (B)(2) of this section is effective for thirty days. The court may renew the order for an additional thirty-day period. 3423
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Sec. 5126.333. Any person who has reason to believe that 3426

there is a substantial risk to an adult with mental retardation or 3427
a developmental disability of immediate physical harm or death and 3428
that the responsible county board of mental retardation and 3429
developmental disabilities has failed to seek an order pursuant to 3430
section 5126.33 or 5126.331 of the Revised Code may notify the 3431
department of mental retardation and developmental disabilities. 3432
Within twenty-four hours of receipt of such notice, the department 3433
shall cause an investigation to be conducted regarding the notice. 3434
The department shall provide assistance to the county board to 3435
provide for the health and safety of the adult as permitted by 3436
law. 3437

Section 2. That existing sections 109.572, 313.12, 2106.01, 3438
2106.02, 2107.19, 2108.50, 2109.301, 2109.32, 2113.53, 2117.06, 3439
2117.07, 2117.11, 2117.12, 2151.421, 2311.14, 2930.03, 5120.173, 3440
5123.081, 5123.50, 5123.51, 5123.61, 5123.99, 5126.28, 5126.30, 3441
and 5126.33 of the Revised Code are hereby repealed. 3442

Section 3. The Department of Mental Retardation and 3443
Developmental Disabilities shall adopt rules pursuant to Chapter 3444
119. of the Revised Code that provide standards for the 3445
substantiation by the Department and by county boards of mental 3446
retardation of reports of abuse or neglect filed under section 3447
5123.61 of the Revised Code. 3448

Section 4. That the version of section 5123.50 of the Revised 3449
Code that is scheduled to take effect on December 31, 2003, be 3450
amended to read as follows: 3451

Sec. 5123.50. As used in this section and sections 5123.51 3452
and, 5123.52, and 5123.541 of the Revised Code: 3453

(A) "Abuse" means all of the following: 3454

(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm;	3455 3456
(2) Sexual abuse;	3457
(3) Verbal abuse.	3458
(B) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.	3459 3460 3461 3462
(C) "MR/DD employee" means all of the following:	3463
(1) An employee of the department of mental retardation and developmental disabilities;	3464 3465
(2) An employee of a county board of mental retardation and developmental disabilities;	3466 3467
(3) An employee in a position that includes providing specialized services to an individual with mental retardation or a <u>another</u> developmental disability.	3468 3469 3470
(D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual.	3471 3472 3473 3474
(E) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code.	3475 3476
(F) "Sexual abuse" means unlawful sexual conduct or sexual contact, as those terms are defined in section 2907.01 of the Revised Code.	3477 3478 3479
(G) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the	3480 3481 3482 3483

department of mental retardation and developmental disabilities. A 3484
program or service available to the general public is not a 3485
specialized service. 3486

(H) "Verbal abuse" means purposely using words to threaten, 3487
coerce, intimidate, harass, or humiliate an individual. 3488

(I) "Sexual conduct," "sexual contact," and "spouse" have the 3489
same meanings as in section 2907.01 of the Revised Code. 3490

Section 5. That the existing version of section 5123.50 of 3491
the Revised Code that is scheduled to take effect on December 31, 3492
2003, is hereby repealed. 3493

Section 6. Sections 4 and 5 of this act shall take effect 3494
December 31, 2003. 3495

Section 7. Section 109.572 of the Revised Code is presented 3496
in this act as a composite of the section as amended by both Sub. 3497
H.B. 448 and Sub. H.B. 538 of the 123rd General Assembly. Section 3498
2151.421 of the Revised Code is presented in this act as a 3499
composite of the section as amended by Am. Sub. H.B. 374, Sub. 3500
H.B. 510, and Am. Sub. S.B. 221 all of the 124th General Assembly. 3501
Section 5126.28 of the Revised Code is presented in this act as a 3502
composite of the section as amended by both Sub. H.B. 538 and Sub. 3503
S.B. 171 of the 123rd General Assembly. The General Assembly, 3504
applying the principle stated in division (B) of section 1.52 of 3505
the Revised Code that amendments are to be harmonized if 3506
reasonably capable of simultaneous operation, finds that the 3507
composites are the resulting versions of the sections in effect 3508
prior to the effective date of the sections as presented in this 3509
act. 3510

Section 8. (A) Sections 2106.01, 2106.02, 2107.19, 2109.301, 3511
2109.32, 2113.53, 2117.06, 2117.07, 2117.11, and 2117.12 of the 3512

Revised Code, as amended by this act, apply to estates that are in 3513
existence or are initiated on or after the effective date of this 3514
act. 3515

(B) Section 2101.163 of the Revised Code, as enacted by this 3516
act, applies to civil actions and proceedings that are pending in 3517
or brought before the probate court on or after the effective date 3518
of this act. 3519

Section 9. It is hereby declared that it was the intent of 3520
the General Assembly that the sections of the Revised Code 3521
described in Section 2 of Sub. H.B. 85 of the 124th General 3522
Assembly were to be repealed effective December 31, 2001, to 3523
coincide with Section 5 of Sub. H.B. 85 of the 124th General 3524
Assembly, and that the repeal of such Revised Code sections in 3525
Section 2 of Sub. H.B. 85 of the 124th General Assembly was not to 3526
be effective October 31, 2001. 3527