

of taxes, contributions, premiums, assessments, and other debts 31059
owing or accrued upon the date of cancellation to this state and 31060
its political subdivisions and a filing with the division of a 31061
certification of that payment, the division shall issue to that 31062
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 31063
that person requests. The division shall issue the D-5 permit, or 31064
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 31065
D-3, or D-5 permits currently issued in the municipal corporation 31066
or in the unincorporated area of the township where that person's 31067
proposed premises is located equals or exceeds the maximum number 31068
of such permits that can be issued in that municipal corporation 31069
or in the unincorporated area of that township under the 31070
population quota restrictions contained in section 4303.29 of the 31071
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 31072
be transferred to another location. If a D-5b permit is canceled 31073
under the provisions of this paragraph, the number of D-5b permits 31074
that may be issued at the enclosed shopping center for which the 31075
D-5b permit was issued, under the formula provided in this 31076
division, shall be reduced by one if the enclosed shopping center 31077
was entitled to more than one D-5b permit under the formula. 31078

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 31079
hundred ~~seventy-five~~ forty-four dollars. 31080

(C) Permit D-5c may be issued to the owner or operator of a 31081
retail food establishment or a food service operation licensed 31082
pursuant to Chapter 3717. of the Revised Code that operates as a 31083
restaurant for purposes of this chapter and that qualifies under 31084
the other requirements of this section to sell beer and any 31085
intoxicating liquor at retail, only by the individual drink in 31086
glass and from the container, for consumption on the premises 31087
where sold, and to sell the same products in the same manner and 31088
amounts not for consumption on the premises as may be sold by 31089
holders of D-1 and D-2 permits. In addition to the privileges 31090

authorized in this division, the holder of a D-5c permit may 31091
exercise the same privileges as the holder of a D-5 permit. 31092

To qualify for a D-5c permit, the owner or operator of a 31093
retail food establishment or a food service operation licensed 31094
pursuant to Chapter 3717. of the Revised Code that operates as a 31095
restaurant for purposes of this chapter, shall have operated the 31096
restaurant at the proposed premises for not less than twenty-four 31097
consecutive months immediately preceding the filing of the 31098
application for the permit, have applied for a D-5 permit no later 31099
than December 31, 1988, and appear on the division's quota waiting 31100
list for not less than six months immediately preceding the filing 31101
of the application for the permit. In addition to these 31102
requirements, the proposed D-5c permit premises shall be located 31103
within a municipal corporation and further within an election 31104
precinct that, at the time of the application, has no more than 31105
twenty-five per cent of its total land area zoned for residential 31106
use. 31107

A D-5c permit shall not be transferred to another location. 31108
No quota restriction shall be placed on the number of such permits 31109
that may be issued. 31110

Any person who has held a D-5c permit for at least two years 31111
may apply for a D-5 permit, and the division of liquor control 31112
shall issue the D-5 permit notwithstanding the quota restrictions 31113
contained in section 4303.29 of the Revised Code or in any rule of 31114
the liquor control commission. 31115

The fee for this permit is one thousand ~~two~~ five hundred 31116
~~fifty~~ sixty-three dollars. 31117

(D) Permit D-5d may be issued to the owner or operator of a 31118
retail food establishment or a food service operation licensed 31119
pursuant to Chapter 3717. of the Revised Code that operates as a 31120
restaurant for purposes of this chapter and that is located at an 31121

airport operated by a board of county commissioners pursuant to 31122
section 307.20 of the Revised Code, at an airport operated by a 31123
port authority pursuant to Chapter 4582. of the Revised Code, or 31124
at an airport operated by a regional airport authority pursuant to 31125
Chapter 308. of the Revised Code. The holder of a D-5d permit may 31126
sell beer and any intoxicating liquor at retail, only by the 31127
individual drink in glass and from the container, for consumption 31128
on the premises where sold, and may sell the same products in the 31129
same manner and amounts not for consumption on the premises where 31130
sold as may be sold by the holders of D-1 and D-2 permits. In 31131
addition to the privileges authorized in this division, the holder 31132
of a D-5d permit may exercise the same privileges as the holder of 31133
a D-5 permit. 31134

A D-5d permit shall not be transferred to another location. 31135
No quota restrictions shall be placed on the number of such 31136
permits that may be issued. 31137

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 31138
hundred ~~seventy-five~~ forty-four dollars. 31139

(E) Permit D-5e may be issued to any nonprofit organization 31140
that is exempt from federal income taxation under the "Internal 31141
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 31142
amended, or that is a charitable organization under any chapter of 31143
the Revised Code, and that owns or operates a riverboat that meets 31144
all of the following: 31145

(1) Is permanently docked at one location; 31146

(2) Is designated as an historical riverboat by the Ohio 31147
historical society; 31148

(3) Contains not less than fifteen hundred square feet of 31149
floor area; 31150

(4) Has a seating capacity of fifty or more persons. 31151

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is ~~nine~~ one thousand two hundred ~~seventy five~~ nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative

authority that the issuance of the D-5f permit is not inconsistent 31182
with that political subdivision's comprehensive development plan 31183
or other economic development goal as officially established by 31184
the local legislative authority. 31185

The holder of a D-5f permit may sell beer and intoxicating 31186
liquor at retail, only by the individual drink in glass and from 31187
the container, for consumption on the premises where sold. 31188

A D-5f permit shall not be transferred to another location. 31189

The division of liquor control shall not issue a D-5f permit 31190
if the permit premises or proposed permit premises are located 31191
within an area in which the sale of spirituous liquor by the glass 31192
is prohibited. 31193

A fee for this permit is ~~one two thousand eight three~~ hundred 31194
~~seventy-five~~ forty-four dollars. 31195

As used in this division, "navigable river" means a river 31196
that is also a "navigable water" as defined in the "Federal Power 31197
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 31198

(G) Permit D-5g may be issued to a nonprofit corporation that 31199
is either the owner or the operator of a national professional 31200
sports museum. The holder of a D-5g permit may sell beer and any 31201
intoxicating liquor at retail, only by the individual drink in 31202
glass and from the container, for consumption on the premises 31203
where sold. The holder of a D-5g permit shall sell no beer or 31204
intoxicating liquor for consumption on the premises where sold 31205
after one a.m. A D-5g permit shall not be transferred to another 31206
location. No quota restrictions shall be placed on the number of 31207
D-5g permits that may be issued. The fee for this permit is one 31208
thousand ~~five~~ eight hundred ~~seventy-five~~ dollars. 31209

(H) Permit D-5h may be issued to any nonprofit organization 31210
that is exempt from federal income taxation under the "Internal 31211
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 31212

amended, that owns or operates a fine arts museum and has no less 31213
than five thousand bona fide members possessing full membership 31214
privileges. The holder of a D-5h permit may sell beer and any 31215
intoxicating liquor at retail, only by the individual drink in 31216
glass and from the container, for consumption on the premises 31217
where sold. The holder of a D-5h permit shall sell no beer or 31218
intoxicating liquor for consumption on the premises where sold 31219
after one a.m. A D-5h permit shall not be transferred to another 31220
location. No quota restrictions shall be placed on the number of 31221
D-5h permits that may be issued. The fee for this permit is one 31222
thousand ~~five~~ eight hundred seventy-five dollars. 31223

(I) Permit D-5i may be issued to the owner or operator of a 31224
retail food establishment or a food service operation licensed 31225
under Chapter 3717. of the Revised Code that operates as a 31226
restaurant for purposes of this chapter and that meets all of the 31227
following requirements: 31228

(1) It is located in a municipal corporation or a township 31229
with a population of fifty thousand or less. 31230

(2) It has inside seating capacity for at least one hundred 31231
forty persons. 31232

(3) It has at least four thousand square feet of floor area. 31233

(4) It offers full-course meals, appetizers, and sandwiches. 31234

(5) Its receipts from beer and liquor sales do not exceed 31235
twenty-five per cent of its total gross receipts. 31236

(6) The value of its real and personal property exceeds seven 31237
hundred twenty-five thousand dollars. 31238

The holder of a D-5i permit shall cause an independent audit 31239
to be performed at the end of one full year of operation following 31240
issuance of the permit in order to verify the requirements of 31241
division (I)(5) of this section. The results of the independent 31242

audit shall be transmitted to the division. Upon determining that 31243
the receipts of the holder from beer and liquor sales exceeded 31244
twenty-five per cent of its total gross receipts, the division 31245
shall suspend the permit of the permit holder under section 31246
4301.25 of the Revised Code and may allow the permit holder to 31247
elect a forfeiture under section 4301.252 of the Revised Code. 31248

The holder of a D-5i permit may sell beer and any 31249
intoxicating liquor at retail, only by the individual drink in 31250
glass and from the container, for consumption on the premises 31251
where sold, and may sell the same products in the same manner and 31252
amounts not for consumption on the premises where sold as may be 31253
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 31254
permit shall sell no beer or intoxicating liquor for consumption 31255
on the premises where sold after two-thirty a.m. In addition to 31256
the privileges authorized in this division, the holder of a D-5i 31257
permit may exercise the same privileges as the holder of a D-5 31258
permit. 31259

A D-5i permit shall not be transferred to another location. 31260
The division of liquor control shall not renew a D-5i permit 31261
unless the food service operation for which it is issued continues 31262
to meet the requirements described in divisions (I)(1) to (6) of 31263
this section. No quota restrictions shall be placed on the number 31264
of D-5i permits that may be issued. The fee for this permit is ~~one~~ 31265
two thousand eight ~~three~~ hundred ~~seventy-five~~ forty-four dollars. 31266

(J)(1) Permit D-5j may be issued to the owner or the operator 31267
of a retail food establishment or a food service operation 31268
licensed under Chapter 3717. of the Revised Code to sell beer and 31269
intoxicating liquor at retail, only by the individual drink in 31270
glass and from the container, for consumption on the premises 31271
where sold and to sell beer and intoxicating liquor in the same 31272
manner and amounts not for consumption on the premises where sold 31273
as may be sold by the holders of D-1 and D-2 permits. The holder 31274

of a D-5j permit may exercise the same privileges, and shall 31275
observe the same hours of operation, as the holder of a D-5 31276
permit. 31277

(2) The D-5j permit shall be issued only within a community 31278
entertainment district that is designated under section 4301.80 of 31279
the Revised Code and that is located in a municipal corporation 31280
with a population of at least one hundred thousand. 31281

(3) The location of a D-5j permit may be transferred only 31282
within the geographic boundaries of the community entertainment 31283
district in which it was issued and shall not be transferred 31284
outside the geographic boundaries of that district. 31285

(4) Not more than one D-5j permit shall be issued within each 31286
community entertainment district for each five acres of land 31287
located within the district. Not more than fifteen D-5j permits 31288
may be issued within a single community entertainment district. 31289
Except as otherwise provided in division (J)(4) of this section, 31290
no quota restrictions shall be placed upon the number of D-5j 31291
permits that may be issued. 31292

(5) The fee for a D-5j permit is ~~one~~ two thousand ~~eight~~ three 31293
hundred ~~seventy-five~~ forty-four dollars. 31294

(K)(1) Permit D-5k may be issued to any nonprofit 31295
organization that is exempt from federal income taxation under the 31296
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 31297
501(c)(3), as amended, that is the owner or operator of a 31298
botanical garden recognized by the American association of 31299
botanical gardens and arboreta, and that has not less than 31300
twenty-five hundred bona fide members. 31301

(2) The holder of a D-5k permit may sell beer and any 31302
intoxicating liquor at retail, only by the individual drink in 31303
glass and from the container, on the premises where sold. 31304

(3) The holder of a D-5k permit shall sell no beer or 31305

intoxicating liquor for consumption on the premises where sold 31306
after one a.m. 31307

(4) A D-5k permit shall not be transferred to another 31308
location. 31309

(5) No quota restrictions shall be placed on the number of 31310
D-5k permits that may be issued. 31311

(6) The fee for the D-5k permit is one thousand ~~five~~ eight 31312
hundred seventy-five dollars. 31313

Sec. 4303.182. (A) Except as otherwise provided in divisions 31314
(B) to (G) of this section, permit D-6 shall be issued to the 31315
holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, 31316
D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 31317
permit to allow sale under that permit between the hours of ten 31318
a.m. and midnight, or between the hours of one p.m. and midnight, 31319
on Sunday, as applicable, if that sale has been authorized under 31320
section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised 31321
Code and under the restrictions of that authorization. 31322

(B) Permit D-6 shall be issued to the holder of any permit, 31323
including a D-4a and D-5d permit, authorizing the sale of 31324
intoxicating liquor issued for a premises located at any publicly 31325
owned airport, as defined in section 4563.01 of the Revised Code, 31326
at which commercial airline companies operate regularly scheduled 31327
flights on which space is available to the public, to allow sale 31328
under such permit between the hours of ten a.m. and midnight on 31329
Sunday, whether or not that sale has been authorized under section 31330
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 31331

(C) Permit D-6 shall be issued to the holder of a D-5a 31332
permit, and to the holder of a D-3 or D-3a permit who is the owner 31333
or operator of a hotel or motel that is required to be licensed 31334
under section 3731.03 of the Revised Code, that contains at least 31335

fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section

4301.361 of the Revised Code. A D-6 permit issued under this 31368
division is subject to the results of an election, held after the 31369
D-6 permit is issued, on question (B)(4) as set forth in section 31370
4301.351 of the Revised Code. Following the end of the period 31371
during which an election may be held on question (B)(4) as set 31372
forth in that section, sales of intoxicating liquor may continue 31373
at an outdoor performing arts center under a D-6 permit issued 31374
under this division, unless an election on that question is held 31375
during the permitted period and a majority of the voters voting in 31376
the precinct on that question vote "no." 31377

As used in this division, "outdoor performing arts center" 31378
means an outdoor performing arts center that is located on not 31379
less than eight hundred acres of land and that is open for 31380
performances from the first day of April to the last day of 31381
October of each year. 31382

(G) Permit D-6 shall be issued to the holder of any permit 31383
that authorizes the sale of beer or intoxicating liquor and that 31384
is issued to a golf course owned by the state, a conservancy 31385
district, a park district created under Chapter 1545. of the 31386
Revised Code, or another political subdivision to allow sale under 31387
that permit between the hours of ten a.m. and midnight on Sunday, 31388
whether or not that sale has been authorized under section 31389
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 31390

(H) If the restriction to licensed premises where the sale of 31391
food and other goods and services exceeds fifty per cent of the 31392
total gross receipts of the permit holder at the premises is 31393
applicable, the division of liquor control may accept an affidavit 31394
from the permit holder to show the proportion of the permit 31395
holder's gross receipts derived from the sale of food and other 31396
goods and services. If the liquor control commission determines 31397
that affidavit to have been false, it shall revoke the permits of 31398
the permit holder at the premises concerned. 31399

(I) The fee for the D-6 permit is ~~two~~ five hundred ~~fifty~~ 31400
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 31401
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 31402
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 31403
permit is ~~two~~ four hundred dollars when it is issued to the holder 31404
of a C-2 permit. 31405

Sec. 4303.183. Permit D-7 may be issued to the holder of any 31406
D-2 permit issued by the division of liquor control, or if there 31407
is an insufficient number of D-2 permit holders to fill the resort 31408
quota, to the operator of a retail food establishment or a food 31409
service operation required to be licensed under Chapter 3717. of 31410
the Revised Code that operates as a restaurant for purposes of 31411
this chapter and which qualifies under the other requirements of 31412
this section, to sell beer and any intoxicating liquor at retail, 31413
only by the individual drink in glass and from the container, for 31414
consumption on the premises where sold. Not less than fifty per 31415
cent of the business on the permit premises shall be preparing and 31416
serving meals for a consideration in order to qualify for and 31417
continue to hold such D-7 permit. The permit premises shall be 31418
located in a resort area. 31419

"Resort area" means a municipal corporation, township, 31420
county, or any combination thereof, which provides entertainment, 31421
recreation, and transient housing facilities specifically intended 31422
to provide leisure time activities for persons other than those 31423
whose permanent residence is within the "resort area" and who 31424
increase the population of the "resort area" on a seasonal basis, 31425
and which experiences seasonal peaks of employment and 31426
governmental services as a direct result of population increase 31427
generated by the transient, recreating public. A resort season 31428
shall begin on the first day of May and end on the last day of 31429
October. Notwithstanding section 4303.27 of the Revised Code, such 31430

permits may be issued for resort seasons without regard to the 31431
calendar year or permit year. Quota restrictions on the number of 31432
such permits shall take into consideration the transient 31433
population during the resort season, the custom and habits of 31434
visitors and tourists, and the promotion of the resort and tourist 31435
industry. The fee for this permit is ~~three~~ four hundred 31436
~~seventy-five~~ sixty-nine dollars per month. 31437

Any suspension of a D-7 permit shall be satisfied during the 31438
resort season in which such suspension becomes final. If such 31439
suspension becomes final during the off-season, or if the period 31440
of the suspension extends beyond the last day of October, the 31441
suspension or remainder thereof shall be satisfied during the next 31442
resort season. 31443

The ownership of a D-7 permit may be transferred from one 31444
permit holder to another. The holder of a D-7 permit may file an 31445
application to transfer such permit to a new location within the 31446
same resort area, provided that such permit holder shall be the 31447
owner or operator of a retail food establishment or a food service 31448
operation, required to be licensed under Chapter 3717. of the 31449
Revised Code, that operates as a restaurant for purposes of this 31450
chapter, at such new location. 31451

Sec. 4303.184. (A) Subject to division (B) of this section, a 31452
D-8 permit may be issued to the holder of a C-1, C-2, or C-2x 31453
permit issued to a retail store that has either of the following 31454
characteristics: 31455

(1) The store has at least five thousand five hundred square 31456
feet of floor area, and it generates more than sixty per cent of 31457
its sales in general merchandise items and food for consumption 31458
off the premises where sold. 31459

(2) Wine constitutes at least sixty per cent of the value of 31460
the store's inventory. 31461

(B) A D-8 permit may be issued to the holder of a C-1, C-2, 31462
or C-2x permit only if the premises of the permit holder are 31463
located in a precinct, or at a particular location in a precinct, 31464
in which the sale of beer, wine, or mixed beverages is permitted 31465
for consumption off the premises where sold. Sales under a D-8 31466
permit are not affected by whether sales for consumption on the 31467
premises where sold are permitted in the precinct or at the 31468
particular location where the D-8 premises are located. 31469

(C) The holder of a D-8 permit may sell tasting samples of 31470
beer, wine, and mixed beverages, but not spirituous liquor, at 31471
retail, for consumption on the premises where sold in an amount 31472
not to exceed two ounces or another amount designated by rule of 31473
the liquor control commission. A tasting sample shall not be sold 31474
for general consumption. No D-8 permit holder shall allow any 31475
authorized purchaser to consume more than four tasting samples of 31476
beer, wine, or mixed beverages, or any combination of beer, wine, 31477
or mixed beverages, per day. 31478

(D) The privileges authorized under a D-8 permit may only be 31479
exercised in conjunction with and during the hours of operation 31480
authorized by a C-1, C-2, C-2x, or D-6 permit. 31481

(E) A D-8 permit shall not be transferred to another 31482
location. 31483

(F) The fee for the D-8 permit is ~~two~~ five hundred ~~fifty~~ 31484
dollars. 31485

(G) The holder of a D-8 permit shall cause an independent 31486
audit to be performed at the end of the first full year of 31487
operation following issuance of the permit, and at the end of each 31488
second year thereafter, in order to verify that the permit holder 31489
satisfies the applicable requirement of division (A)(1) or (2) of 31490
this section. The permit holder shall transmit the results of the 31491
independent audit to the division of liquor control. If the 31492

results of the audit indicate noncompliance with division (A) of 31493
this section, the division shall not renew the D-8 permit of the 31494
permit holder. 31495

Sec. 4303.19. Permit E may be issued to the owner or operator 31496
of any railroad, a sleeping car company operating dining cars, 31497
buffet cars, club cars, lounge cars, or similar equipment, or an 31498
airline providing charter or regularly scheduled aircraft 31499
transportation service with dining, buffet, club, lounge, or 31500
similar facilities, to sell beer or any intoxicating liquor in any 31501
such car or aircraft to bona fide passengers at retail in glass 31502
and from the container for consumption in such car or aircraft, 31503
including sale on Sunday between the hours of one p.m. and 31504
midnight. The fee for this permit is ~~two~~ five hundred ~~fifty~~ 31505
dollars. 31506

Sec. 4303.20. Permit F may be issued to an association of ten 31507
or more persons, a labor union, or a charitable organization, or 31508
to an employer of ten or more persons sponsoring a function for 31509
~~his~~ the employer's employees, to purchase from the holders of A-1 31510
and B-1 permits and to sell beer for a period lasting not to 31511
exceed five days. No more than two such permits may be issued to 31512
the same applicant in any thirty-day period. 31513

The special function for which ~~such~~ the permit is issued 31514
shall include a social, recreational, benevolent, charitable, 31515
fraternal, political, patriotic, or athletic purpose but shall not 31516
include any function the proceeds of which are for the profit or 31517
gain of any individual. The fee for this permit is ~~twenty~~ forty 31518
dollars. 31519

Sec. 4303.201. (A) As used in this section: 31520

(1) "Convention facility" means any structure owned or leased 31521
by a municipal corporation or county which was expressly designed 31522

and constructed and is currently used for the purpose of 31523
presenting conventions, public meetings, and exhibitions. 31524

(2) "Nonprofit organization" means any unincorporated 31525
association or nonprofit corporation that is not formed for the 31526
pecuniary gain or profit of, and whose net earnings or any part 31527
thereof is not distributable to, its members, trustees, officers, 31528
or other private persons; provided, that the payment of reasonable 31529
compensation for services rendered and the distribution of assets 31530
on dissolution shall not be considered pecuniary gain or profit or 31531
distribution of earnings in an association or corporation all of 31532
whose members are nonprofit corporations. Distribution of earnings 31533
to member organizations does not deprive it of the status of a 31534
nonprofit organization. 31535

(B) An F-1 permit may be issued to any nonprofit organization 31536
to allow the nonprofit organization and its members and their 31537
guests to lawfully bring beer, wine, and intoxicating liquor in 31538
its original package, flasks, or other containers into a 31539
convention facility for consumption therein, if both of the 31540
following requirements are met: 31541

(1) The superintendent of liquor control is satisfied the 31542
organization meets the definition of a nonprofit organization as 31543
set forth in division (A)(2) of this section, the nonprofit 31544
organization's membership includes persons residing in two or more 31545
states, and the organization's total membership is in excess of 31546
five hundred. The superintendent may accept a sworn statement by 31547
the president or other chief executive officer of the nonprofit 31548
organization as proof of the matters required in this division. 31549

(2) The managing official or employee of the convention 31550
facility has given written consent to the use of the convention 31551
facility and to the application for the F-1 permit, as shown in 31552
the nonprofit organization's application to the superintendent. 31553

(C) The superintendent shall specify individually the 31554
effective period of each F-1 permit on the permit, which shall not 31555
exceed three days. The fee for an F-1 permit is ~~one~~ two hundred 31556
~~twenty-five~~ fifty dollars. The superintendent shall prepare and 31557
make available application forms to request F-1 permits and may 31558
require applicants to furnish such information as the 31559
superintendent determines to be necessary for the administration 31560
of this section. 31561

(D) No holder of an F-1 permit shall make a specific charge 31562
for beer, wine, or intoxicating liquor by the drink, or in its 31563
original package, flasks, or other containers in connection with 31564
its use of the convention facility under the permit. 31565

Sec. 4303.202. (A) The division of liquor control may issue 31566
an F-2 permit to an association or corporation, or to a recognized 31567
subordinate lodge, chapter, or other local unit of an association 31568
or corporation, to sell beer or intoxicating liquor by the 31569
individual drink at an event to be held on premises located in a 31570
political subdivision or part thereof where the sale of beer or 31571
intoxicating liquor on that day is otherwise permitted by law. 31572

The division of liquor control may issue an F-2 permit to an 31573
association or corporation, or to a recognized subordinate lodge, 31574
chapter, or other local unit of an association or corporation, to 31575
sell beer, wine, and spirituous liquor by the individual drink at 31576
an event to be held on premises located in a political subdivision 31577
or part thereof where the sale of beer and wine, but not 31578
spirituous liquor, is otherwise permitted by law on that day. 31579

Notwithstanding section 1711.09 of the Revised Code, this 31580
section applies to any association or corporation or a recognized 31581
subordinate lodge, chapter, or other local unit of an association 31582
or corporation. 31583

In order to receive an F-2 permit, the association, 31584
corporation, or local unit shall be organized not for profit, 31585
shall be operated for a charitable, cultural, fraternal, or 31586
educational purpose, and shall not be affiliated with the holder 31587
of any class of liquor permit, other than a D-4 permit. 31588

The premises on which the permit is to be used shall be 31589
clearly defined and sufficiently restricted to allow proper 31590
supervision of the permit use by state and local law enforcement 31591
personnel. An F-2 permit may be issued for the same premises for 31592
which another class of permit is issued. 31593

No F-2 permit shall be effective for more than forty-eight 31594
consecutive hours, and sales shall be confined to the same hours 31595
permitted to the holder of a D-3 permit. The division shall not 31596
issue more than two F-2 permits in one calendar year to the same 31597
association, corporation, or local unit of an association or 31598
corporation. The fee for an F-2 permit is ~~seventy-five~~ one hundred
fifty dollars. 31599
31600

If an applicant wishes the holder of a D-3, D-4, or D-5 31601
permit to conduct the sale of beer and intoxicating liquor at the 31602
event, the applicant may request that the F-2 permit be issued 31603
jointly to the association, corporation, or local unit and the 31604
D-permit holder. If a permit is issued jointly, the association, 31605
corporation, or local unit and the D-permit holder shall both be 31606
held responsible for any conduct that violates laws pertaining to 31607
the sale of alcoholic beverages, including sales by the D-permit 31608
holder; otherwise, the association, corporation, or local unit 31609
shall be held responsible. In addition to the permit fee paid by 31610
the association, corporation, or local unit, the D-permit holder 31611
shall pay a fee of ten dollars. A D-permit holder may receive an 31612
unlimited number of joint F-2 permits. 31613

Any association, corporation, or local unit applying for an 31614

F-2 permit shall file with the application a statement of the organizational purpose of the association, corporation, or local unit, the location and purpose of the event, and a list of its officers. The application form shall contain a notice that a person who knowingly makes a false statement on the application or statement is guilty of the crime of falsification, a misdemeanor of the first degree. In ruling on an application, the division shall consider, among other things, the past activities of the association, corporation, or local unit and any D-permit holder while operating under other F-2 permits, the location of the event for which the current application is made, and any objections of local residents or law enforcement authorities. If the division approves the application, it shall send copies of the approved application to the proper law enforcement authorities prior to the scheduled event.

Using the procedures of Chapter 119. of the Revised Code, the liquor control commission may adopt such rules as are necessary to administer this section.

(B) No association, corporation, local unit of an association or corporation, or D-permit holder who holds an F-2 permit shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of such permit and on any officer, agent, or employee of such permit holder.

Sec. 4303.203. (A) As used in this section:

(1) "Convention facility" and "nonprofit corporation" have the same meanings as in section 4303.201 of the Revised Code.

(2) "Hotel" means a hotel described in section 3731.01 of the Revised Code that has at least fifty rooms for registered transient guests and that is required to be licensed pursuant to section 3731.03 of the Revised Code.

(B) An F-3 permit may be issued to an organization whose primary purpose is to support, promote, and educate members of the beer, wine, or mixed beverage industries, to allow the organization to bring beer, wine, or mixed beverages in their original packages or containers into a convention facility or hotel for consumption in the facility or hotel, if all of the following requirements are met:

(1) The superintendent of liquor control is satisfied that the organization is a nonprofit organization and that the organization's membership is in excess of two hundred fifty persons.

(2) The general manager or the equivalent officer of the convention facility or hotel provides a written consent for the use of a portion of the facility or hotel by the organization and a written statement that the facility's or hotel's permit privileges will be suspended in the portion of the facility or hotel in which the F-3 permit is in force.

(3) The organization provides a written description that clearly sets forth the portion of the convention facility or hotel in which the F-3 permit will be used.

(4) The organization provides a written statement as to its primary purpose and the purpose of its event at the convention facility or hotel.

(5) Division (C) of this section does not apply.

(C) No F-3 permit shall be issued to any nonprofit organization that is created by or for a specific manufacturer, supplier, distributor, or retailer of beer, wine, or mixed beverages.

(D) Notwithstanding division (E) of section 4301.22 of the Revised Code, a holder of an F-3 permit may obtain by donation

beer, wine, or mixed beverages from any manufacturer or producer 31676
of beer, wine, or mixed beverages. 31677

(E) Nothing in this chapter prohibits the holder of an F-3 31678
permit from bringing into the portion of the convention facility 31679
or hotel covered by the permit beer, wine, or mixed beverages 31680
otherwise not approved for sale in this state. 31681

(F) Notwithstanding division (E) of section 4301.22 of the 31682
Revised Code, no holder of an F-3 permit shall make any charge for 31683
any beer, wine, or mixed beverage served by the drink, or in its 31684
original package or container, in connection with the use of the 31685
portion of the convention facility or hotel covered by the permit. 31686

(G) The division of liquor control shall prepare and make 31687
available an F-3 permit application form and may require 31688
applicants for the permit to provide information, in addition to 31689
that required by this section, that is necessary for the 31690
administration of this section. 31691

(H) An F-3 permit shall be effective for a period not to 31692
exceed five consecutive days. The division of liquor control shall 31693
not issue more than three F-3 permits per calendar year to the 31694
same nonprofit organization. The fee for an F-3 permit is ~~one~~ 31695
three hundred ~~fifty~~ dollars. 31696

Sec. 4303.204. (A) The division of liquor control may issue 31697
an F-4 permit to an association or corporation organized 31698
not-for-profit in this state to conduct an event that includes the 31699
introduction, showcasing, or promotion of Ohio wines, if the event 31700
has all of the following characteristics: 31701

(1) It is coordinated by that association or corporation, and 31702
the association or corporation is responsible for the activities 31703
at it. 31704

(2) It has as one of its purposes the intent to introduce, 31705

showcase, or promote Ohio wines to persons who attend it. 31706

(3) It includes the sale of food for consumption on the 31707
premises where sold. 31708

(4) It features at least three A-2 permit holders who sell 31709
Ohio wine at it. 31710

(B) The holder of an F-4 permit may furnish, without charge, 31711
wine that it has obtained from the A-2 permit holders that are 31712
participating in the event for which the F-4 permit is issued, in 31713
two-ounce samples for consumption on the premises where furnished 31714
and may sell such wine by the glass for consumption on the 31715
premises where sold. The holder of an A-2 permit that is 31716
participating in the event for which the F-4 permit is issued may 31717
sell wine that it has manufactured, in sealed containers for 31718
consumption off the premises where sold. Wine may be furnished or 31719
sold on the premises of the event for which the F-4 permit is 31720
issued only where and when the sale of wine is otherwise permitted 31721
by law. 31722

(C) The premises of the event for which the F-4 permit is 31723
issued shall be clearly defined and sufficiently restricted to 31724
allow proper enforcement of the permit by state and local law 31725
enforcement officers. If an F-4 permit is issued for all or a 31726
portion of the same premises for which another class of permit is 31727
issued, that permit holder's privileges will be suspended in that 31728
portion of the premises in which the F-4 permit is in effect. 31729

(D) No F-4 permit shall be effective for more than 31730
seventy-two consecutive hours. No sales or furnishing of wine 31731
shall take place under an F-4 permit after one a.m. 31732

(E) The division shall not issue more than six F-4 permits to 31733
the same not-for-profit association or corporation in any one 31734
calendar year. 31735

(F) An applicant for an F-4 permit shall apply for the permit 31736

not later than thirty days prior to the first day of the event for 31737
which the permit is sought. The application for the permit shall 31738
list all of the A-2 permit holders that will participate in the 31739
event for which the F-4 permit is sought. The fee for the F-4 31740
permit is ~~thirty~~ sixty dollars per day. 31741

The division shall prepare and make available an F-4 permit 31742
application form and may require applicants for and holders of the 31743
F-4 permit to provide information that is in addition to that 31744
required by this section and that is necessary for the 31745
administration of this section. 31746

(G)(1) The holder of an F-4 permit is responsible for, and is 31747
subject to penalties for, any violations of this chapter or 31748
Chapter 4301. of the Revised Code or the rules adopted under this 31749
and that chapter. 31750

(2) An F-4 permit holder shall not allow an A-2 permit holder 31751
to participate in the event for which the F-4 permit is issued if 31752
the A-2 or A-1-A permit of that A-2 permit holder is under 31753
suspension. 31754

(3) The division may refuse to issue an F-4 permit to an 31755
applicant who has violated any provision of this chapter or 31756
Chapter 4301. of the Revised Code during the applicant's previous 31757
operation under an F-4 permit, for a period of up to two years 31758
after the date of the violation. 31759

(H)(1) Notwithstanding division (E) of section 4301.22 of the 31760
Revised Code, an A-2 permit holder that participates in an event 31761
for which an F-4 permit is issued may donate wine that it has 31762
manufactured to the holder of that F-4 permit. The holder of an 31763
F-4 permit may return unused and sealed containers of wine to the 31764
A-2 permit holder that donated the wine at the conclusion of the 31765
event for which the F-4 permit was issued. 31766

(2) The participation by an A-2 permit holder or its 31767

employees in an event for which an F-4 permit is issued does not 31768
violate section 4301.24 of the Revised Code. 31769

Sec. 4303.21. Permit G may be issued to the owner of a 31770
pharmacy in charge of a licensed pharmacist to be named in ~~such~~ 31771
the permit for the sale at retail of alcohol for medicinal 31772
purposes in quantities at each sale of not more than one gallon 31773
upon the written prescription of a physician or dentist who is 31774
lawfully and regularly engaged in the practice of the physician's 31775
or dentist's profession in this state, and for the sale of 31776
industrial alcohol for mechanical, chemical, or scientific 31777
purposes to a person known by the seller to be engaged in ~~such~~ 31778
mechanical, chemical, or scientific pursuits; all subject to 31779
section 4303.34 of the Revised Code. The fee for this permit ~~if~~ 31780
~~fifty~~ is one hundred dollars. 31781

Sec. 4303.22. Permit H may be issued for a fee of ~~one~~ three 31782
hundred ~~fifty~~ dollars to a carrier by motor vehicle who also holds 31783
a license issued by the public utilities commission to transport 31784
beer, intoxicating liquor, and alcohol, or any of them, in this 31785
state for delivery or use in this state. This section does not 31786
prevent the division of liquor control from contracting with 31787
common or contract carriers for the delivery or transportation of 31788
liquor for the division, and any contract or common carrier so 31789
contracting with the division is eligible for an H permit. 31790
Manufacturers or wholesale distributors of beer or intoxicating 31791
liquor other than spirituous liquor who transport or deliver their 31792
own products to or from their premises licensed under this chapter 31793
and Chapter 4301. of the Revised Code by their own trucks as an 31794
incident to the purchase or sale of such beverages need not obtain 31795
an H permit. Carriers by rail shall receive an H permit upon 31796
application for it. 31797

This section does not prevent the division from issuing, upon 31798

the payment of the permit fee, an H permit to any person, 31799
partnership, firm, or corporation licensed by any other state to 31800
engage in the business of manufacturing and brewing or producing 31801
beer, wine, and mixed beverages or any person, partnership, firm, 31802
or corporation licensed by the United States or any other state to 31803
engage in the business of importing beer, wine, and mixed 31804
beverages manufactured outside the United States. The 31805
manufacturer, brewer, or importer of products manufactured outside 31806
the United States, upon the issuance of an H permit, may 31807
transport, ship, and deliver only its own products to holders of 31808
B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 31809
operated by such class H permit holder. No H permit shall be 31810
issued by the division to such applicant until the applicant files 31811
with the division a liability insurance certificate or policy 31812
satisfactory to the division, in a sum of not less than one 31813
thousand nor more than five thousand dollars for property damage 31814
and for not less than five thousand nor more than fifty thousand 31815
dollars for loss sustained by reason of injury or death and with 31816
such other terms as the division considers necessary to adequately 31817
protect the interest of the public, having due regard for the 31818
number of persons and amount of property affected. The certificate 31819
or policy shall insure the manufacturer, brewer, or importer of 31820
products manufactured outside the United States against loss 31821
sustained by reason of the death of or injury to persons, and for 31822
loss of or damage to property, from the negligence of such class H 31823
permit holder in the operation of its motor vehicles or equipment 31824
in this state. 31825

Sec. 4303.23. Permit I may be issued to wholesale druggists 31826
to purchase alcohol from the holders of A-3 permits and to import 31827
alcohol into ~~Ohio~~ this state subject to ~~such~~ terms ~~as are~~ imposed 31828
by the division of liquor control; to sell at wholesale to 31829
physicians, dentists, druggists, veterinary surgeons, 31830

manufacturers, hospitals, infirmaries, and medical or educational 31831
institutions using such alcohol for medicinal, mechanical, 31832
chemical, or scientific purposes, and to holders of G permits for 31833
nonbeverage purposes only; and to sell alcohol at retail in total 31834
quantities at each sale of not more than one quart, upon the 31835
written prescription of a physician or dentist who is lawfully and 31836
regularly engaged in the practice of ~~his~~ the physician's or 31837
dentist's profession in this state. The sale of alcohol under this 31838
section is subject to section 4303.34 of the Revised Code. The fee 31839
for this permit is ~~one~~ two hundred dollars. 31840

"Wholesale druggists," as used in this section includes all 31841
persons holding federal wholesale liquor dealers' licenses and who 31842
are engaged in the sale of medicinal drugs, proprietary medicines, 31843
and surgical and medical appliances and apparatus, at wholesale. 31844

Sec. 4303.231. Permit W may be issued to a manufacturer or 31845
supplier of beer or intoxicating liquor to operate a warehouse for 31846
the storage of beer or intoxicating liquor within this state and 31847
to sell ~~such~~ those products from the warehouse only to holders of 31848
B permits in this state and to other customers outside this state 31849
under rules promulgated by the liquor control commission. Each 31850
holder of a B permit with a consent to import on file with the 31851
division of liquor control may purchase beer or intoxicating 31852
liquor if designated by the permit to make ~~such~~ those purchases, 31853
from the holder of a W permit. The fee for a W permit is one 31854
thousand ~~two~~ five hundred ~~fifty~~ sixty-three dollars for each 31855
warehouse during the year covered by the permit. 31856

Sec. 4305.01. For the purpose of reimbursing the state for 31857
the expenses of administering Chapters 4301. and 4303. of the 31858
Revised Code and to provide revenues for the support of the state, 31859
a tax is hereby levied on the sale or distribution in this state 31860
of beer, whether in barrels or other containers, excepting in 31861

sealed bottles or cans, at the rate of ~~five~~ eleven dollars and 31862
~~fifty-eight~~ sixteen cents per barrel of thirty-one gallons. 31863

The tax commissioner shall exercise, with respect to the 31864
administration of the tax imposed by this section, all the powers 31865
and duties vested in or imposed by sections 4307.04 to 4307.07 of 31866
the Revised Code, so far as consistent with this section. 31867
Manufacturers and consignees of beer in barrels or other 31868
containers, excepting in sealed bottles or cans, and railroad 31869
companies, express companies, and other public carriers 31870
transporting shipments of such beer are subject, with respect to 31871
such tax, to the same duties and entitled to the same privileges 31872
as are required or permitted by those sections. 31873

The revenue derived from the tax on the sale and distribution 31874
of beer pursuant to this section and section 4301.42 of the 31875
Revised Code shall be for the use of the general revenue fund. 31876

The tax refund fund created by section 5703.052 of the 31877
Revised Code may be drawn upon by the tax commissioner for any 31878
refunds authorized to be made by the commissioner in sections 31879
4303.33, 4307.05, and 4307.07 of the Revised Code for beer. 31880

Sec. 4503.06. (A) The owner of each manufactured or mobile 31881
home that has acquired situs in this state shall pay either a real 31882
property tax pursuant to Title LVII of the Revised Code or a 31883
manufactured home tax pursuant to division (C) of this section. 31884

(B) The owner of a manufactured or mobile home shall pay real 31885
property taxes if either of the following applies: 31886

(1) The manufactured or mobile home acquired situs in the 31887
state or ownership in the home was transferred on or after January 31888
1, 2000, and all of the following apply: 31889

(a) The home is affixed to a permanent foundation as defined 31890
in division (C)(5) of section 3781.06 of the Revised Code; 31891

(b) The home is located on land that is owned by the owner of the home; 31892
31893

(c) The certificate of title has been inactivated by the clerk of the court of common pleas that issued it, pursuant to division (H) of section 4505.11 of the Revised Code. 31894
31895
31896

(2) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred before January 1, 2000, and all of the following apply: 31897
31898
31899

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code; 31900
31901

(b) The home is located on land that is owned by the owner of the home; 31902
31903

(c) The owner of the home has elected to have the home taxed as real property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid; 31904
31905
31906
31907
31908

(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate. 31909
31910
31911
31912

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section. 31913
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(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following 31920
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thirty-first day of December. The state shall have the first lien 31922
on any manufactured or mobile home on the list for the amount of 31923
taxes, penalties, and interest charged against the owner of the 31924
home under this section. The lien of the state for the tax for a 31925
year shall attach on the first day of January to a home that has 31926
acquired situs on that date. The lien for a home that has not 31927
acquired situs on the first day of January, but that acquires 31928
situs during the year, shall attach on the next first day of 31929
January. The lien shall continue until the tax, including any 31930
penalty or interest, is paid. 31931

(3)(a) The situs of a manufactured or mobile home located in 31932
this state on the first day of January is the local taxing 31933
district in which the home is located on that date. 31934

(b) The situs of a manufactured or mobile home not located in 31935
this state on the first day of January, but located in this state 31936
subsequent to that date, is the local taxing district in which the 31937
home is located thirty days after it is acquired or first enters 31938
this state. 31939

(4) The tax is collected by and paid to the county treasurer 31940
of the county containing the taxing district in which the home has 31941
its situs. 31942

(D) The manufactured home tax shall be computed and assessed 31943
by the county auditor of the county containing the taxing district 31944
in which the home has its situs as follows: 31945

(1) On a home that acquired situs in this state prior to 31946
January 1, 2000; 31947

(a) By multiplying the assessable value of the home by the 31948
tax rate of the taxing district in which the home has its situs, 31949
and deducting from the product thus obtained any reduction 31950
authorized under section 4503.065 of the Revised Code. The tax 31951
levied under this formula shall not be less than thirty-six 31952

dollars, unless the home qualifies for a reduction in assessable value under section 4503.065 of the Revised Code, in which case there shall be no minimum tax and the tax shall be the amount calculated under this division.

(b) The assessable value of the home shall be forty per cent of the amount arrived at by the following computation:

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year			31963
in which the			31964
home is owned by the			31965
current owner		80%	31966
2nd calendar year	x	75%	31967
3rd "	x	70%	31968
4th "	x	65%	31969
5th "	x	60%	31970
6th "	x	55%	31971
7th "	x	50%	31972
8th "	x	45%	31973
9th "	x	40%	31974
10th and each year thereafter		35%	31975

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(ii) If the cost to the owner, or market value at the time of purchase, whichever is greater, of the home does not include the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year			31983
in which the			31984

home is owned by the			31985
current owner		95%	31986
2nd calendar year	x	90%	31987
3rd "	x	85%	31988
4th "	x	80%	31989
5th "	x	75%	31990
6th "	x	70%	31991
7th "	x	65%	31992
8th "	x	60%	31993
9th "	x	55%	31994
10th and each year thereafter		50%	31995

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(2) On a home in which ownership was transferred or that first acquired situs in this state on or after January 1, 2000:

(a) By multiplying the assessable value of the home by the effective tax rate, as defined in section 323.08 of the Revised Code, for residential real property of the taxing district in which the home has its situs, and deducting from the product thus obtained the reductions required or authorized under section 319.302, division (B) of section 323.152, or section 4503.065 of the Revised Code.

(b) The assessable value of the home shall be thirty-five per cent of its true value as determined under division (L) of this section.

(3) On or before the fifteenth day of January each year, the auditor shall record the assessable value and the amount of tax on the manufactured or mobile home on the tax list and deliver a duplicate of the list to the county treasurer. In the case of an emergency as defined in section 323.17 of the Revised Code, the

tax commissioner, by journal entry, may extend the times for 32016
delivery of the duplicate for an additional fifteen days upon 32017
receiving a written application from the county auditor regarding 32018
an extension for the delivery of the duplicate, or from the county 32019
treasurer regarding an extension of the time for the billing and 32020
collection of taxes. The application shall contain a statement 32021
describing the emergency that will cause the unavoidable delay and 32022
must be received by the tax commissioner on or before the last day 32023
of the month preceding the day delivery of the duplicate is 32024
otherwise required. When an extension is granted for delivery of 32025
the duplicate, the time period for payment of taxes shall be 32026
extended for a like period of time. When a delay in the closing of 32027
a tax collection period becomes unavoidable, the tax commissioner, 32028
upon application by the county auditor and county treasurer, may 32029
order the time for payment of taxes to be extended if the tax 32030
commissioner determines that penalties have accrued or would 32031
otherwise accrue for reasons beyond the control of the taxpayers 32032
of the county. The order shall prescribe the final extended date 32033
for payment of taxes for that collection period. 32034

(4) After January 1, 1999, the owner of a manufactured or 32035
mobile home taxed pursuant to division (D)(1) of this section may 32036
elect to have the home taxed pursuant to division (D)(2) of this 32037
section by filing a written request with the county auditor of the 32038
taxing district in which the home is located on or before the 32039
first day of December of any year. Upon the filing of the request, 32040
the county auditor shall determine whether all taxes levied under 32041
division (D)(1) of this section have been paid, and if those taxes 32042
have been paid, the county auditor shall tax the manufactured or 32043
mobile home pursuant to division (D)(2) of this section commencing 32044
in the next tax year. 32045

(5) A manufactured or mobile home that acquired situs in this 32046
state prior to January 1, 2000, shall be taxed pursuant to 32047

division (D)(2) of this section if no manufactured home tax had 32048
been paid for the home and the home was not exempted from taxation 32049
pursuant to division (E) of this section for the year for which 32050
the taxes were not paid. 32051

(6)(a) Immediately upon receipt of any manufactured home tax 32052
duplicate from the county auditor, but not less than twenty days 32053
prior to the last date on which the first one-half taxes may be 32054
paid without penalty as prescribed in division (F) of this 32055
section, the county treasurer shall cause to be prepared and 32056
mailed or delivered to each person charged on that duplicate with 32057
taxes, or to an agent designated by such person, the tax bill 32058
prescribed by the tax commissioner under division (D)(7) of this 32059
section. When taxes are paid by installments, the county treasurer 32060
shall mail or deliver to each person charged on such duplicate or 32061
the agent designated by such person a second tax bill showing the 32062
amount due at the time of the second tax collection. The second 32063
half tax bill shall be mailed or delivered at least twenty days 32064
prior to the close of the second half tax collection period. A 32065
change in the mailing address of any tax bill shall be made in 32066
writing to the county treasurer. Failure to receive a bill 32067
required by this section does not excuse failure or delay to pay 32068
any taxes shown on the bill or, except as provided in division 32069
~~(A)~~(B)(1) of section 5715.39 of the Revised Code, avoid any 32070
penalty, interest, or charge for such delay. 32071

(b) After delivery of the copy of the delinquent manufactured 32072
home tax list under division (H) of this section, the county 32073
treasurer may prepare and mail to each person in whose name a home 32074
is listed an additional tax bill showing the total amount of 32075
delinquent taxes charged against the home as shown on the list. 32076
The tax bill shall include a notice that the interest charge 32077
prescribed by division (G) of this section has begun to accrue. 32078

(7) Each tax bill prepared and mailed or delivered under 32079

division (D)(6) of this section shall be in the form and contain 32080
the information required by the tax commissioner. The commissioner 32081
may prescribe different forms for each county and may authorize 32082
the county auditor to make up tax bills and tax receipts to be 32083
used by the county treasurer. The tax bill shall not contain or be 32084
mailed or delivered with any information or material that is not 32085
required by this section or that is not authorized by section 32086
321.45 of the Revised Code or by the tax commissioner. In addition 32087
to the information required by the commissioner, each tax bill 32088
shall contain the following information: 32089

(a) The taxes levied and the taxes charged and payable 32090
against the manufactured or mobile home; 32091

(b) The following notice: "Notice: If the taxes are not paid 32092
within sixty days after the county auditor delivers the delinquent 32093
manufactured home tax list to the county treasurer, you and your 32094
home may be subject to collection proceedings for tax 32095
delinquency." Failure to provide such notice has no effect upon 32096
the validity of any tax judgment to which a home may be subjected. 32097

(c) In the case of manufactured or mobile homes taxed under 32098
division (D)(2) of this section, the following additional 32099
information: 32100

(i) The effective tax rate. The words "effective tax rate" 32101
shall appear in boldface type. 32102

(ii) The following notice: "Notice: If the taxes charged 32103
against this home have been reduced by the 2-1/2 per cent tax 32104
reduction for residences occupied by the owner but the home is not 32105
a residence occupied by the owner, the owner must notify the 32106
county auditor's office not later than March 31 of the year for 32107
which the taxes are due. Failure to do so may result in the owner 32108
being convicted of a fourth degree misdemeanor, which is 32109
punishable by imprisonment up to 30 days, a fine up to \$250, or 32110

both, and in the owner having to repay the amount by which the 32111
taxes were erroneously or illegally reduced, plus any interest 32112
that may apply. 32113

If the taxes charged against this home have not been reduced 32114
by the 2-1/2 per cent tax reduction and the home is a residence 32115
occupied by the owner, the home may qualify for the tax reduction. 32116
To obtain an application for the tax reduction or further 32117
information, the owner may contact the county auditor's office at 32118
..... (insert the address and telephone number of the county 32119
auditor's office)." 32120

(E)(1) A manufactured or mobile home is not subject to this 32121
section when any of the following applies: 32122

(a) It is taxable as personal property pursuant to section 32123
5709.01 of the Revised Code. Any manufactured or mobile home that 32124
is used as a residence shall be subject to this section and shall 32125
not be taxable as personal property pursuant to section 5709.01 of 32126
the Revised Code. 32127

(b) It bears a license plate issued by any state other than 32128
this state unless the home is in this state in excess of an 32129
accumulative period of thirty days in any calendar year. 32130

(c) The annual tax has been paid on the home in this state 32131
for the current year. 32132

(d) The tax commissioner has determined, pursuant to section 32133
5715.27 of the Revised Code, that the property is exempt from 32134
taxation, or would be exempt from taxation under Chapter 5709. of 32135
the Revised Code if it were classified as real property. 32136

(2) A travel trailer or park trailer, as these terms are 32137
defined in section 4501.01 of the Revised Code, is not subject to 32138
this section if it is unused or unoccupied and stored at the 32139
owner's normal place of residence or at a recognized storage 32140
facility. 32141

(3) A travel trailer or park trailer, as these terms are 32142
defined in section 4501.01 of the Revised Code, is subject to this 32143
section and shall be taxed as a manufactured or mobile home if it 32144
has a situs longer than thirty days in one location and is 32145
connected to existing utilities, unless either of the following 32146
applies: 32147

(a) The situs is in a state facility or a camping or park 32148
area as defined in division (B), (G), (H), or (R) of section 32149
3733.01 of the Revised Code; 32150

(b) The situs is in a camping or park area that is a tract of 32151
land that has been limited to recreational use by deed or zoning 32152
restrictions and subdivided for sale of five or more individual 32153
lots for the express or implied purpose of occupancy by either 32154
self-contained recreational vehicles as defined in division (E) of 32155
section 3733.01 of the Revised Code or by dependent recreational 32156
vehicles as defined in division (F) of section 3733.01 of the 32157
Revised Code. 32158

(F) Except as provided in division (D)(3) of this section, 32159
the manufactured home tax is due and payable as follows: 32160

(1) When a manufactured or mobile home has a situs in this 32161
state, as provided in this section, on the first day of January, 32162
one-half of the amount of the tax is due and payable on or before 32163
the first day of March and the balance is due and payable on or 32164
before the thirty-first day of July. At the option of the owner of 32165
the home, the tax for the entire year may be paid in full on the 32166
first day of March. 32167

(2) When a manufactured or mobile home first acquires a situs 32168
in this state after the first day of January, no tax is due and 32169
payable for that year. 32170

(G)(1) If one-half of the current taxes charged under this 32171
section against a manufactured or mobile home, together with the 32172

full amount of any delinquent taxes or any installment thereof 32173
required to be paid under a written undertaking, are not paid on 32174
or before the thirty-first day of January in that year, or on or 32175
before the last day for such payment as extended pursuant to 32176
section 4503.063 of the Revised Code, a penalty of ten per cent 32177
shall be charged against the unpaid balance of such half of the 32178
current taxes. If the total amount of all such taxes is not paid 32179
on or before the thirty-first day of July, next thereafter, or on 32180
or before the last day for such payment as extended pursuant to 32181
section 4503.063 of the Revised Code, a like penalty shall be 32182
charged on the balance of the total amount of such unpaid current 32183
taxes. 32184

(2)(a) On the first day of the month following the last day 32185
the second installment of taxes may be paid without penalty 32186
beginning in 2000, interest shall be charged against and computed 32187
on all delinquent taxes other than the current taxes that became 32188
delinquent taxes at the close of the last day such second 32189
installment could be paid without penalty. The charge shall be for 32190
interest that accrued during the period that began on the 32191
preceding first day of December and ended on the last day of the 32192
month that included the last date such second installment could be 32193
paid without penalty. The interest shall be computed at the rate 32194
per annum prescribed by section 5703.47 of the Revised Code and 32195
shall be entered as a separate item on the delinquent manufactured 32196
home tax list compiled under division (H) of this section. 32197

(b) On the first day of December beginning in 2000, the 32198
interest shall be charged against and computed on all delinquent 32199
taxes. The charge shall be for interest that accrued during the 32200
period that began on the first day of the month following the last 32201
date prescribed for the payment of the second installment of taxes 32202
in the current year and ended on the immediately preceding last 32203
day of November. The interest shall be computed at the rate per 32204

annum prescribed by section 5703.47 of the Revised Code and shall 32205
be entered as a separate item on the delinquent manufactured home 32206
tax list. 32207

(c) After a valid undertaking has been entered into for the 32208
payment of any delinquent taxes, no interest shall be charged 32209
against such delinquent taxes while the undertaking remains in 32210
effect in compliance with section 323.31 of the Revised Code. If a 32211
valid undertaking becomes void, interest shall be charged against 32212
the delinquent taxes for the periods that interest was not 32213
permitted to be charged while the undertaking was in effect. The 32214
interest shall be charged on the day the undertaking becomes void 32215
and shall equal the amount of interest that would have been 32216
charged against the unpaid delinquent taxes outstanding on the 32217
dates on which interest would have been charged thereon under 32218
divisions (G)(1) and (2) of this section had the undertaking not 32219
been in effect. 32220

(3) If the full amount of the taxes due at either of the 32221
times prescribed by division (F) of this section is paid within 32222
ten days after such time, the county treasurer shall waive the 32223
collection of and the county auditor shall remit one-half of the 32224
penalty provided for in this division for failure to make that 32225
payment by the prescribed time. 32226

(4) The treasurer shall compile and deliver to the county 32227
auditor a list of all tax payments the treasurer has received as 32228
provided in division (G)(3) of this section. The list shall 32229
include any information required by the auditor for the remission 32230
of the penalties waived by the treasurer. The taxes so collected 32231
shall be included in the settlement next succeeding the settlement 32232
then in process. 32233

(H)(1) Beginning in 2000, the county auditor shall compile 32234
annually a "delinquent manufactured home tax list" consisting of 32235
homes the county treasurer's records indicate have taxes that were 32236

not paid within the time prescribed by divisions (D)(3) and (F) of 32237
this section, have taxes that remain unpaid from prior years, or 32238
have unpaid tax penalties or interest that have been assessed. 32239

(2) Within thirty days after the settlement under division 32240
(H)(2) of section 321.24 of the Revised Code beginning in 2000, 32241
the county auditor shall deliver a copy of the delinquent 32242
manufactured home tax list to the county treasurer. The auditor 32243
shall update and publish the delinquent manufactured home tax list 32244
annually in the same manner as delinquent real property tax lists 32245
are published. The county auditor shall apportion the cost of 32246
publishing the list among taxing districts in proportion to the 32247
amount of delinquent manufactured home taxes so published that 32248
each taxing district is entitled to receive upon collection of 32249
those taxes. 32250

(3) When taxes, penalties, or interest are charged against a 32251
person on the delinquent manufactured home tax list and are not 32252
paid within sixty days after the list is delivered to the county 32253
treasurer, the county treasurer shall, in addition to any other 32254
remedy provided by law for the collection of taxes, penalties, and 32255
interest, enforce collection of such taxes, penalties, and 32256
interest by civil action in the name of the treasurer against the 32257
owner for the recovery of the unpaid taxes following the 32258
procedures for the recovery of delinquent real property taxes in 32259
sections 323.25 to 323.28 of the Revised Code. The action may be 32260
brought in municipal or county court, provided the amount charged 32261
does not exceed the monetary limitations for original jurisdiction 32262
for civil actions in those courts. 32263

It is sufficient, having made proper parties to the suit, for 32264
the treasurer to allege in the treasurer's bill of particulars or 32265
petition that the taxes stand chargeable on the books of the 32266
county treasurer against such person, that they are due and 32267
unpaid, and that such person is indebted in the amount of taxes 32268

appearing to be due the county. The treasurer need not set forth 32269
any other matter relating thereto. If it is found on the trial of 32270
the action that the person is indebted to the state, judgment 32271
shall be rendered in favor of the treasurer prosecuting the 32272
action. The judgment debtor is not entitled to the benefit of any 32273
law for stay of execution or exemption of property from levy or 32274
sale on execution in the enforcement of the judgment. 32275

(I) The total amount of taxes collected shall be distributed 32276
in the following manner: four per cent shall be allowed as 32277
compensation to the county auditor for the county auditor's 32278
service in assessing the taxes; two per cent shall be allowed as 32279
compensation to the county treasurer for the services the county 32280
treasurer renders as a result of the tax levied by this section. 32281
Such amounts shall be paid into the county treasury, to the credit 32282
of the county general revenue fund, on the warrant of the county 32283
auditor. Fees to be paid to the credit of the real estate 32284
assessment fund shall be collected pursuant to division (B) of 32285
section 319.54 of the Revised Code and paid into the county 32286
treasury, on the warrant of the county auditor. The balance of the 32287
taxes collected shall be distributed among the taxing subdivisions 32288
of the county in which the taxes are collected and paid in the 32289
same ratio as those taxes were collected for the benefit of the 32290
taxing subdivision. The taxes levied and revenues collected under 32291
this section shall be in lieu of any general property tax and any 32292
tax levied with respect to the privilege of using or occupying a 32293
manufactured or mobile home in Ohio except as provided in sections 32294
4503.04 and 5741.02 of the Revised Code. 32295

(J) An agreement to purchase or a bill of sale for a 32296
manufactured home shall show whether or not the furnishings and 32297
equipment are included in the purchase price. 32298

(K) If the county treasurer and the county prosecuting 32299
attorney agree that an item charged on the delinquent manufactured 32300

home tax list is uncollectible, they shall certify that 32301
determination and the reasons to the county board of revision. If 32302
the board determines the amount is uncollectible, it shall certify 32303
its determination to the county auditor, who shall strike the item 32304
from the list. 32305

(L)(1) The county auditor shall appraise at its true value 32306
any manufactured or mobile home in which ownership is transferred 32307
or which first acquires situs in this state on or after January 1, 32308
2000, and any manufactured or mobile home the owner of which has 32309
elected, under division (D)(4) of this section, to have the home 32310
taxed under division (D)(2) of this section. The true value shall 32311
include the value of the home, any additions, and any fixtures, 32312
but not any furnishings in the home. In determining the true value 32313
of a manufactured or mobile home, the auditor shall consider all 32314
facts and circumstances relating to the value of the home, 32315
including its age, its capacity to function as a residence, any 32316
obsolete characteristics, and other factors that may tend to prove 32317
its true value. 32318

(2)(a) If a manufactured or mobile home has been the subject 32319
of an arm's length sale between a willing seller and a willing 32320
buyer within a reasonable length of time prior to the 32321
determination of true value, the auditor shall consider the sale 32322
price of the home to be the true value for taxation purposes. 32323

(b) The sale price in an arm's length transaction between a 32324
willing seller and a willing buyer shall not be considered the 32325
true value of the home if either of the following occurred after 32326
the sale: 32327

(i) The home has lost value due to a casualty; 32328

(ii) An addition or fixture has been added to the home. 32329

(3) The auditor shall have each home viewed and appraised at 32330
least once in each six-year period in the same year in which real 32331

property in the county is appraised pursuant to Chapter 5713. of 32332
the Revised Code, and shall update the appraised values in the 32333
third calendar year following the appraisal. The person viewing or 32334
appraising a home may enter the home to determine by actual view 32335
any additions or fixtures that have been added since the last 32336
appraisal. In conducting the appraisals and establishing the true 32337
value, the auditor shall follow the procedures set forth for 32338
appraising real property in sections 5713.01 and 5713.03 of the 32339
Revised Code. 32340

(4) The auditor shall place the true value of each home on 32341
the manufactured home tax list upon completion of an appraisal. 32342

(5)(a) If the auditor changes the true value of a home, the 32343
auditor shall notify the owner of the home in writing, delivered 32344
by mail or in person. The notice shall be given at least thirty 32345
days prior to the issuance of any tax bill that reflects the 32346
change. Failure to receive the notice does not invalidate any 32347
proceeding under this section. 32348

(b) Any owner of a home or any other person or party listed 32349
in division (A)(1) of section 5715.19 of the Revised Code may file 32350
a complaint against the true value of the home as appraised under 32351
this section. The complaint shall be filed with the county auditor 32352
on or before the thirty-first day of March of the current tax year 32353
or the date of closing of the collection for the first half of 32354
manufactured home taxes for the current tax year, whichever is 32355
later. The auditor shall present to the county board of revision 32356
all complaints filed with the auditor under this section. The 32357
board shall hear and investigate the complaint and may take action 32358
on it as provided under sections 5715.11 to 5715.19 of the Revised 32359
Code. 32360

(c) If the county board of revision determines, pursuant to a 32361
complaint against the valuation of a manufactured or mobile home 32362
filed under this section, that the amount of taxes, assessments, 32363

or other charges paid was in excess of the amount due based on the 32364
valuation as finally determined, then the overpayment shall be 32365
refunded in the manner prescribed in section 5715.22 of the 32366
Revised Code. 32367

(d) Payment of all or part of a tax under this section for 32368
any year for which a complaint is pending before the county board 32369
of revision does not abate the complaint or in any way affect the 32370
hearing and determination thereof. 32371

(M) If the county auditor determines that any tax, 32372
assessment, charge, or any part thereof has been erroneously 32373
charged as a result of a clerical error as defined in section 32374
319.35 of the Revised Code, the county treasurer and the county 32375
board of revision shall remove the erroneous charges on the 32376
manufactured home tax list or delinquent manufactured home tax 32377
list, and refund any erroneous charges that have been collected, 32378
with interest, in the same manner as is prescribed in section 32379
319.36 of the Revised Code for erroneous charges against real 32380
property. 32381

(N) As used in this section and section 4503.061 of the 32382
Revised Code: 32383

(1) "Manufactured home taxes" includes taxes, penalties, and 32384
interest charged under division (C) or (G) of this section and any 32385
penalties charged under division (G) or (H)(5) of section 4503.061 32386
of the Revised Code. 32387

(2) "Current taxes" means all manufactured home taxes charged 32388
against a manufactured or mobile home that have not appeared on 32389
the manufactured home tax list for any prior year. Current taxes 32390
become delinquent taxes if they remain unpaid after the last day 32391
prescribed for payment of the second installment of current taxes 32392
without penalty, whether or not they have been certified 32393
delinquent. 32394

(3) "Delinquent taxes" means:	32395
(a) Any manufactured home taxes that were charged against a manufactured or mobile home for a prior year, including any penalties or interest charged for a prior year, and that remain unpaid;	32396 32397 32398 32399
(b) Any current manufactured home taxes charged against a manufactured or mobile home that remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent, including any penalties or interest.	32400 32401 32402 32403 32404
Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.	32405 32406 32407 32408 32409 32410 32411 32412 32413 32414 32415 32416
(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.	32417 32418 32419 32420 32421 32422 32423 32424 32425

(3) If a certificate of title previously has been issued for 32426
a motor vehicle in this state, the application for a certificate 32427
of title also shall be accompanied by that certificate of title 32428
duly assigned, unless otherwise provided in this chapter. If a 32429
certificate of title previously has not been issued for the motor 32430
vehicle in this state, the application, unless otherwise provided 32431
in this chapter, shall be accompanied by a manufacturer's or 32432
importer's certificate or by a certificate of title of another 32433
state from which the motor vehicle was brought into this state. If 32434
the application refers to a motor vehicle last previously 32435
registered in another state, the application also shall be 32436
accompanied by the physical inspection certificate required by 32437
section 4505.061 of the Revised Code. If the application is made 32438
by two persons regarding a motor vehicle in which they wish to 32439
establish joint ownership with right of survivorship, they may do 32440
so as provided in section 2131.12 of the Revised Code. If the 32441
applicant requests a designation of the motor vehicle in 32442
beneficiary form so that upon the death of the owner of the motor 32443
vehicle, ownership of the motor vehicle will pass to a designated 32444
transfer-on-death beneficiary or beneficiaries, the applicant may 32445
do so as provided in section 2131.13 of the Revised Code. A person 32446
who establishes ownership of a motor vehicle that is transferable 32447
on death in accordance with section 2131.13 of the Revised Code 32448
may terminate that type of ownership or change the designation of 32449
the transfer-on-death beneficiary or beneficiaries by applying for 32450
a certificate of title pursuant to this section. The clerk shall 32451
retain the evidence of title presented by the applicant and on 32452
which the certificate of title is issued, except that, if an 32453
application for a certificate of title is filed electronically by 32454
an electronic motor vehicle dealer on behalf of the purchaser of a 32455
motor vehicle, the clerk shall retain the completed electronic 32456
record to which the dealer converted the certificate of title 32457
application and other required documents. The electronic motor 32458

vehicle dealer shall forward the actual application and all other 32459
documents relating to the sale of the motor vehicle to any clerk 32460
within thirty days after the certificate of title is issued. The 32461
registrar, after consultation with the attorney general, shall 32462
adopt rules that govern the location at which, and the manner in 32463
which, are stored the actual application and all other documents 32464
relating to the sale of a motor vehicle when an electronic motor 32465
vehicle dealer files the application for a certificate of title 32466
electronically on behalf of the purchaser. 32467

The clerk shall use reasonable diligence in ascertaining 32468
whether or not the facts in the application for a certificate of 32469
title are true by checking the application and documents 32470
accompanying it or the electronic record to which a dealer 32471
converted the application and accompanying documents with the 32472
records of motor vehicles in the clerk's office. If the clerk is 32473
satisfied that the applicant is the owner of the motor vehicle and 32474
that the application is in the proper form, the clerk, within five 32475
business days after the application is filed, shall issue a 32476
physical certificate of title over the clerk's signature and 32477
sealed with the clerk's seal unless the applicant specifically 32478
requests the clerk not to issue a physical certificate of title 32479
and instead to issue an electronic certificate of title. For 32480
purposes of the transfer of a certificate of title, if the clerk 32481
is satisfied that the secured party has duly discharged a lien 32482
notation but has not canceled the lien notation with a clerk, the 32483
clerk may cancel the lien notation on the automated title 32484
processing system and notify the clerk of the county of origin. 32485

(4) In the case of the sale of a motor vehicle to a general 32486
buyer or user by a dealer, by a motor vehicle leasing dealer 32487
selling the motor vehicle to the lessee or, in a case in which the 32488
leasing dealer subleased the motor vehicle, the sublessee, at the 32489
end of the lease agreement or sublease agreement, or by a 32490

manufactured home broker, the certificate of title shall be 32491
obtained in the name of the buyer by the dealer, leasing dealer, 32492
or manufactured home broker, as the case may be, upon application 32493
signed by the buyer. The certificate of title shall be issued, or 32494
the process of entering the certificate of title application 32495
information into the automated title processing system if a 32496
physical certificate of title is not to be issued shall be 32497
completed, within five business days after the application for 32498
title is filed with the clerk. If the buyer of the motor vehicle 32499
previously leased the motor vehicle and is buying the motor 32500
vehicle at the end of the lease pursuant to that lease, the 32501
certificate of title shall be obtained in the name of the buyer by 32502
the motor vehicle leasing dealer who previously leased the motor 32503
vehicle to the buyer or by the motor vehicle leasing dealer who 32504
subleased the motor vehicle to the buyer under a sublease 32505
agreement. 32506

In all other cases, except as provided in section 4505.032 32507
and division (D)(2) of section 4505.11 of the Revised Code, such 32508
certificates shall be obtained by the buyer. 32509

(5)(a)(i) If the certificate of title is being obtained in 32510
the name of the buyer by a motor vehicle dealer or motor vehicle 32511
leasing dealer and there is a security interest to be noted on the 32512
certificate of title, the dealer or leasing dealer shall submit 32513
the application for the certificate of title and payment of the 32514
applicable tax to a clerk within seven business days after the 32515
later of the delivery of the motor vehicle to the buyer or the 32516
date the dealer or leasing dealer obtains the manufacturer's or 32517
importer's certificate, or certificate of title issued in the name 32518
of the dealer or leasing dealer, for the motor vehicle. Submission 32519
of the application for the certificate of title and payment of the 32520
applicable tax within the required seven business days may be 32521
indicated by postmark or receipt by a clerk within that period. 32522

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. If an application for a certificate of title is not filed within the period specified in division (A)(5)(b) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(6) As used in division (A) of this section, "lease

agreement," "lessee," and "sublease agreement" have the same 32555
meanings as in section 4505.04 of the Revised Code. 32556

(B) The clerk, except as provided in this section, shall 32557
refuse to accept for filing any application for a certificate of 32558
title and shall refuse to issue a certificate of title unless the 32559
dealer or manufactured home broker or the applicant, in cases in 32560
which the certificate shall be obtained by the buyer, submits with 32561
the application payment of the tax levied by or pursuant to 32562
Chapters 5739. and 5741. of the Revised Code based on the 32563
purchaser's county of residence. Upon payment of the tax in 32564
accordance with division (E) of this section, the clerk shall 32565
issue a receipt prescribed by the registrar and agreed upon by the 32566
tax commissioner showing payment of the tax or a receipt issued by 32567
the commissioner showing the payment of the tax. When submitting 32568
payment of the tax to the clerk, a dealer shall retain any 32569
discount to which the dealer is entitled under section 5739.12 of 32570
the Revised Code. 32571

For receiving and disbursing such taxes paid to the clerk by 32572
a resident of the clerk's county, the clerk may retain a poundage 32573
fee of one and one one-hundredth per cent, and the clerk shall pay 32574
the poundage fee into the certificate of title administration fund 32575
created by section 325.33 of the Revised Code. The clerk shall not 32576
retain a poundage fee from payments of taxes by persons who do not 32577
reside in the clerk's county. 32578

A clerk, however, may retain from the taxes paid to the clerk 32579
an amount equal to the poundage fees associated with certificates 32580
of title issued by other clerks of courts of common pleas to 32581
applicants who reside in the first clerk's county. The registrar, 32582
in consultation with the tax commissioner and the clerks of the 32583
courts of common pleas, shall develop a report from the automated 32584
title processing system that informs each clerk of the amount of 32585
the poundage fees that the clerk is permitted to retain from those 32586

taxes because of certificates of title issued by the clerks of 32587
other counties to applicants who reside in the first clerk's 32588
county. 32589

In the case of casual sales of motor vehicles, as defined in 32590
section 4517.01 of the Revised Code, the price for the purpose of 32591
determining the tax shall be the purchase price on the assigned 32592
certificate of title executed by the seller and filed with the 32593
clerk by the buyer on a form to be prescribed by the registrar, 32594
which shall be prima-facie evidence of the amount for the 32595
determination of the tax. 32596

(C)(1) If the transferor indicates on the certificate of 32597
title that the odometer reflects mileage in excess of the designed 32598
mechanical limit of the odometer, the clerk shall enter the phrase 32599
"exceeds mechanical limits" following the mileage designation. If 32600
the transferor indicates on the certificate of title that the 32601
odometer reading is not the actual mileage, the clerk shall enter 32602
the phrase "nonactual: warning - odometer discrepancy" following 32603
the mileage designation. The clerk shall use reasonable care in 32604
transferring the information supplied by the transferor, but is 32605
not liable for any errors or omissions of the clerk or those of 32606
the clerk's deputies in the performance of the clerk's duties 32607
created by this chapter. 32608

The registrar shall prescribe an affidavit in which the 32609
transferor shall swear to the true selling price and, except as 32610
provided in this division, the true odometer reading of the motor 32611
vehicle. The registrar may prescribe an affidavit in which the 32612
seller and buyer provide information pertaining to the odometer 32613
reading of the motor vehicle in addition to that required by this 32614
section, as such information may be required by the United States 32615
secretary of transportation by rule prescribed under authority of 32616
subchapter IV of the "Motor Vehicle Information and Cost Savings 32617
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 32618

(2) Division (C)(1) of this section does not require the 32619
giving of information concerning the odometer and odometer reading 32620
of a motor vehicle when ownership of a motor vehicle is being 32621
transferred as a result of a bequest, under the laws of intestate 32622
succession, to a survivor pursuant to section 2106.18, 2131.12, or 32623
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 32624
beneficiaries pursuant to section 2131.13 of the ~~Revised~~ Revised 32625
Code, or in connection with the creation of a security interest. 32626

(D) When the transfer to the applicant was made in some other 32627
state or in interstate commerce, the clerk, except as provided in 32628
this section, shall refuse to issue any certificate of title 32629
unless the tax imposed by or pursuant to Chapter 5741. of the 32630
Revised Code based on the purchaser's county of residence has been 32631
paid as evidenced by a receipt issued by the tax commissioner, or 32632
unless the applicant submits with the application payment of the 32633
tax. Upon payment of the tax in accordance with division (E) of 32634
this section, the clerk shall issue a receipt prescribed by the 32635
registrar and agreed upon by the tax commissioner, showing payment 32636
of the tax. 32637

For receiving and disbursing such taxes paid to the clerk by 32638
a resident of the clerk's county, the clerk may retain a poundage 32639
fee of one and one one-hundredth per cent. The clerk shall not 32640
retain a poundage fee from payments of taxes by persons who do not 32641
reside in the clerk's county. 32642

A clerk, however, may retain from the taxes paid to the clerk 32643
an amount equal to the poundage fees associated with certificates 32644
of title issued by other clerks of courts of common pleas to 32645
applicants who reside in the first clerk's county. The registrar, 32646
in consultation with the tax commissioner and the clerks of the 32647
courts of common pleas, shall develop a report from the automated 32648
title processing system that informs each clerk of the amount of 32649
the poundage fees that the clerk is permitted to retain from those 32650

taxes because of certificates of title issued by the clerks of 32651
other counties to applicants who reside in the first clerk's 32652
county. 32653

When the vendor is not regularly engaged in the business of 32654
selling motor vehicles, the vendor shall not be required to 32655
purchase a vendor's license or make reports concerning those 32656
sales. 32657

(E) The clerk shall accept any payment of a tax in cash, or 32658
by cashier's check, certified check, draft, money order, or teller 32659
check issued by any insured financial institution payable to the 32660
clerk and submitted with an application for a certificate of title 32661
under division (B) or (D) of this section. The clerk also may 32662
accept payment of the tax by corporate, business, or personal 32663
check, credit card, electronic transfer or wire transfer, debit 32664
card, or any other accepted form of payment made payable to the 32665
clerk. The clerk may require bonds, guarantees, or letters of 32666
credit to ensure the collection of corporate, business, or 32667
personal checks. Any service fee charged by a third party to a 32668
clerk for the use of any form of payment may be paid by the clerk 32669
from the certificate of title administration fund created in 32670
section 325.33 of the Revised Code, or may be assessed by the 32671
clerk upon the applicant as an additional fee. Upon collection, 32672
the additional fees shall be paid by the clerk into that 32673
certificate of title administration fund. 32674

The clerk shall make a good faith effort to collect any 32675
payment of taxes due but not made because the payment was returned 32676
or dishonored, but the clerk is not personally liable for the 32677
payment of uncollected taxes or uncollected fees. The clerk shall 32678
notify the tax commissioner of any such payment of taxes that is 32679
due but not made and shall furnish the information to the 32680
commissioner that the commissioner requires. The clerk shall 32681
deduct the amount of taxes due but not paid from the clerk's 32682

periodic remittance of tax payments, in accordance with procedures 32683
agreed upon by the tax commissioner. The commissioner may collect 32684
taxes due by assessment in the manner provided in section 5739.13 32685
of the Revised Code. 32686

Any person who presents payment that is returned or 32687
dishonored for any reason is liable to the clerk for payment of a 32688
penalty over and above the amount of the taxes due. The clerk 32689
shall determine the amount of the penalty, and the penalty shall 32690
be no greater than that amount necessary to compensate the clerk 32691
for banking charges, legal fees, or other expenses incurred by the 32692
clerk in collecting the returned or dishonored payment. The 32693
remedies and procedures provided in this section are in addition 32694
to any other available civil or criminal remedies. Subsequently 32695
collected penalties, poundage fees, and title fees, less any title 32696
fee due the state, from returned or dishonored payments collected 32697
by the clerk shall be paid into the certificate of title 32698
administration fund. Subsequently collected taxes, less poundage 32699
fees, shall be sent by the clerk to the treasurer of state at the 32700
next scheduled periodic remittance of tax payments, with 32701
information as the commissioner may require. The clerk may abate 32702
all or any part of any penalty assessed under this division. 32703

(F) In the following cases, the clerk shall accept for filing 32704
an application and shall issue a certificate of title without 32705
requiring payment or evidence of payment of the tax: 32706

(1) When the purchaser is this state or any of its political 32707
subdivisions, a church, or an organization whose purchases are 32708
exempted by section 5739.02 of the Revised Code; 32709

(2) When the transaction in this state is not a retail sale 32710
as defined by section 5739.01 of the Revised Code; 32711

(3) When the purchase is outside this state or in interstate 32712
commerce and the purpose of the purchaser is not to use, store, or 32713

consume within the meaning of section 5741.01 of the Revised Code; 32714

(4) When the purchaser is the federal government; 32715

(5) When the motor vehicle was purchased outside this state 32716
for use outside this state; 32717

(6) When the motor vehicle is purchased by a nonresident of 32718
this state for immediate removal from this state, and will be 32719
permanently titled and registered in another state, as provided by 32720
division (B)~~(23)~~(19) of section 5739.02 of the Revised Code, and 32721
upon presentation of a copy of the affidavit provided by that 32722
section, and a copy of the exemption certificate provided by 32723
section 5739.03 of the Revised Code. 32724

The clerk shall forward all payments of taxes, less poundage 32725
fees, to the treasurer of state in a manner to be prescribed by 32726
the tax commissioner and shall furnish information to the 32727
commissioner as the commissioner requires. 32728

(G) An application, as prescribed by the registrar and agreed 32729
to by the tax commissioner, shall be filled out and sworn to by 32730
the buyer of a motor vehicle in a casual sale. The application 32731
shall contain the following notice in bold lettering: "WARNING TO 32732
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 32733
law to state the true selling price. A false statement is in 32734
violation of section 2921.13 of the Revised Code and is punishable 32735
by six months' imprisonment or a fine of up to one thousand 32736
dollars, or both. All transfers are audited by the department of 32737
taxation. The seller and buyer must provide any information 32738
requested by the department of taxation. The buyer may be assessed 32739
any additional tax found to be due." 32740

(H) For sales of manufactured homes or mobile homes occurring 32741
on or after January 1, 2000, the clerk shall accept for filing, 32742
pursuant to Chapter 5739. of the Revised Code, an application for 32743
a certificate of title for a manufactured home or mobile home 32744

without requiring payment of any tax pursuant to section 5739.02, 32745
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 32746
issued by the tax commissioner showing payment of the tax. For 32747
sales of manufactured homes or mobile homes occurring on or after 32748
January 1, 2000, the applicant shall pay to the clerk an 32749
additional fee of five dollars for each certificate of title 32750
issued by the clerk for a manufactured or mobile home pursuant to 32751
division (H) of section 4505.11 of the Revised Code and for each 32752
certificate of title issued upon transfer of ownership of the 32753
home. The clerk shall credit the fee to the county certificate of 32754
title administration fund, and the fee shall be used to pay the 32755
expenses of archiving those certificates pursuant to division (A) 32756
of section 4505.08 and division (H)(3) of section 4505.11 of the 32757
Revised Code. The tax commissioner shall administer any tax on a 32758
manufactured or mobile home pursuant to Chapters 5739. and 5741. 32759
of the Revised Code. 32760

(I) Every clerk shall have the capability to transact by 32761
electronic means all procedures and transactions relating to the 32762
issuance of motor vehicle certificates of title that are described 32763
in the Revised Code as being accomplished by electronic means. 32764

Sec. 4509.60. Upon acceptance of a bond with individual 32765
sureties, the registrar of motor vehicles shall forward to the 32766
county recorder of the county in which the sureties' real estate 32767
is located a notice of such deposit and pay the recorder a base 32768
fee of five dollars for filing and indexing the notice and a 32769
housing trust fund fee of five dollars pursuant to section 317.36 32770
of the Revised Code. The recorder shall receive and file such 32771
notice and keep and index the same. Such bond shall constitute a 32772
lien in favor of the state upon the real estate so scheduled or 32773
any surety, and the lien shall exist in favor of any holder of a 32774
final judgment against the person who has filed the bond, for 32775
damages, including damages for care and loss of services, because 32776

of bodily injury to or death of any person, or for damage because 32777
of injury to property, including the loss of use thereof, 32778
resulting from the ownership, maintenance, or use of a motor 32779
vehicle after such bond was filed, upon the filing of notice to 32780
that effect by the registrar with the county recorder as provided 32781
in this section. 32782

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 32783
trackless trolley upon meeting or overtaking from either direction 32784
any school bus stopped for the purpose of receiving or discharging 32785
any school child, person attending programs offered by community 32786
boards of mental health and county boards of mental retardation 32787
and developmental disabilities, or child attending a program 32788
offered by a head start agency, shall stop at least ten feet from 32789
the front or rear of the school bus and shall not proceed until 32790
such school bus resumes motion, or until signaled by the school 32791
bus driver to proceed. 32792

It is no defense to a charge under this division that the 32793
school bus involved failed to display or be equipped with an 32794
automatically extended stop warning sign as required by division 32795
(B) of this section. 32796

(B) Every school bus shall be equipped with amber and red 32797
visual signals meeting the requirements of section 4511.771 of the 32798
Revised Code, and an automatically extended stop warning sign of a 32799
type approved by the state board of education, which shall be 32800
actuated by the driver of the bus whenever but only whenever the 32801
bus is stopped or stopping on the roadway for the purpose of 32802
receiving or discharging school children, persons attending 32803
programs offered by community boards of mental health and county 32804
boards of mental retardation and developmental disabilities, or 32805
children attending programs offered by head start agencies. A 32806
school bus driver shall not actuate the visual signals or the stop 32807

warning sign in designated school bus loading areas where the bus 32808
is entirely off the roadway or at school buildings when children 32809
or persons attending programs offered by community boards of 32810
mental health and county boards of mental retardation and 32811
developmental disabilities are loading or unloading at curbside or 32812
at buildings when children attending programs offered by head 32813
start agencies are loading or unloading at curbside. The visual 32814
signals and stop warning sign shall be synchronized or otherwise 32815
operated as required by rule of the board. 32816

(C) Where a highway has been divided into four or more 32817
traffic lanes, a driver of a vehicle, streetcar, or trackless 32818
trolley need not stop for a school bus approaching from the 32819
opposite direction which has stopped for the purpose of receiving 32820
or discharging any school child, persons attending programs 32821
offered by community boards of mental health and county boards of 32822
mental retardation and developmental disabilities, or children 32823
attending programs offered by head start agencies. The driver of 32824
any vehicle, streetcar, or trackless trolley overtaking the school 32825
bus shall comply with division (A) of this section. 32826

(D) School buses operating on divided highways or on highways 32827
with four or more traffic lanes shall receive and discharge all 32828
school children, persons attending programs offered by community 32829
boards of mental health and county boards of mental retardation 32830
and developmental disabilities, and children attending programs 32831
offered by head start agencies on their residence side of the 32832
highway. 32833

(E) No school bus driver shall start the driver's bus until 32834
after any child, person attending programs offered by community 32835
boards of mental health and county boards of mental retardation 32836
and developmental disabilities, or child attending a program 32837
offered by a head start agency who may have alighted therefrom has 32838
reached a place of safety on the child's or person's residence 32839

side of the road. 32840

(F) As used in this section: 32841

(1) "Head start agency" has the same meaning as in ~~division~~ 32842
~~(A)(1)~~ of section 3301.31 of the Revised Code. 32843

(2) "School bus," as used in relation to children who attend 32844
a program offered by a head start agency, means a bus that is 32845
owned and operated by a head start agency, is equipped with an 32846
automatically extended stop warning sign of a type approved by the 32847
state board of education, is painted the color and displays the 32848
markings described in section 4511.77 of the Revised Code, and is 32849
equipped with amber and red visual signals meeting the 32850
requirements of section 4511.771 of the Revised Code, irrespective 32851
of whether or not the bus has fifteen or more children aboard at 32852
any time. "School bus" does not include a van owned and operated 32853
by a head start agency, irrespective of its color, lights, or 32854
markings. 32855

Sec. 4707.071. (A) On May 1, 1991, all persons licensed as 32856
auction companies under former section 4707.071 of the Revised 32857
Code shall comply with all provisions of this chapter that are 32858
applicable to auctioneers except as provided in divisions (B) and 32859
(C) of this section. Such persons, however, do not have to serve 32860
an apprenticeship or attend a course of study under section 32861
4707.09 of the Revised Code or submit to an examination under 32862
section 4707.08 of the Revised Code as long as they do not engage 32863
in the calling for, recognition of, and the acceptance of, offers 32864
for the purchase of personal property at auction and do not 32865
conduct auctions at any location other than the definite place of 32866
business required in section 4707.14 of the Revised Code. 32867

(B) The principal owner of each auction company ~~which~~ that is 32868
licensed as of May 1, 1991, who pays the annual renewal fee 32869
specified in division ~~(A)~~(B) of section 4707.10 of the Revised 32870

Code during the first renewal period following May 1, 1991, shall 32871
be issued a special auctioneer's license, for the sale of personal 32872
property subject to division (A) of this section. Each principal 32873
owner shall apply for an annual license. In applying for an annual 32874
license, each person licensed as an auction company on May 1, 32875
1991, shall designate an individual as principal owner by 32876
submitting documentation substantiating that the individual is in 32877
fact the principal owner and shall identify a definite place of 32878
business as required in section 4707.14 of the Revised Code. A 32879
person licensed as an auctioneer shall not be entitled to a 32880
special auctioneer's license. 32881

(C) A special auctioneer's license issued under this section 32882
to the principal owner of a former auction company does not 32883
entitle the principal owner or former auction company to conduct 32884
auctions at any location other than the definite place of business 32885
required in section 4707.14 of the Revised Code. Notwithstanding 32886
section 4707.10 of the Revised Code, the department of agriculture 32887
shall not issue a new special auctioneer's license if the definite 32888
place of business identified by the licensee in the licensee's 32889
initial application for a special auctioneer license has changed 32890
or if the name under which the licensee is doing business has 32891
changed. No person other than an owner, officer, member, or agent 32892
of the former auction company who personally has passed the 32893
examination prescribed in section 4707.08 of the Revised Code and 32894
been licensed as an auctioneer shall engage in the calling for, 32895
recognition of, and the acceptance of, offers for the purchase of 32896
real or personal property, goods, or chattels at auction in 32897
connection with a former auction company that has been issued a 32898
special auctioneer's license. 32899

(D) A person licensed as a special auctioneer shall not 32900
engage in the sale of real property at auction. 32901

Sec. 4707.072. (A) For purposes of this section, the department of agriculture shall adopt rules in accordance with section 4707.19 of the Revised Code prescribing the fee that a license applicant must pay. Until those rules are adopted, a license applicant shall pay the fee established in this section.

(B) The department of agriculture may grant one-auction licenses to any nonresident person deemed qualified by the department. Any person who applies for a one-auction license shall attest, on forms provided by the department, and furnish to the department, satisfactory proof that the license applicant or any auctioneer affiliated with the applicant meets the following requirements:

(A)(1) Has a good reputation;

(B)(2) Is of trustworthy character;

(C)(3) Has attained the age of at least eighteen years;

(D)(4) Has a general knowledge of the requirements of the Revised Code relative to auctioneers, the auction profession, and the principles involved in conducting an auction;

(E)(5) Has two years of professional auctioneering experience immediately preceding the date of application and the experience includes the personal conduct by the applicant of at least twelve auction sales in any state, or has met the requirements of section 4707.12 of the Revised Code;

(F)(6) Has paid a fee of one hundred dollars, which shall be credited to the auctioneers fund;

(G)(7) Has provided proof of financial responsibility as required under section 4707.11 of the Revised Code in the form of either an irrevocable letter of credit or a cash bond or a surety bond in the amount of fifty thousand dollars. If the applicant gives a surety bond, the bond shall be executed by a surety

company authorized to do business in this state. A bond shall be 32932
made to the department and shall be conditioned that the applicant 32933
shall comply with this chapter and rules adopted under it, 32934
including refraining from conduct described in section 4707.15 of 32935
the Revised Code. All bonds shall be on a form approved by the 32936
director of agriculture. 32937

Sec. 4707.10. (A) For purposes of this section, the 32938
department of agriculture shall adopt rules in accordance with 32939
section 4707.19 of the Revised Code prescribing fees that 32940
licensees must pay and license renewal deadlines and procedures 32941
with which licensees must comply. Until those rules are adopted, 32942
licensees shall pay the fees and comply with the license renewal 32943
deadlines and procedures established in this section. 32944

(B) The fee for each auctioneer's, apprentice auctioneer's, 32945
or special auctioneer's license issued by the department of 32946
~~agriculture~~ is one hundred dollars, and the annual renewal fee for 32947
any such license is one hundred dollars. All licenses expire 32948
annually on the last day of June of each year and shall be renewed 32949
according to the standard renewal procedures of Chapter 4745. of 32950
the Revised Code, or the procedures of this section. Any licensee 32951
under this chapter who wishes to renew the licensee's license, but 32952
fails to do so before the first day of July shall reapply for 32953
licensure in the same manner and pursuant to the same requirements 32954
as for initial licensure, unless before the first day of September 32955
of the year of expiration, the former licensee pays to the 32956
department, in addition to the regular renewal fee, a late renewal 32957
penalty of one hundred dollars. 32958

~~(B)~~(C) Any person who fails to renew the person's license 32959
before the first day of July is prohibited from engaging in any 32960
activity specified or comprehended in section 4707.01 of the 32961
Revised Code until such time as the person's license is renewed or 32962

a new license is issued. Renewal of a license between the first 32963
day of July and the first day of September does not relieve any 32964
person from complying with this division. The department may 32965
refuse to renew the license of or issue a new license to any 32966
person who violates this division. 32967

~~(C)~~(D) The department shall prepare and deliver to each 32968
licensee a permanent license certificate and an ~~annual-renewal~~ 32969
identification card, the appropriate portion of which shall be 32970
carried on the person of the licensee at all times when engaged in 32971
any type of auction activity, and part of which shall be posted 32972
with the permanent certificate in a conspicuous location at the 32973
licensee's place of business. 32974

~~(D)~~(E) Notice in writing shall be given to the department by 32975
each auctioneer or apprentice auctioneer licensee of any change of 32976
principal business location or any change or addition to the name 32977
or names under which business is conducted, whereupon the 32978
department shall issue a new license for the unexpired period. Any 32979
change of business location or change or addition of names without 32980
notification to the department shall automatically cancel any 32981
license previously issued. For each new auctioneer or apprentice 32982
auctioneer license issued upon the occasion of a change in 32983
business location or a change in or an addition of names under 32984
which business is conducted, the department may collect a fee of 32985
ten dollars for each change in location, or name or each added 32986
name unless the notification of the change occurs concurrently 32987
with the renewal application. 32988

Sec. 4707.24. Except for the purposes of divisions (A) and 32989
(B) of section 4707.25 of the Revised Code, sections 4707.25 to 32990
4707.31 of the Revised Code do not apply with respect to a license 32991
issued under section 4707.072 of the Revised Code. 32992

Sec. 4709.12. (A) The barber board shall charge and collect	32993
the following fees:	32994
(1) For the application to take the barber examination, sixty	32995
<u>ninety</u> dollars;	32996
(2) For an application to retake any part of the barber	32997
examination, thirty <u>forty-five</u> dollars;	32998
(3) For the initial issuance of a license to practice as a	32999
barber, twenty <u>thirty</u> dollars;	33000
(4) For the biennial renewal of the license to practice as a	33001
barber, seventy-five <u>one hundred ten</u> dollars;	33002
(5) For the restoration of an expired barber license, one	33003
hundred dollars, and fifty <u>seventy-five</u> dollars for each lapsed	33004
year, provided that the total fee shall not exceed four <u>six</u>	33005
hundred sixty <u>ninety</u> dollars;	33006
(6) For the issuance of a duplicate barber or shop license,	33007
thirty <u>forty-five</u> dollars;	33008
(7) For the inspection of a new barber shop, change of	33009
ownership, or reopening of premises or facilities formerly	33010
operated as a barber shop, and issuance of a shop license,	33011
seventy-five <u>one hundred ten</u> dollars;	33012
(8) For the biennial renewal of a barber shop license, fifty	33013
<u>seventy-five</u> dollars;	33014
(9) For the restoration of a barber shop license,	33015
seventy-five <u>one hundred ten</u> dollars;	33016
(10) For each inspection of premises for location of a new	33017
barber school, or each inspection of premises for relocation of a	33018
currently licensed barber school, five <u>seven</u> hundred <u>fifty</u>	33019
dollars;	33020
(11) For the initial barber school license, five-hundred <u>one</u>	33021

thousand dollars, and ~~five hundred~~ one thousand dollars for the 33022
renewal of the license; 33023

(12) For the restoration of a barber school license, ~~six~~ 33024
~~hundred~~ one thousand dollars; 33025

(13) For the issuance of a student registration, ~~twenty-five~~ 33026
forty dollars; 33027

(14) For the examination and issuance of a biennial teacher 33028
~~or assistant teacher~~ license, one hundred ~~twenty-five~~ eighty-five 33029
dollars; 33030

(15) For the renewal of a biennial teacher ~~or assistant~~ 33031
~~teacher~~ license, one hundred fifty dollars; 33032

(16) For the restoration of an expired teacher ~~or assistant~~ 33033
~~teacher~~ license, ~~one~~ two hundred ~~fifty~~ twenty-five dollars, and 33034
~~forty~~ sixty dollars for each lapsed year, provided that the total 33035
fee shall not exceed ~~three~~ four hundred fifty dollars; 33036

(17) For the issuance of a barber license by reciprocity 33037
pursuant to section 4709.08 of the Revised Code, ~~two~~ three hundred 33038
dollars; 33039

(18) For providing licensure information concerning an 33040
applicant, upon written request of the applicant, ~~twenty-five~~ 33041
forty dollars. 33042

(B) The board, subject to the approval of the controlling 33043
board, may establish fees in excess of the amounts provided in 33044
this section, provided that the fees do not exceed the amounts 33045
permitted by this section by more than fifty per cent. 33046

Sec. 4717.07. (A) The board of embalmers and funeral 33047
directors shall charge and collect the following fees: 33048

(1) For the issuance of an initial embalmer's or funeral 33049
director's license, ~~five~~ one hundred forty dollars; 33050

(2) For the issuance of an embalmer or funeral director registration, twenty-five <u>one hundred</u> dollars;	33051 33052
(3) For filing an embalmer or funeral director certificate of apprenticeship, ten <u>fifty</u> dollars;	33053 33054
(4) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;	33055 33056 33057
(5) For the biennial renewal of an embalmer's or funeral director's license, one hundred twenty <u>forty</u> dollars;	33058 33059
(6) For the initial issuance of a license to operate a funeral home, one two hundred twenty-five <u>fifty</u> dollars and biennial renewal of a license to operate a funeral home, two hundred fifty dollars;	33060 33061 33062 33063
(7) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(5) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	33064 33065 33066 33067
(8) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(6) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	33068 33069 33070 33071
(9) For the initial issuance of a license to operate an embalming facility, one two <u>hundred</u> dollars and biennial renewal of a license to operate an embalming facility, two hundred dollars;	33072 33073 33074 33075
(10) For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A)(9) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	33076 33077 33078 33079
(11) For the initial issuance of a license to operate a	33080

crematory facility, ~~one~~ two hundred dollars and biennial renewal 33081
of a license to operate a crematory facility, two hundred dollars; 33082

(12) For the reinstatement of a lapsed license to operate a 33083
crematory facility, the renewal fee prescribed in division (A)(11) 33084
of this section plus fifty dollars for each month or portion of a 33085
month the license is lapsed until reinstatement; 33086

(13) For the issuance of a duplicate of a license issued 33087
under this chapter, four dollars. 33088

(B) In addition to the fees set forth in division (A) of this 33089
section, an applicant shall pay the examination fee assessed by 33090
any examining agency the board uses for any section of an 33091
examination required under this chapter. 33092

(C) Subject to the approval of the controlling board, the 33093
board of embalmers and funeral directors may establish fees in 33094
excess of the amounts set forth in this section, provided that 33095
these fees do not exceed the amounts set forth in this section by 33096
more than fifty per cent. 33097

Sec. 4717.09. (A) Every two years, licensed embalmers and 33098
funeral directors shall attend between twelve and thirty hours of 33099
educational programs as a condition for renewal of their licenses. 33100
The board of embalmers and funeral directors shall adopt rules 33101
governing the administration and enforcement of the continuing 33102
education requirements of this section. The board may contract 33103
with a professional organization or association or other third 33104
party to assist it in performing functions necessary to administer 33105
and enforce the continuing education requirements of this section. 33106
A professional organization or association or other third party 33107
with whom the board so contracts may charge a reasonable fee for 33108
performing these functions to licensees or to the persons who 33109
provide continuing education programs. 33110

(B) A person holding both an embalmer's license and a funeral director's license need meet only the continuing education requirements established by the board for one or the other of those licenses in order to satisfy the requirement of division (A) of this section.

(C) The board shall not renew the license of a licensee who fails to meet the continuing education requirements of this section and who has not been granted a waiver or exemption under division (D) or (E) of this section.

(D) Any licensee who fails to meet the continuing education requirements of this section because of undue hardship or disability, or who is not actively engaged in the practice of funeral directing or embalming in this state, may apply to the board for a waiver or an exemption. ~~The~~

(E) A licensee who has been an embalmer or a funeral director for not less than fifty years and is not actually in charge of an embalming facility or funeral home may apply to the board for an exemption.

(F) The board shall determine, by rule, the procedures for applying for a waiver or an exemption from continuing education requirements under this section and under what conditions a waiver or an exemption may be granted.

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:

(1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.

(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

(5) "Purchaser" means a person that is solicited to become or

does become financially obligated as a result of a telephone solicitation. 33172
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(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following: 33174
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(a) An individual who comes within one of the exemptions in division (B) of this section; 33177
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(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section; 33179
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(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted. 33182
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(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria: 33186
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(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson. 33188
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(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize. 33190
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(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a 33195
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business. 33202

(B) A telephone solicitor is exempt from the provisions of 33203
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 33204
Code if the telephone solicitor is any one of the following: 33205

(1) A person engaging in a telephone solicitation that is a 33206
one-time or infrequent transaction not done in the course of a 33207
pattern of repeated transactions of a like nature; 33208

(2) A person engaged in telephone solicitation solely for 33209
religious or political purposes; a charitable organization, 33210
fund-raising counsel, or professional solicitor in compliance with 33211
the registration and reporting requirements of Chapter 1716. of 33212
the Revised Code; or any person or other entity exempt under 33213
section 1716.03 of the Revised Code from filing a registration 33214
statement under section 1716.02 of the Revised Code; 33215

(3) A person, making a telephone solicitation involving a 33216
home solicitation sale as defined in section 1345.21 of the 33217
Revised Code, that makes the sales presentation and completes the 33218
sale at a later, face-to-face meeting between the seller and the 33219
purchaser rather than during the telephone solicitation. However, 33220
if the person, following the telephone solicitation, causes 33221
another person to collect the payment of any money, this exemption 33222
does not apply. 33223

(4) A licensed securities, commodities, or investment broker, 33224
dealer, investment advisor, or associated person when making a 33225
telephone solicitation within the scope of the person's license. 33226
As used in division (B)(4) of this section, "licensed securities, 33227
commodities, or investment broker, dealer, investment advisor, or 33228
associated person" means a person subject to licensure or 33229
registration as such by the securities and exchange commission; 33230
the National Association of Securities Dealers or other 33231
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 33232

the division of securities under Chapter 1707. of the Revised 33233
Code; or by an official or agency of any other state of the United 33234
States. 33235

(5)(a) A person primarily engaged in soliciting the sale of a 33236
newspaper of general circulation; 33237

(b) As used in division (B)(5)(a) of this section, "newspaper 33238
of general circulation" includes, but is not limited to, both of 33239
the following: 33240

(i) A newspaper that is a daily law journal designated as an 33241
official publisher of court calendars pursuant to section 2701.09 33242
of the Revised Code; 33243

(ii) A newspaper or publication that has at least twenty-five 33244
per cent editorial, non-advertising content, exclusive of inserts, 33245
measured relative to total publication space, and an audited 33246
circulation to at least fifty per cent of the households in the 33247
newspaper's retail trade zone as defined by the audit. 33248

(6)(a) An issuer, or its subsidiary, that has a class of 33249
securities to which all of the following apply: 33250

(i) The class of securities is subject to section 12 of the 33251
"Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 33252
registered or is exempt from registration under 15 U.S.C.A. 33253
781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 33254

(ii) The class of securities is listed on the New York stock 33255
exchange, the American stock exchange, or the NASDAQ national 33256
market system; 33257

(iii) The class of securities is a reported security as 33258
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 33259

(b) An issuer, or its subsidiary, that formerly had a class 33260
of securities that met the criteria set forth in division 33261
(B)(6)(a) of this section if the issuer, or its subsidiary, has a 33262

net worth in excess of one hundred million dollars, files or its 33263
parent files with the securities and exchange commission an S.E.C. 33264
form 10-K, and has continued in substantially the same business 33265
since it had a class of securities that met the criteria in 33266
division (B)(6)(a) of this section. As used in division (B)(6)(b) 33267
of this section, "issuer" and "subsidiary" include the successor 33268
to an issuer or subsidiary. 33269

(7) A person soliciting a transaction regulated by the 33270
commodity futures trading commission, if the person is registered 33271
or temporarily registered for that activity with the commission 33272
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 33273
registration has not expired or been suspended or revoked; 33274

(8) A person soliciting the sale of any book, record, audio 33275
tape, compact disc, or video, if the person allows the purchaser 33276
to review the merchandise for at least seven days and provides a 33277
full refund within thirty days to a purchaser who returns the 33278
merchandise or if the person solicits the sale on behalf of a 33279
membership club operating in compliance with regulations adopted 33280
by the federal trade commission in 16 C.F.R. 425; 33281

(9) A supervised financial institution or its subsidiary. As 33282
used in division (B)(9) of this section, "supervised financial 33283
institution" means a bank, trust company, savings and loan 33284
association, savings bank, credit union, industrial loan company, 33285
consumer finance lender, commercial finance lender, or institution 33286
described in section 2(c)(2)(F) of the "Bank Holding Company Act 33287
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 33288
official or agency of the United States, this state, or any other 33289
state of the United States; or a licensee or registrant under 33290
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 33291
1321.83 of the Revised Code. 33292

(10)(a) An insurance company, association, or other 33293
organization that is licensed or authorized to conduct business in 33294

this state by the superintendent of insurance pursuant to Title 33295
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 33296
when soliciting within the scope of its license or authorization. 33297

(b) A licensed insurance broker, agent, or solicitor when 33298
soliciting within the scope of the person's license. As used in 33299
division (B)(10)(b) of this section, "licensed insurance broker, 33300
agent, or solicitor" means any person licensed as an insurance 33301
broker, agent, or solicitor by the superintendent of insurance 33302
pursuant to Title XXXIX of the Revised Code. 33303

(11) A person soliciting the sale of services provided by a 33304
cable television system operating under authority of a 33305
governmental franchise or permit; 33306

(12) A person soliciting a business-to-business sale under 33307
which any of the following conditions are met: 33308

(a) The telephone solicitor has been operating continuously 33309
for at least three years under the same business name under which 33310
it solicits purchasers, and at least fifty-one per cent of its 33311
gross dollar volume of sales consists of repeat sales to existing 33312
customers to whom it has made sales under the same business name. 33313

(b) The purchaser business intends to resell the goods 33314
purchased. 33315

(c) The purchaser business intends to use the goods or 33316
services purchased in a recycling, reuse, manufacturing, or 33317
remanufacturing process. 33318

(d) The telephone solicitor is a publisher of a periodical or 33319
of magazines distributed as controlled circulation publications as 33320
defined in division (CC) of section 5739.01 of the Revised Code 33321
and is soliciting sales of advertising, subscriptions, reprints, 33322
lists, information databases, conference participation or 33323
sponsorships, trade shows or media products related to the 33324
periodical or magazine, or other publishing services provided by 33325

the controlled circulation publication. 33326

(13) A person that, not less often than once each year, 33327
publishes and delivers to potential purchasers a catalog that 33328
complies with both of the following: 33329

(a) It includes all of the following: 33330

(i) The business address of the seller; 33331

(ii) A written description or illustration of each good or 33332
service offered for sale; 33333

(iii) A clear and conspicuous disclosure of the sale price of 33334
each good or service; shipping, handling, and other charges; and 33335
return policy; 33336

(b) One of the following applies: 33337

(i) The catalog includes at least twenty-four pages of 33338
written material and illustrations, is distributed in more than 33339
one state, and has an annual postage-paid mail circulation of not 33340
less than two hundred fifty thousand households; 33341

(ii) The catalog includes at least ten pages of written 33342
material or an equivalent amount of material in electronic form on 33343
the internet or an on-line computer service, the person does not 33344
solicit customers by telephone but solely receives telephone calls 33345
made in response to the catalog, and during the calls the person 33346
takes orders but does not engage in further solicitation of the 33347
purchaser. As used in division (B)(13)(b)(ii) of this section, 33348
"further solicitation" does not include providing the purchaser 33349
with information about, or attempting to sell, any other item in 33350
the catalog that prompted the purchaser's call or in a 33351
substantially similar catalog issued by the seller. 33352

(14) A political subdivision or instrumentality of the United 33353
States, this state, or any state of the United States; 33354

(15) A college or university or any other public or private 33355

institution of higher education in this state; 33356

(16) A public utility as defined in section 4905.02 of the 33357
Revised Code or a retail natural gas supplier as defined in 33358
section 4929.01 of the Revised Code, if the utility or supplier is 33359
subject to regulation by the public utilities commission, or the 33360
affiliate of the utility or supplier; 33361

~~(17) A travel agency or tour promoter that is registered in 33362
compliance with section 1333.96 of the Revised Code when 33363
soliciting within the scope of the agency's or promoter's 33364
registration; 33365~~

~~(18)~~ A person that solicits sales through a television 33366
program or advertisement that is presented in the same market area 33367
no fewer than twenty days per month or offers for sale no fewer 33368
than ten distinct items of goods or services; and offers to the 33369
purchaser an unconditional right to return any good or service 33370
purchased within a period of at least seven days and to receive a 33371
full refund within thirty days after the purchaser returns the 33372
good or cancels the service; 33373

~~(19)~~(18)(a) A person that, for at least one year, has been 33374
operating a retail business under the same name as that used in 33375
connection with telephone solicitation and both of the following 33376
occur on a continuing basis: 33377

(i) The person either displays goods and offers them for 33378
retail sale at the person's business premises or offers services 33379
for sale and provides them at the person's business premises. 33380

(ii) At least fifty-one per cent of the person's gross dollar 33381
volume of retail sales involves purchases of goods or services at 33382
the person's business premises. 33383

(b) An affiliate of a person that meets the requirements in 33384
division (B)~~(19)~~(18)(a) of this section if the affiliate meets all 33385
of the following requirements: 33386

(i) The affiliate has operated a retail business for a period of less than one year; 33387
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(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises; 33389
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(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises. 33393
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(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met: 33396
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(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises; 33400
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(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises; 33403
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(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310. 33408
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~~(20)~~(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies: 33412
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(a) The person has operated under the same ownership, control, and business name for at least five years, and the person 33415
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receives at least seventy-five per cent of its gross revenues from 33417
written telephone solicitation contracts with persons who come 33418
within one of the exemptions in division (B) of this section. 33419

(b) The person is an affiliate of one or more exempt persons 33420
and makes telephone solicitations on behalf of only the exempt 33421
persons of which it is an affiliate. 33422

(c) The person makes telephone solicitations on behalf of 33423
only exempt persons, the person and each exempt person on whose 33424
behalf telephone solicitations are made have entered into a 33425
written contract that specifies the manner in which the telephone 33426
solicitations are to be conducted and that at a minimum requires 33427
compliance with the telemarketing sales rule adopted by the 33428
federal trade commission in 16 C.F.R. part 310, and the person 33429
conducts the telephone solicitations in the manner specified in 33430
the written contract. 33431

(d) The person performs telephone solicitation for religious 33432
or political purposes, a charitable organization, a fund-raising 33433
council, or a professional solicitor in compliance with the 33434
registration and reporting requirements of Chapter 1716. of the 33435
Revised Code; and meets all of the following requirements: 33436

(i) The person has operated under the same ownership, 33437
control, and business name for at least five years, and the person 33438
receives at least fifty-one per cent of its gross revenues from 33439
written telephone solicitation contracts with persons who come 33440
within the exemption in division (B)(2) of this section; 33441

(ii) The person does not conduct a prize promotion or offer 33442
the sale of an investment opportunity; and 33443

(iii) The person conducts all telephone solicitation 33444
activities according to sections 310.3, 310.4, and 310.5 of the 33445
telemarketing sales rules adopted by the federal trade commission 33446
in 16 C.F.R. part 310. 33447

~~(21)~~(20) A person that is a licensed real estate salesperson 33448
or broker under Chapter 4735. of the Revised Code when soliciting 33449
within the scope of the person's license; 33450

~~(22)~~(21)(a) Either of the following: 33451

(i) A publisher that solicits the sale of the publisher's 33452
periodical or magazine of general, paid circulation, or a person 33453
that solicits a sale of that nature on behalf of a publisher under 33454
a written agreement directly between the publisher and the person. 33455

(ii) A publisher that solicits the sale of the publisher's 33456
periodical or magazine of general, paid circulation, or a person 33457
that solicits a sale of that nature as authorized by a publisher 33458
under a written agreement directly with a publisher's 33459
clearinghouse provided the person is a resident of Ohio for more 33460
than three years and initiates all telephone solicitations from 33461
Ohio and the person conducts the solicitation and sale in 33462
compliance with 16 C.F.R. Part 310, as adopted by the federal 33463
trade commission. 33464

(b) As used in division (B)~~(22)~~(21) of this section, 33465
"periodical or magazine of general, paid circulation" excludes a 33466
periodical or magazine circulated only as part of a membership 33467
package or given as a free gift or prize from the publisher or 33468
person. 33469

~~(23)~~(22) A person that solicits the sale of food, as defined 33470
in section 3715.01 of the Revised Code, or the sale of products of 33471
horticulture, as defined in section 5739.01 of the Revised Code, 33472
if the person does not intend the solicitation to result in, or 33473
the solicitation actually does not result in, a sale that costs 33474
the purchaser an amount greater than five hundred dollars. 33475

~~(24)~~(23) A funeral director licensed pursuant to Chapter 33476
4717. of the Revised Code when soliciting within the scope of that 33477
license, if both of the following apply: 33478

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;	33479 33480 33481 33482
(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.	33483 33484 33485 33486 33487
(25) (24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.11 of the Revised Code.	33488 33489 33490
(26) (25) A person that solicits sales from its previous purchasers and meets all of the following requirements:	33491 33492
(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;	33493 33494 33495
(b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation;	33496 33497 33498
(c) The person does not conduct a prize promotion or offer the sale of an investment opportunity;	33499 33500
(d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310;	33501 33502 33503 33504
(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another	33505 33506 33507 33508

state or of the United States; 33509

(f) Neither the person nor any of its principals has had 33510
entered against them an injunction or a final judgment or order, 33511
including an agreed judgment or order, an assurance of voluntary 33512
compliance, or any similar instrument, in any civil or 33513
administrative action involving engaging in a pattern of corrupt 33514
practices, fraud, theft, embezzlement, fraudulent conversion, or 33515
misappropriation of property; the use of any untrue, deceptive, or 33516
misleading representation; or the use of any unfair, unlawful, 33517
deceptive, or unconscionable trade act or practice. 33518

~~(27)~~(26) An institution defined as a home health agency in 33519
section 3701.88 of the Revised Code, that conducts all telephone 33520
solicitation activities according to sections 310.3, 310.4, and 33521
310.5 of the telemarketing sales rules adopted by the federal 33522
trade commission in 16 C.F.R. part 310, and engages in telephone 33523
solicitation only within the scope of the institution's 33524
certification, accreditation, contract with the department of 33525
aging, or status as a home health agency; and that meets one of 33526
the following requirements: 33527

(a) The institution is certified as a provider of home health 33528
services under Title XVIII of the Social Security Act, 49 Stat. 33529
620, 42 U.S.C. 301, as amended; and is registered with the 33530
department of health pursuant to division (B) of section 3701.88 33531
of the Revised Code; 33532

(b) The institution is accredited by either the joint 33533
commission on accreditation of health care organizations or the 33534
community health accreditation program; 33535

(c) The institution is providing passport services under the 33536
direction of the Ohio department of aging under section 173.40 of 33537
the Revised Code; 33538

(d) An affiliate of an institution that meets the 33539

requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 33540
section when offering for sale substantially the same goods and 33541
services as those that are offered by the institution that meets 33542
the requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 33543
section. 33544

~~(28)~~(27) A person licensed to provide a hospice care program 33545
by the department of health pursuant to section 3712.04 of the 33546
Revised Code when conducting telephone solicitations within the 33547
scope of the person's license and according to sections 310.3, 33548
310.4, and 310.5 of the telemarketing sales rules adopted by the 33549
federal trade commission in 16 C.F.R. part 310. 33550

Sec. 4723.06. (A) The board of nursing shall: 33551

(1) Administer and enforce the provisions of this chapter, 33552
including the taking of disciplinary action for violations of 33553
section 4723.28 of the Revised Code, any other provisions of this 33554
chapter, or rules adopted under this chapter; 33555

(2) Develop criteria that an applicant must meet to be 33556
eligible to sit for the examination for licensure to practice as a 33557
registered nurse or as a licensed practical nurse; 33558

(3) Issue and renew nursing licenses and dialysis technician 33559
certificates, as provided in this chapter; 33560

(4) Define the minimum curricula and standards for 33561
educational programs of the schools of professional nursing and 33562
schools of practical nursing in this state; 33563

(5) Survey, inspect, and grant full approval to prelicensure 33564
nursing education programs that meet the standards established by 33565
rules adopted under section 4723.07 of the Revised Code. 33566
Prelicensure nursing education programs include, but are not 33567
limited to, associate degree, baccalaureate degree, diploma, and 33568
doctor of nursing programs leading to initial licensure to 33569

practice nursing as a registered nurse and practical nurse 33570
programs leading to initial licensure to practice nursing as a 33571
licensed practical nurse. 33572

(6) Grant conditional approval, by a vote of a quorum of the 33573
board, to a new prelicensure nursing education program or a 33574
program that is being reestablished after having ceased to 33575
operate, if the program meets and maintains the minimum standards 33576
of the board established by rules adopted under section 4723.07 of 33577
the Revised Code. If the board does not grant conditional 33578
approval, it shall hold an adjudication under Chapter 119. of the 33579
Revised Code to consider conditional approval of the program. If 33580
the board grants conditional approval, at its first meeting after 33581
the first class has completed the program, the board shall 33582
determine whether to grant full approval to the program. If the 33583
board does not grant full approval or if it appears that the 33584
program has failed to meet and maintain standards established by 33585
rules adopted under section 4723.07 of the Revised Code, the board 33586
shall hold an adjudication under Chapter 119. of the Revised Code 33587
to consider the program. Based on results of the adjudication, the 33588
board may continue or withdraw conditional approval, or grant full 33589
approval. 33590

(7) Place on provisional approval, for a period of time 33591
specified by the board, a program that has ceased to meet and 33592
maintain the minimum standards of the board established by rules 33593
adopted under section 4723.07 of the Revised Code. At the end of 33594
the period, the board shall reconsider whether the program meets 33595
the standards and shall grant full approval if it does. If it does 33596
not, the board may withdraw approval, pursuant to an adjudication 33597
under Chapter 119. of the Revised Code. 33598

(8) Approve continuing nursing education programs and courses 33599
under standards established in rules adopted under section 4723.07 33600
of the Revised Code; 33601

(9) Approve peer support programs, under rules adopted under section 4723.07 of the Revised Code, for nurses and for dialysis technicians;	33602 33603 33604
(10) Establish a program for monitoring chemical dependency in accordance with section 4723.35 of the Revised Code;	33605 33606
(11) Establish the practice intervention and improvement program in accordance with section 4723.282 of the Revised Code;	33607 33608
(12) Issue and renew certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;	33609 33610 33611 33612
(13) Approve under section 4723.46 of the Revised Code national certifying organizations for examination and certification of certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;	33613 33614 33615 33616 33617
(14) Issue and renew certificates to prescribe in accordance with sections 4723.48 and 4723.485 of the Revised Code;	33618 33619
(15) Grant approval to the planned classroom and clinical study required by section 4723.483 of the Revised Code to be eligible for a certificate to prescribe;	33620 33621 33622
(16) Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means;	33623 33624 33625 33626 33627 33628
(17) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the	33629 33630 33631

enforcement of this chapter;	33632
(18) Make an annual report to the governor, which shall be open for public inspection;	33633 33634
(19) Maintain and have open for public inspection the following records:	33635 33636
(a) A record of all its meetings and proceedings;	33637
(b) A file of holders of nursing licenses, registrations, and certificates granted under this chapter and dialysis technician certificates granted under this chapter. The file shall be maintained in the form prescribed by rule of the board.	33638 33639 33640 33641
(c) A list of prelicensure nursing education programs approved by the board;	33642 33643
(d) A list of approved peer support programs for nurses and dialysis technicians.	33644 33645
(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under section 4723.07 of the Revised Code to approve continuing nursing education programs and courses. Persons so authorized shall approve continuing nursing education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.	33646 33647 33648 33649 33650 33651 33652
Persons seeking authorization to approve continuing nursing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing nursing education programs and courses shall expire, and may be renewed according to the schedule established in rules adopted under section 4732.07 of the Revised Code.	33653 33654 33655 33656 33657 33658 33659
<u>In addition to approving continuing nursing education programs under division (A)(8) of this section, the board may</u>	33660 33661

sponsor continuing education activities. 33662

Sec. 4723.08. (A) The board of nursing may impose fees not to 33663
exceed the following limits: 33664

(1) For application for licensure by examination to practice 33665
nursing as a registered nurse or as a licensed practical nurse, 33666
~~fifty~~ seventy-five dollars; 33667

(2) For application for licensure by endorsement to practice 33668
nursing as a registered nurse or as a licensed practical nurse, 33669
~~fifty~~ seventy-five dollars; 33670

(3) For application for a certificate of authority to 33671
practice nursing as a certified registered nurse anesthetist, 33672
clinical nurse specialist, certified nurse-midwife, or certified 33673
nurse practitioner, one hundred dollars; 33674

(4) For application for a temporary dialysis technician 33675
certificate, the amount specified in rules adopted under section 33676
4723.79 of the Revised Code; 33677

(5) For application for a full dialysis technician 33678
certificate, the amount specified in rules adopted under section 33679
4723.79 of the Revised Code; 33680

(6) For application for a certificate to prescribe, fifty 33681
dollars; 33682

(7) For verification of a nursing license, certificate of 33683
authority, or dialysis technician certificate to another 33684
jurisdiction, fifteen dollars; 33685

(8) For providing a replacement copy of a nursing license, 33686
certificate of authority, ~~or certificate to prescribe,~~ dialysis 33687
technician certificate, ~~fifteen~~ intravenous therapy card, or 33688
frameable certificate, twenty-five dollars; 33689

(9) For biennial renewal of a nursing license that expires on 33690

or ~~before~~ after August 31, 2003, ~~thirty-five~~ but before August 31, 33691
2004, forty-five dollars; 33692

(10) For biennial renewal of a nursing license that expires 33693
on or after ~~September 1, 2003,~~ forty-five August 31, 2004, 33694
sixty-five dollars; 33695

(11) For biennial renewal of a certificate of authority to 33696
practice nursing as a certified registered nurse anesthetist, 33697
clinical nurse specialist, certified nurse mid-wife, or certified 33698
nurse practitioner that expires on or before August 31, 2005, one 33699
hundred dollars; 33700

(12) For biennial renewal of a certificate of authority to 33701
practice nursing as a certified registered nurse anesthetist, 33702
clinical nurse specialist, certified nurse-midwife, or certified 33703
nurse practitioner that expires on or after September 1, 2005, 33704
eighty-five dollars; 33705

(13) For renewal of a certificate to prescribe, fifty 33706
dollars; 33707

(14) For biennial renewal of a dialysis technician 33708
certificate, the amount specified in rules adopted under section 33709
4723.79 of the Revised Code; 33710

(15) For processing a late application for renewal of a 33711
nursing license, certificate of authority, or dialysis technician 33712
certificate, fifty dollars; 33713

(16) For application for authorization to approve continuing 33714
nursing education programs and courses from an applicant 33715
accredited by a national accreditation system for nursing, five 33716
hundred dollars; 33717

(17) For application for authorization to approve continuing 33718
nursing education programs and courses from an applicant not 33719
accredited by a national accreditation system for nursing, one 33720

thousand dollars;	33721
(18) For each year for which authorization to approve	33722
continuing nursing education programs and courses is renewed, one	33723
hundred fifty dollars;	33724
(19) For application for approval to operate a dialysis	33725
training program, the amount specified in rules adopted under	33726
section 4723.79 of the Revised Code;	33727
(20) For reinstatement of a lapsed nursing license,	33728
certificate of authority, or dialysis technician certificate, one	33729
hundred dollars;	33730
(21) For written verification of a nursing license,	33731
certificate of authority, or dialysis technician certificate,	33732
other than verification to another jurisdiction, five dollars. The	33733
board may contract for services pertaining to this verification	33734
process and the collection of the fee, and may permit the	33735
contractor to retain a portion of the fees as compensation, before	33736
any amounts are deposited into the state treasury.	33737
(22) For processing a check returned to the board by a	33738
financial institution as noncollectible, twenty-five dollars;	33739
<u>(23) For issuance of an intravenous therapy card to an</u>	33740
<u>individual authorized under section 4723.17 of the Revised Code to</u>	33741
<u>provide intravenous therapy, twenty-five dollars;</u>	33742
<u>(24) For out-of-state survey visits of nursing education</u>	33743
<u>programs operating in Ohio, two thousand dollars.</u>	33744
(B) Each quarter, for purposes of transferring funds under	33745
section 4743.05 of the Revised Code to the nurse education	33746
assistance fund created in section 3333.28 of the Revised Code,	33747
the board of nursing shall certify to the director of budget and	33748
management the number of biennial licenses renewed under this	33749
chapter during the preceding quarter and the amount equal to that	33750

number times five dollars. 33751

(C) The board may charge a participant in a board-sponsored continuing education activity an amount not exceeding fifteen dollars for each activity. 33752
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Sec. 4723.082. ~~All~~ (A) Except as provided in section 4723.062 of the Revised Code and division (B) of this section, all receipts of the board of nursing, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. ~~All~~ 33755
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(B) All receipts from board-sponsored continuing education activities shall be deposited in the state treasury to the credit of the special nursing issue fund created by section 4723.062 of the Revised Code. 33760
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(C) All vouchers of the board shall be approved by the board president or executive director, or both, as authorized by the board. 33764
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Sec. 4725.44. (A) The Ohio optical dispensers board shall be responsible for the administration of sections 4725.40 to 4725.59 of the Revised Code and, in particular, shall process applications for licensure as licensed dispensing opticians and licensed ocularists; schedule, administer, and supervise the qualifying examinations for licensure or contract with a testing service to schedule, administer, and supervise the qualifying examination for licensure; issue licenses to qualified individuals; revoke and suspend licenses; and maintain adequate records with respect to its operations and responsibilities. 33767
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(B) The board shall adopt, amend, or rescind rules, ~~pursuant to Chapter 119. of the Revised Code,~~ for the licensure of dispensing opticians, and ocularists and such other rules as are required by or necessary to carry out the responsibilities imposed 33777
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by sections 4725.40 to 4725.59 of the Revised Code. In the rules, 33781
the board shall specify the amount to be charged for each type of 33782
fee established under sections 4725.40 to 4725.59 of the Revised 33783
Code. All rule-making actions of the board shall be taken in 33784
accordance with Chapter 119. of the Revised Code. 33785

(C) The board shall have no authority to adopt rules 33786
governing the employment of dispensing opticians, the location or 33787
number of optical stores, advertising of optical products or 33788
services, or the manner in which such products can be displayed. 33789

Sec. 4725.45. (A) The Ohio optical dispensers board shall 33790
employ an executive secretary-treasurer, who shall serve at the 33791
pleasure of the board. Before entering upon the discharge of the 33792
duties imposed upon the executive secretary-treasurer by sections 33793
4725.40 to 4725.59 of the Revised Code or by the board, the 33794
executive secretary-treasurer shall give a bond, with sufficient 33795
sureties, in an amount to be determined by the board for the 33796
faithful discharge of the duties of the office of executive 33797
secretary-treasurer. The premium for such bond shall be paid as 33798
are other expenditures of the board. Such bond, with the approval 33799
of the board and oath of office endorsed thereon, shall be 33800
deposited with the secretary of state and kept in the secretary of 33801
state's office. 33802

(B) The executive secretary-treasurer shall perform such 33803
duties as are prescribed by the board. 33804

(C) The board may employ such additional employees as may be 33805
necessary for the administration and enforcement of sections 33806
4725.40 to 4725.59 of the Revised Code. 33807

(D) All receipts of the board shall be deposited in the state 33808
treasury to the credit of the occupational licensing and 33809
regulatory fund. All vouchers of the board shall be approved by 33810
the president of the board and the executive secretary-treasurer. 33811

(E) The board, subject to the approval of the controlling board, may establish ~~examination and license renewal~~ fees in excess of the amounts ~~provided~~ specified in ~~sections 4725.48, 4725.49, and 4725.51 of the Revised Code~~ rules adopted by the board, provided that such fees do not exceed those amounts by more than fifty per cent.

Sec. 4725.48. (A) Any person who desires to engage in optical dispensing, except as provided in section 4725.47 of the Revised Code, shall file a properly completed written application for an examination with the Ohio optical dispensers board or with the testing service the board has contracted with pursuant to section 4725.49 of the Revised Code. The application for examination shall be made on a form provided by the board or testing service and shall be accompanied by ~~an~~ the examination fee specified in rules adopted by the board ~~shall establish by rule~~. Applicants must return the application to the board or testing service at least sixty days prior to the date the examination is scheduled to be administered.

(B) Except as provided in section 4725.47 of the Revised Code, any person who desires to engage in optical dispensing shall file with the board a properly completed written application for a license ~~with the board with~~. The application shall be accompanied by the appropriate license fee as set forth under section 4725.50 of the Revised Code specified in rules adopted by the board.

No person shall be eligible to apply for a license under this division, unless the person is at least eighteen years of age, is of good moral character, is free of contagious or infectious disease, has received a passing score, as determined by the board, on the examination administered under division (A) of this section, is a graduate of an accredited high school of any state, or has received an equivalent education and has successfully

completed either of the following: 33843

(1) Two years of supervised experience under a licensed 33844
dispensing optician, optometrist, or physician engaged in the 33845
practice of ophthalmology, up to one year of which may be 33846
continuous experience of not less than thirty hours a week in an 33847
optical laboratory; 33848

(2) A two-year college level program in optical dispensing 33849
that has been approved by the board and that includes, but is not 33850
limited to, courses of study in mathematics, science, English, 33851
anatomy and physiology of the eye, applied optics, ophthalmic 33852
optics, measurement and inspection of lenses, lens grinding and 33853
edging, ophthalmic lens design, keratometry, and the fitting and 33854
adjusting of spectacle lenses and frames and contact lenses, 33855
including methods of fitting contact lenses and post-fitting care. 33856

(C) Any person who desires to obtain a license to practice as 33857
an ocularist shall file a properly completed written application 33858
with the board accompanied by the ~~appropriate~~ application fee 33859
specified in rules adopted by the board and proof that the 33860
applicant has met the requirements for licensure. The board shall 33861
establish, by rule, ~~the application fee and~~ the minimum 33862
requirements for licensure, including education, examination, or 33863
experience standards recognized by the board as national standards 33864
for ocularists. The board shall issue a license to practice as an 33865
ocularist to an applicant who satisfies the requirements of this 33866
division and the board's rules ~~adopted pursuant to this division~~ 33867
for licensure of ocularists. 33868

Sec. 4725.50. (A) Except for a person who qualifies for 33869
licensure as an ocularist, each person who qualifies for licensure 33870
under sections 4725.40 to 4725.59 of the Revised Code shall 33871
receive from the Ohio optical dispensers board, under its seal, a 33872
certificate of licensure entitling ~~him~~ the person to practice as a 33873

licensed spectacle dispensing optician, licensed contact lens 33874
dispensing optician, or a licensed spectacle-contact lens 33875
dispensing optician. The appropriate certificate of licensure 33876
shall be issued by the board no later than sixty days after it has 33877
notified the applicant of ~~his~~ the applicant's approval for 33878
licensure. 33879

~~(B) The licensure fee shall be fifty dollars for applications 33880
submitted in January through March; thirty seven dollars and fifty 33881
cents, in April through June; twenty five dollars, in July through 33882
September; and twelve dollars and fifty cents, in October through 33883
December. 33884~~

~~(C)~~ Each licensed dispensing optician shall display ~~his~~ the 33885
licensed dispensing optician's certificate of licensure in a 33886
conspicuous place in ~~his~~ the licensed dispensing optician's office 33887
or place of business. If a licensed dispensing optician maintains 33888
more than one office or place of business, ~~he~~ the licensed 33889
dispensing optician shall display a duplicate copy of such 33890
certificate at each location. The board shall issue duplicate 33891
copies of the appropriate certificate of licensure for this 33892
purpose upon the filing of an application form therefor and the 33893
payment of ~~a five dollar~~ the fee for each duplicate copy specified 33894
in rules adopted by the board. 33895

Sec. 4725.51. (A) Each license issued under sections 4725.40 33896
to 4725.59 of the Revised Code shall expire on the first day of 33897
January in the year after it was issued. Each person holding a 33898
valid, current license may apply to the Ohio optical dispensers 33899
board for the extension of the license under the standard renewal 33900
procedures of Chapter 4745. of the Revised Code. Each application 33901
for renewal shall be accompanied by a the renewal fee specified in 33902
rules adopted by the board ~~shall establish by rule~~ and shall 33903
contain evidence that the applicant has completed a continuing 33904

education program within the immediately preceding one-year period 33905
as follows: 33906

(1) Licensed spectacle dispensing opticians shall have 33907
pursued four hours of study in spectacle dispensing, approved by 33908
the board; 33909

(2) Licensed contact lens dispensing opticians shall have 33910
pursued eight hours of study in contact lens dispensing, approved 33911
by the board. 33912

(3) Licensed spectacle-contact lens dispensing opticians 33913
shall have pursued courses of study under divisions (A)(1) and (2) 33914
of this section. 33915

(4) Licensed ocularists shall have pursued courses of study 33916
as prescribed by rule of the board. 33917

(B) No person who fails to renew ~~his~~ the person's license 33918
under division (A) of this section shall be required to take a 33919
qualifying examination under section 4725.48 of the Revised Code 33920
as a condition of renewal, provided that the application for 33921
renewal and proof of the requisite continuing education hours are 33922
submitted within ninety days from the date the license expired and 33923
the applicant pays the annual renewal fee and ~~a penalty of~~ 33924
~~seventy five dollars~~ the late renewal fee specified in rules 33925
adopted by the board. The board may provide, by rule, for an 33926
extension of the grace period for licensed dispensing opticians 33927
who are serving in the armed forces of the United States and for 33928
waiver of the continuing education requirements or the penalty in 33929
cases of hardship or illness. 33930

(C) The board shall approve continuing education programs and 33931
shall adopt rules as necessary for approving the programs. 33932
Approved programs shall be scheduled, sponsored, and conducted in 33933
accordance with the board's rules. 33934

Sec. 4725.52. Any licensed dispensing optician may supervise 33935
a maximum of three apprentices who shall be permitted to engage in 33936
optical dispensing only under the supervision of the licensed 33937
dispensing optician. 33938

A person serving as an apprentice shall register annually 33939
with the Ohio optical dispensers board either on a form provided 33940
by the board or in the form of a statement giving the name and 33941
address of the supervising licensed dispensing optician, the 33942
location at which the apprentice will be employed, and any other 33943
information required by the board. Each registrant shall pay a the 33944
registration fee of ten dollars specified in rules adopted by the 33945
board. 33946

A person who is gaining experience under the supervision of a 33947
licensed optometrist or ophthalmologist that would qualify ~~him~~ the 33948
person under division (B)(1) of section 4725.48 of the Revised 33949
Code to take the examination for optical dispensing is not 33950
required to register with the board. 33951

Sec. 4725.57. An applicant for licensure as a licensed 33952
dispensing optician who is licensed or registered in another state 33953
shall be accorded the full privileges of practice within this 33954
state, upon the payment of a ~~seventy five dollar~~ the license 33955
endorsement fee specified in rules adopted by the board and the 33956
submission of a certified copy of the license or certificate 33957
issued by such other state, without the necessity of examination, 33958
if the board determines that the applicant meets the ~~criteria of~~ 33959
~~division (A) of section 4725.48 of the Revised Code and further~~ 33960
~~determines that the educational background or experience of the~~ 33961
~~applicant satisfies the same requirements of~~ that must be met to 33962
be eligible to apply for a license under division (B) of section 33963
4725.48 of the Revised Code. 33964

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal

government, this state, or a political subdivision of this state, 33993
including the medicare program established under Title XVIII of 33994
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 33995
as amended, health care coverage for public employees, health care 33996
benefits administered by the bureau of workers' compensation, the 33997
medical assistance program established under Chapter 5111. of the 33998
Revised Code, and the disability ~~assistance~~ medical assistance 33999
program established under Chapter 5115. of the Revised Code. 34000

(E)(1) "Group practice" means a group of two or more holders 34001
of certificates under this chapter legally organized as a 34002
partnership, professional corporation or association, limited 34003
liability company, foundation, nonprofit corporation, faculty 34004
practice plan, or similar group practice entity, including an 34005
organization comprised of a nonprofit medical clinic that 34006
contracts with a professional corporation or association of 34007
physicians to provide medical services exclusively to patients of 34008
the clinic in order to comply with section 1701.03 of the Revised 34009
Code and including a corporation, limited liability company, 34010
partnership, or professional association described in division (B) 34011
of section 4731.226 of the Revised Code formed for the purpose of 34012
providing a combination of the professional services of 34013
optometrists who are licensed, certificated, or otherwise legally 34014
authorized to practice optometry under Chapter 4725. of the 34015
Revised Code, chiropractors who are licensed, certificated, or 34016
otherwise legally authorized to practice chiropractic under 34017
Chapter 4734. of the Revised Code, psychologists who are licensed, 34018
certificated, or otherwise legally authorized to practice 34019
psychology under Chapter 4732. of the Revised Code, registered or 34020
licensed practical nurses who are licensed, certificated, or 34021
otherwise legally authorized to practice nursing under Chapter 34022
4723. of the Revised Code, pharmacists who are licensed, 34023
certificated, or otherwise legally authorized to practice pharmacy 34024
under Chapter 4729. of the Revised Code, physical therapists who 34025

are licensed, certificated, or otherwise legally authorized to 34026
practice physical therapy under sections 4755.40 to 4755.53 of the 34027
Revised Code, mechanotherapists who are licensed, certificated, or 34028
otherwise legally authorized to practice mechanotherapy under 34029
section 4731.151 of the Revised Code, and doctors of medicine and 34030
surgery, osteopathic medicine and surgery, or podiatric medicine 34031
and surgery who are licensed, certificated, or otherwise legally 34032
authorized for their respective practices under this chapter, to 34033
which all of the following apply: 34034

(a) Each physician who is a member of the group practice 34035
provides substantially the full range of services that the 34036
physician routinely provides, including medical care, 34037
consultation, diagnosis, or treatment, through the joint use of 34038
shared office space, facilities, equipment, and personnel. 34039

(b) Substantially all of the services of the members of the 34040
group are provided through the group and are billed in the name of 34041
the group and amounts so received are treated as receipts of the 34042
group. 34043

(c) The overhead expenses of and the income from the practice 34044
are distributed in accordance with methods previously determined 34045
by members of the group. 34046

(d) The group practice meets any other requirements that the 34047
state medical board applies in rules adopted under section 4731.70 34048
of the Revised Code. 34049

(2) In the case of a faculty practice plan associated with a 34050
hospital with a medical residency training program in which 34051
physician members may provide a variety of specialty services and 34052
provide professional services both within and outside the group, 34053
as well as perform other tasks such as research, the criteria in 34054
division (E)(1) of this section apply only with respect to 34055
services rendered within the faculty practice plan. 34056

(F) "Home health care services" and "immediate family" have 34057
the same meanings as in the rules adopted under section 4731.70 of 34058
the Revised Code. 34059

(G) "Hospital" has the same meaning as in section 3727.01 of 34060
the Revised Code. 34061

(H) A "referral" includes both of the following: 34062

(1) A request by a holder of a certificate under this chapter 34063
for an item or service, including a request for a consultation 34064
with another physician and any test or procedure ordered by or to 34065
be performed by or under the supervision of the other physician; 34066

(2) A request for or establishment of a plan of care by a 34067
certificate holder that includes the provision of designated 34068
health services. 34069

(I) "Third-party payer" has the same meaning as in section 34070
3901.38 of the Revised Code. 34071

Sec. 4731.71. The auditor of state may implement procedures 34072
to detect violations of section 4731.66 or 4731.69 of the Revised 34073
Code within governmental health care programs administered by the 34074
state. The auditor of state shall report any violation of either 34075
section to the state medical board and shall certify to the 34076
attorney general in accordance with section 131.02 of the Revised 34077
Code the amount of any refund owed to a state-administered 34078
governmental health care program under section 4731.69 of the 34079
Revised Code as a result of a violation. If a refund is owed to 34080
the medical assistance program established under Chapter 5111. of 34081
the Revised Code or the disability ~~assistance~~ medical assistance 34082
program established under Chapter 5115. of the Revised Code, the 34083
auditor of state also shall report the amount to the department of 34084
commerce. 34085

The state medical board also may implement procedures to 34086

detect violations of section 4731.66 or 4731.69 of the Revised Code. 34087
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Sec. 4734.15. (A) The license provided for in this chapter shall entitle the holder thereof to practice chiropractic in this state. All of the following apply to the practice of chiropractic in this state: 34089
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(1) A chiropractor is authorized to examine, diagnose, and assume responsibility for the care of patients, any or all of which is included in the practice of chiropractic. 34093
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(2) The practice of chiropractic does not permit the chiropractor to treat infectious, contagious, or venereal disease, to perform surgery or acupuncture, or to prescribe or administer drugs for treatment. 34096
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(3) A chiropractor may use roentgen rays only for diagnostic purposes. 34100
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(4) The practice of chiropractic does not include the performance of abortions. 34102
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(B) An individual holding a valid, current license to practice chiropractic is entitled to use the title "doctor," "doctor of chiropractic," "chiropractic physician," or "chiropractic" and is a "physician" for the purposes of Chapter 4123. of the Revised Code ~~and the medicaid program operated pursuant to Chapter 5111. of the Revised Code.~~ 34104
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Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees: 34110
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(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ seventy-five dollars; 34112
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(2) For sanitarians-in-training to apply for registration as sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall 34114
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pay this fee only once regardless of the number of times the 34116
applicant takes an examination required under section 4736.08 of 34117
the Revised Code. 34118

(3) For persons other than sanitarians-in-training to apply 34119
for registration as sanitarians, including persons meeting the 34120
requirements of section 4736.16 of the Revised Code, one hundred 34121
~~fourteen~~ fifty dollars. The applicant shall pay this fee only once 34122
regardless of the number of times the applicant takes an 34123
examination required under section 4736.08 of the Revised Code. 34124

(4) The renewal fee for registered sanitarians shall be ~~fixed~~ 34125
~~by the board and shall not exceed sixty one~~ sixty-nine dollars. 34126

(5) The renewal fee for sanitarians-in-training shall be 34127
~~fixed by the board and shall not exceed sixty one~~ sixty-nine 34128
dollars. 34129

(6) For late application for renewal, twenty-five dollars. 34130

The board of sanitarian registration, with the approval of 34131
the controlling board, may establish fees in excess of the amounts 34132
provided in this section, provided that such fees do not exceed 34133
the amounts permitted by this section by more than fifty per cent. 34134

(B) The board of sanitarian registration shall charge 34135
separate fees for examinations as required by section 4736.08 of 34136
the Revised Code, provided that the fees are not in excess of the 34137
actual cost to the board of conducting the examinations. 34138

(C) The board of sanitarian registration may adopt rules 34139
establishing fees for all of the following: 34140

(1) Application for the registration of a training agency 34141
approved under rules adopted by the board pursuant to section 34142
4736.11 of the Revised Code and for the annual registration 34143
renewal of an approved training agency. 34144

(2) Application for the review of continuing education hours 34145

submitted for the board's approval by approved training agencies 34146
or by registered sanitarians or sanitarians-in-training. 34147

Sec. 4741.17. (A) Applicants or registrants shall pay to the 34148
state veterinary medical licensing board: 34149

(1) For an initial veterinary license based on examination, 34150
on or after the first day of March in an even-numbered year, three 34151
hundred seventy-five dollars, and on or after the first day of 34152
March in an odd-numbered year, two hundred fifty dollars; 34153

(2) For a veterinary license by reciprocity issued on or 34154
after the first day of March in an even-numbered year, four 34155
hundred twenty-five dollars, and on or after the first day of 34156
March in an odd-numbered year, three hundred dollars; 34157

(3) For a veterinary temporary permit, one hundred dollars; 34158

(4) For a duplicate license, thirty-five dollars; 34159

(5) For the veterinary biennial renewal fee, where the 34160
application is postmarked no later than the first day of March, 34161
~~one two~~ two hundred ~~fifty-five~~ dollars; where the application is 34162
postmarked after the first day of March, but no later than the 34163
first day of April, two hundred ~~twenty-five~~ seventy-five dollars; 34164
and where the application is postmarked after the first day of 34165
April, four hundred fifty dollars; 34166

(6) For an initial registered veterinary technician 34167
registration fee on or after the first day of March in an 34168
odd-numbered year, thirty-five dollars, and on or after the first 34169
day of March in an even-numbered year, twenty-five dollars; 34170

(7) For the biennial renewal registration fee of a registered 34171
veterinary technician, where the application is postmarked no 34172
later than the first day of March, ~~thirty-five~~ forty-five dollars; 34173
where the application is postmarked after the first day of March, 34174
but no later than the first day of April, ~~forty-five~~ fifty-five 34175

dollars; and where the application is postmarked after the first 34176
day of April, ~~sixty~~ sixty-five dollars; 34177

(8) For a specialist certificate, fifty dollars. The 34178
certificate is not subject to renewal. 34179

(9) For the reinstatement of a suspended license, 34180
seventy-five dollars; 34181

(10) For examinations offered by the board, a fee, which 34182
shall be established by the board, in an amount adequate to cover 34183
the expense of procuring, administering, and scoring examinations. 34184

(B) The board, subject to the approval of the controlling 34185
board, may establish fees in excess of the amounts provided in 34186
this section, provided that the fees do not exceed the amounts 34187
permitted by this section by more than fifty per cent. 34188

(C) For the purposes of divisions (A)(5) and (7) of this 34189
section, a date stamp of the office of the board may serve in lieu 34190
of a postmark. 34191

Sec. 4743.05. Except as otherwise provided in sections 34192
4701.20 and 4729.65 of the Revised Code, all money collected under 34193
Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 34194
4725., 4729., 4732., 4733., 4734., 4736., 4741., 4753., 4755., 34195
4757., 4758., 4759., ~~and 4761., 4771., and 4779.~~ of the Revised 34196
Code, ~~and until December 31, 2004, money collected under Chapter~~ 34197
~~4779. of the Revised Code,~~ shall be paid into the state treasury 34198
to the credit of the occupational licensing and regulatory fund, 34199
which is hereby created for use in administering such chapters. 34200

At the end of each quarter, the director of budget and 34201
management shall transfer from the occupational licensing and 34202
regulatory fund to the nurse education assistance fund created in 34203
section 3333.28 of the Revised Code the amount certified to the 34204
director under division (B) of section 4723.08 of the Revised 34205

Code. 34206

At the end of each quarter, the director shall transfer from 34207
the occupational licensing and regulatory fund to the certified 34208
public accountant education assistance fund created in section 34209
4701.26 of the Revised Code the amount certified to the director 34210
under division (H)(2) of section 4701.10 of the Revised Code. 34211

Sec. 4747.05. (A) The hearing aid dealers and fitters 34212
licensing board shall issue to each applicant, within sixty days 34213
of receipt of a properly completed application and payment of two 34214
hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or 34215
fitter's license if the applicant, if an individual: 34216

(1) Is at least eighteen years of age; 34217

(2) Is a person of good moral character; 34218

(3) Is free of contagious or infectious disease; 34219

(4) Has successfully passed a qualifying examination 34220
specified and administered by the board. 34221

(B) If the applicant is a firm, partnership, association, or 34222
corporation, the application, in addition to such information as 34223
the board requires, shall be accompanied by an application for a 34224
license for each person, whether owner or employee, of the firm, 34225
partnership, association, or corporation, who engages in dealing 34226
in or fitting of hearing aids, or shall contain a statement that 34227
such applications are submitted separately. No firm, partnership, 34228
association, or corporation licensed pursuant to this chapter 34229
shall permit any unlicensed person to sell or fit hearing aids. 34230

(C) Each license issued expires on the thirtieth day of 34231
January of the year following that in which it was issued. 34232

Sec. 4747.06. (A) Each person engaged in the practice of 34233
dealing in or fitting of hearing aids who holds a valid hearing 34234

aid dealer's or fitter's license shall apply annually to the 34235
hearing aid dealers and fitters licensing board for renewal of 34236
such license under the standard renewal procedure specified in 34237
Chapter 4745. of the Revised Code. The board shall issue to each 34238
applicant, on proof of completion of the continuing education 34239
required by division (B) of this section and payment of one 34240
hundred ~~fifty~~ fifty-seven dollars on or before the first day of 34241
February, one hundred ~~seventy-five~~ eighty-three dollars on or 34242
before the first day of March, or two hundred ten dollars 34243
thereafter, a renewed hearing aid dealer's or fitter's license. No 34244
person who applies for renewal of a hearing aid dealer's or 34245
fitter's license that has expired shall be required to take any 34246
examination as a condition of renewal provided application for 34247
renewal is made within two years of the date such license expired. 34248

(B) Each person engaged in the practice of dealing in or 34249
fitting of hearing aids who holds a valid hearing aid dealer's or 34250
fitter's license shall complete each year not less than ten hours 34251
of continuing professional education approved by the board. On a 34252
form provided by the board, the person shall certify to the board, 34253
at the time of license renewal pursuant to division (A) of this 34254
section, that in the preceding year the person has completed 34255
continuing education in compliance with this division and shall 34256
submit any additional information required by rule of the board 34257
regarding the continuing education. The board shall adopt rules in 34258
accordance with Chapter 119. of the Revised Code establishing the 34259
standards continuing education programs must meet to obtain board 34260
approval and continuing education reporting requirements. 34261

Continuing education may be applied to meet the requirement 34262
of this division if it is provided or certified by any of the 34263
following: 34264

(1) The national institute of hearing instruments studies 34265
committee of the international hearing society; 34266

(2) The American speech-language hearing association; 34267

(3) The American academy of audiology. 34268

The board may excuse persons licensed under this chapter, as 34269
a group or as individuals, from all or any part of the 34270
requirements of this division because of an unusual circumstance, 34271
emergency, or special hardship. 34272

Sec. 4747.07. Each person who holds a hearing aid dealer's or 34273
fitter's license and engages in the practice of dealing in and 34274
fitting of hearing aids shall display such license in a 34275
conspicuous place in the person's office or place of business at 34276
all times. Each person who maintains more than one office or place 34277
of business shall post a duplicate copy of the license at each 34278
location. The hearing aid dealers and fitters licensing board 34279
shall issue duplicate copies of a license upon receipt of a 34280
properly completed application and payment of ~~fifteen~~ sixteen 34281
dollars for each copy requested. 34282

Sec. 4747.10. Each person currently engaged in training to 34283
become a licensed hearing aid dealer or fitter shall apply to the 34284
hearing aid dealers and fitters licensing board for a hearing aid 34285
dealer's and fitter's trainee permit. The board shall issue to 34286
each applicant within thirty days of receipt of a properly 34287
completed application and payment of one hundred fifty dollars, a 34288
trainee permit if such applicant is: 34289

(A) At least eighteen years of age; 34290

(B) The holder of a diploma from an accredited high school, 34291
or possesses an equivalent education; 34292

(C) A person of good moral character; 34293

(D) Free of contagious or infectious disease. 34294

Each trainee permit issued by the board expires one year from 34295

the date it was first issued, and may be renewed once if the 34296
trainee has not successfully completed the qualifying requirements 34297
for licensing as a hearing aid dealer or fitter before the 34298
expiration date of such permit. The board shall issue a renewed 34299
permit to each applicant upon receipt of a properly completed 34300
application and payment of one hundred five dollars. No person 34301
holding a trainee permit shall engage in the practice of dealing 34302
in or fitting of hearing aids except while under supervision by a 34303
licensed hearing aid dealer or fitter. 34304

Sec. 4751.06. (A) An applicant for licensure as a nursing 34305
home administrator who has successfully completed the requirements 34306
of section 4751.05 of the Revised Code, passed the examination 34307
administered by the board of examiners of nursing home 34308
administrators or a government or private entity under contract 34309
with the board, and paid to the board an original license fee of 34310
two hundred ~~ten~~ fifty dollars shall be issued a license on a form 34311
provided by the board. Such license shall certify that the 34312
applicant has met the licensure requirements of Chapter 4751. of 34313
the Revised Code and is entitled to practice as a licensed nursing 34314
home administrator. 34315

(B) A temporary license for a period not to exceed one 34316
hundred eighty days may be issued to an individual temporarily 34317
filling the position of a nursing home administrator vacated by 34318
reason of death, illness, or other unexpected cause, pursuant to 34319
regulations adopted by the board. 34320

(C) The fee for a temporary license is one hundred dollars. 34321
Said fee must accompany the application for the temporary license. 34322

(D) Any license or temporary license issued by the board 34323
pursuant to this section shall be under the hand of the 34324
chairperson and the secretary of the board. 34325

(E) A duplicate of the original certificate of registration 34326

or license may be secured to replace one that has been lost or 34327
destroyed by submitting to the board a notarized statement 34328
explaining the conditions of the loss, mutilation, or destruction 34329
of the certificate or license and by paying a fee of twenty-five 34330
dollars. 34331

(F) A duplicate certificate of registration and license may 34332
be issued in the event of a legal change of name by submitting to 34333
the board a certified copy of the court order or marriage license 34334
establishing the change of name, by returning at the same time the 34335
original license and certificate of registration, and by paying a 34336
fee of twenty-five dollars. 34337

Sec. 4751.07. (A) Every individual who holds a valid license 34338
as a nursing home administrator issued under division (A) of 34339
section 4751.06 of the Revised Code, shall immediately upon 34340
issuance thereof be registered with the board of examiners of 34341
nursing home administrators and be issued a certificate of 34342
registration. Such individual shall annually apply to the board 34343
for a new certificate of registration on forms provided for such 34344
purpose prior to the expiration of the certificate of registration 34345
and shall at the same time submit satisfactory evidence to the 34346
board of having attended such continuing education programs or 34347
courses of study as may be prescribed in rules adopted by the 34348
board. 34349

(B) Upon making an application for a new certificate of 34350
registration such individual shall pay the annual registration fee 34351
of two hundred ~~ten~~ seventy-five dollars. 34352

(C) Upon receipt of such application for registration and the 34353
registration fee required by divisions (A) and (B) of this 34354
section, the board shall issue a certificate of registration to 34355
such nursing home administrator. 34356

(D) The license of a nursing home administrator who fails to 34357

comply with this section shall automatically lapse. 34358

(E) A nursing home administrator who has been licensed and 34359
registered in this state who determines to temporarily abandon the 34360
practice of nursing home administration shall notify the board in 34361
writing immediately; provided, that such individual may thereafter 34362
register to resume the practice of nursing home administration 34363
within the state upon complying with the requirements of this 34364
section regarding annual registration. 34365

(F) Only an individual who has qualified as a licensed and 34366
registered nursing home administrator under Chapter 4751. of the 34367
Revised Code and the rules adopted thereunder, and who holds a 34368
valid current registration certificate pursuant to this section, 34369
may use the title "nursing home administrator," or the 34370
abbreviation "N.H.A." after the individual's name. No other person 34371
shall use such title or such abbreviation or any other words, 34372
letters, sign, card, or device tending to indicate or to imply 34373
that the person is a licensed and registered nursing home 34374
administrator. 34375

(G) Every person holding a valid license entitling the person 34376
to practice nursing home administration in this state shall 34377
display said license in the nursing home which is the person's 34378
principal place of employment, and while engaged in the practice 34379
of nursing home administration shall have at hand the current 34380
registration certificate. 34381

(H) Every person holding a valid temporary license shall have 34382
such license at hand while engaged in the practice of nursing home 34383
administration. 34384

Sec. 4759.08. (A) The Ohio board of dietetics shall charge 34385
and collect fees as described in this section for issuing the 34386
following: 34387

(1) An application for an initial dietitian license, or an application for ~~reinstatement~~ reactivation of an inactive license, one hundred ~~ten~~ forty dollars, and for reinstatement of a lapsed, revoked, or suspended license, ~~one two hundred sixty-five~~ dollars; (1) 34388
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(2) License renewal, ~~eighty one hundred ten~~ dollars; (2) 34392

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ seventy dollars; (3) 34393
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(4) A duplicate license or permit, twenty dollars; (4) 34395

(5) For processing a late application for renewal of any license or permit, an additional fee equal to fifty per cent of the fee for the renewal. (5) 34396
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(B) The board shall not require a licensed dietitian holding an inactive license to pay the renewal fee. (B) 34399
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(C) Subject to the approval of the controlling board, the Ohio board of dietetics may establish fees in excess of the amounts provided in division (A) of this section, provided that the fees do not exceed the amounts by greater than fifty per cent. (C) 34401
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(D) The board may adopt rules pursuant to Chapter 119. of the Revised Code to waive all or part of the fee for an initial license if the license is issued within one hundred days of the date of expiration of the license. (D) 34405
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(E) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or secretary of the board, or both, as authorized by the board. (E) 34409
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Sec. 4771.22. The Ohio athletic commission shall deposit all money it receives under this chapter to the credit of the ~~athlete agents registration~~ occupational licensing and regulatory fund, (Sec. 4771.22) 34414
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~~which is hereby created in the state treasury. The commission~~ 34417
~~shall use the fund to administer and enforce this chapter under~~ 34418
~~section 4743.05 of the Revised Code.~~ 34419

Sec. 4779.08. (A) The state board of orthotics, prosthetics, 34420
and pedorthics shall adopt rules in accordance with Chapter 119. 34421
of the Revised Code to carry out the purposes of this chapter, 34422
including rules prescribing all of the following: 34423

(1) The form and manner of filing of applications to be 34424
admitted to examinations and for licensure and license renewal; 34425

(2) Standards and procedures for formulating, evaluating, 34426
approving, and administering licensing examinations or recognizing 34427
other entities that conduct examinations; 34428

(3) The form, scoring, and scheduling of licensing 34429
examinations; 34430

(4) Fees for examinations and applications for licensure and 34431
license renewal; 34432

(5) Fees for approval of continuing education courses; 34433

(6) Procedures for issuance, renewal, suspension, and 34434
revocation of licenses and the conduct of disciplinary hearings; 34435

(7) Standards of ethical and professional conduct in the 34436
practice of orthotics, prosthetics, and pedorthics; 34437

(8) Standards for approving national certification 34438
organizations in orthotics, prosthetics, and pedorthics; 34439

(9) Fines for violations of this chapter; 34440

(10) Standards for the recognition and approval of 34441
educational programs required for licensure, including standards 34442
for approving foreign educational credentials; 34443

(11) Standards for continuing education programs required for 34444
license renewal; 34445

(12) Provisions for making available the information described in section 4779.22 of the Revised Code.	34446 34447
(B) The board may adopt any other rules necessary for the administration of this chapter.	34448 34449
(C) The fees prescribed by this section shall be paid to the treasurer of state, who shall from the effective date of this section until December 31, 2004, deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.	34450 34451 34452 34453 34454
Sec. 4779.17. The state board of orthotics, prosthetics, and pedorthics shall issue a license under section 4779.09 of the Revised Code to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics without examination to an applicant who meets all of the following requirements:	34455 34456 34457 34458 34459
(A) Applies to the board in accordance with section 4779.09 of the Revised Code;	34460 34461
(B) Holds a license to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics issued by the appropriate authority of another state;	34462 34463 34464
(C) One of the following applies:	34465
(1) In the case of an applicant for a license to practice orthotics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.10 of the Revised Code.	34466 34467 34468
(2) In the case of an applicant for a license to practice prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.11 of the Revised Code.	34469 34470 34471
(3) In the case of an applicant for a license to practice orthotics and prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.12 of the Revised Code.	34472 34473 34474

(4) In the case of an applicant for a license to practice
pedorthics, the applicant meets the requirements in divisions (B)
and (C) of section 4779.13 of the Revised Code. 34475
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(D) The fees prescribed by this section shall be paid to the
treasurer of state, who shall ~~from the effective date of this~~
~~section until December 31, 2004,~~ deposit the fees in the
occupational licensing and regulatory fund established in section
4743.05 of the Revised Code. 34478
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Sec. 4779.18. (A) The state board of orthotics, prosthetics,
and pedorthics shall issue a temporary license to an individual
who meets all of the following requirements: 34483
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(1) Applies to the board in accordance with rules adopted
under section 4779.08 of the Revised Code and pays the application
fee specified in the rules; 34486
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(2) Is eighteen years of age or older; 34489

(3) Is of good moral character; 34490

(4) One of the following applies: 34491

(a) In the case of an applicant for a license to practice
orthotics, the applicant meets the requirements in divisions
(A)(2) and (3) of section 4779.10 of the Revised Code. 34492
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(b) In the case of an applicant for a license to practice
prosthetics, the applicant meets the requirements in divisions
(A)(2) and (3) of section 4779.11 of the Revised Code. 34495
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(c) In the case of an applicant for a license to practice
orthotics and prosthetics, the applicant meets the requirements in
divisions (A)(2) and (3) of section 4779.12 of the Revised Code. 34498
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(d) In the case of an applicant for a license to practice
pedorthics, the applicant meets the requirements in divisions (B)
and (C) of section 4779.13 of the Revised Code. 34501
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(B) A temporary license issued under this section is valid 34504
for one year and may be renewed once in accordance with rules 34505
adopted by the board under section 4779.08 of the Revised Code. 34506

An individual who holds a temporary license may practice 34507
orthotics, prosthetics, orthotics and prosthetics, or pedorthics 34508
only under the supervision of an individual who holds a license 34509
issued under section 4779.09 of the Revised Code in the same area 34510
of practice. 34511

(C) The fees prescribed by this section shall be paid to the 34512
treasurer of state, who shall ~~from the effective date of this~~ 34513
~~section until December 31, 2004,~~ deposit the fees in the 34514
occupational licensing and regulatory fund established in section 34515
4743.05 of the Revised Code. 34516

Sec. 4903.24. If the public utilities commission finds after 34517
investigating that any rate, joint rate, fare, charge, toll, 34518
rental, schedule, or classification of service is unjust, 34519
unreasonable, insufficient, unjustly discriminatory, unjustly 34520
preferential, or in violation of law, or that any service is 34521
inadequate or cannot be obtained, the public utility found to be 34522
at fault shall pay the expenses incurred by the commission upon 34523
such investigation. 34524

All fees, expenses, and costs of, or in connection with, any 34525
hearing or investigation may be imposed by the commission upon any 34526
party to the record or may be divided among any parties to the 34527
record in such proportion as the commission determines. 34528

All fees, expenses, and costs authorized and collected under 34529
this section shall be deposited to the credit of the special 34530
assessment fund, which is hereby created in the state treasury. 34531
Money in the fund shall be used by the commission for the purpose 34532
of covering the costs of any investigations or hearings it orders 34533

regarding any public utility. 34534

Sec. 4905.79. Any telephone company, as defined in ~~division~~ 34535
~~(D)(2)~~ of section 5727.01 of the Revised Code, that is required to 34536
provide any telephone service program implemented after March 27, 34537
1991, to aid the communicatively impaired in accessing the 34538
telephone network shall be allowed a tax credit for the costs of 34539
any such program under section ~~5727.44~~ 5733.56 of the Revised 34540
Code. Relative to any such program, the public utilities 34541
commission, in accordance with its rules, shall allow interested 34542
parties to intervene and participate in any proceeding or part of 34543
a proceeding brought before the commission pursuant to this 34544
section. The commission shall adopt rules it considers necessary 34545
to carry out this section. 34546

Sec. 4905.91. For the purpose of protecting the public safety 34547
with respect to intrastate pipe-line transportation by any 34548
operator: 34549

(A) The public utilities commission shall: 34550

(1) Adopt, and may amend or rescind, rules to carry out 34551
sections 4905.90 to 4905.96 of the Revised Code, including rules 34552
concerning pipe-line safety, drug testing, and enforcement 34553
procedures. The commission shall adopt these rules only after 34554
notice and opportunity for public comment. The rules adopted under 34555
this division and any orders issued under sections 4905.90 to 34556
4905.96 of the Revised Code constitute the pipe-line safety code. 34557
The commission shall administer and enforce that code. 34558

(2) Make certifications and reports to the United States 34559
department of transportation as required under the Natural Gas 34560
Pipeline Safety Act. 34561

(B) The commission may: 34562

(1) Investigate any service, act, practice, policy, or 34563

omission by any operator to determine its compliance with sections 34564
4905.90 to 4905.96 of the Revised Code and the pipe-line safety 34565
code; 34566

(2) Investigate any intrastate pipe-line transportation 34567
facility to determine if it is hazardous to life or property, as 34568
provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 34569
(3); 34570

(3) Investigate the existence or report of any safety-related 34571
condition that involves any intrastate pipe-line transportation 34572
facility; 34573

(4) Enter into and perform contracts or agreements with the 34574
United States department of transportation to inspect interstate 34575
transmission facilities pursuant to the Natural Gas Pipeline 34576
Safety Act; 34577

(5) Accept grants-in-aid, ~~funds~~ cash, and reimbursements 34578
provided for or made available to this state by the federal 34579
government to carry out the Natural Gas Pipeline Safety Act or to 34580
enforce sections 4905.90 to 4905.96 of the Revised Code and the 34581
pipe-line safety code. All such grants-in-aid, cash, and 34582
reimbursements shall be deposited to the credit of the gas 34583
pipe-line safety fund, which is hereby created in the state 34584
treasury, to be used by the commission for the purpose of carrying 34585
out this section. 34586

(C) The commission's regulation of gathering lines shall 34587
conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 34588
192 and 199, as amended, and the commission's annual certification 34589
agreements with the United States department of transportation, 34590
except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, 34591
and rule 4901:1-16-06 of the Ohio Administrative Code shall also 34592
apply to gathering lines. The procedural rules under chapter 34593
4901:1-16 of the Ohio Administrative Code shall also apply to 34594

operators of gathering lines. 34595

Sec. 4919.79. (A) The public utilities commission may adopt 34596
safety rules applicable to the highway transportation and offering 34597
for transportation of hazardous materials in interstate commerce, 34598
which highway transportation takes place into or through this 34599
state. 34600

(B) The commission may adopt safety rules applicable to the 34601
highway transportation of persons or property in interstate 34602
commerce, which transportation takes place into or through this 34603
state. 34604

(C) Rules adopted under divisions (A) and (B) of this section 34605
shall be consistent with, and equivalent in scope, coverage, and 34606
content to, the "Hazardous Materials Transportation Act," 88 Stat. 34607
2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted 34608
under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 34609
2832, 49 U.S.C.A. 2501, and regulations adopted under it, 34610
respectively. No person shall violate a rule adopted under 34611
division (A) or (B) of this section or any order of the commission 34612
issued to secure compliance with any such rule. 34613

(D) The commission shall cooperate with, and permit the use 34614
of, the services, records, and facilities of the commission as 34615
fully as practicable by appropriate officers of the interstate 34616
commerce commission, the United States department of 34617
transportation, and other federal agencies or commissions and 34618
appropriate commissions of other states in the enforcement and 34619
administration of state and federal laws relating to highway 34620
transportation by motor vehicles. The commission may enter into 34621
cooperative agreements with the interstate commerce commission, 34622
the United States department of transportation, and any other 34623
federal agency or commission to enforce the economic and safety 34624
laws and rules of this state and of the United States concerning 34625

highway transportation by motor vehicles. All grants-in-aid, cash, and reimbursements received by the commission pursuant to those cooperative agreements shall be deposited to the credit of the motor carrier safety fund, which is hereby created in the state treasury, to be used by the commission for the purpose of carrying out this section.

(E) To achieve the purposes of this section, the commission may, through its inspectors or other authorized employees, inspect any vehicles of carriers of persons or property in interstate commerce subject to the safety rules prescribed by this section and may enter upon the premises and vehicles of such carriers to examine any of the carriers' records or documents that relate to the safety of operation of such carriers. In order to assist the commission in the performance of its duties under this section, authorized employees of the commercial motor vehicle safety enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon, for purposes of inspection, any vehicle of any such carrier.

In order to inspect motor vehicles owned or operated by private motor carriers of persons, authorized employees of the commercial motor vehicle safety enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon the premises of any private carrier of persons in interstate commerce, subject to the safety rules prescribed by this section.

Sec. 4931.45. (A) A final plan may be amended to expand the territory included in the countywide 9-1-1 system, to upgrade any part or all of a system from basic 9-1-1 to enhanced 9-1-1 service, to adjust the territory served by a public safety answering point, to represcribe the funding of public safety answering points as between the alternatives set forth in division

(B)(5) of section 4931.43 of the Revised Code, or to make any 34657
other necessary adjustments to the plan only by convening a new 34658
9-1-1 planning committee, and adopting an amended final plan. The 34659
convening of a new 9-1-1 planning committee and the proposal and 34660
adoption of an amended final plan shall be made in the same manner 34661
required for the convening of an initial committee and adoption of 34662
an original proposed and final plan under sections 4931.42 to 34663
4931.44 of the Revised Code. Adoption of any resolution under 34664
section 4931.51 of the Revised Code pursuant to a final plan that 34665
both has been adopted and provides for funding through charges 34666
imposed under that section is not an amendment of a final plan for 34667
the purpose of this division. 34668

(B) When a final plan is amended to expand the territory that 34669
receives 9-1-1 service or to upgrade a 9-1-1 system from basic to 34670
enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and 34671
~~5727.39~~ 5733.55 of the Revised Code apply with respect to the 34672
telephone company's recovery of the nonrecurring and recurring 34673
rates and charges for the telephone network portion of the system. 34674

Sec. 4931.47. (A) In accordance with Chapters 4901., 4903., 34675
4905., 4909., and 4931. of the Revised Code, the public utilities 34676
commission shall determine the just, reasonable, and compensatory 34677
rates, tolls, classifications, charges, or rentals to be observed 34678
and charged for the telephone network portion of a basic and 34679
enhanced 9-1-1 system, and each telephone company participating in 34680
the system shall be subject to such chapters, to the extent they 34681
apply, as to the service provided by its portion of the telephone 34682
network system as described in the final plan or to be installed 34683
pursuant to agreements under section 4931.48 of the Revised Code, 34684
and as to the rates, tolls, classifications, charges, or rentals 34685
to be observed and charged for that service. 34686

(B) Only the customers of a participating telephone company 34687

that are served within the area covered by a 9-1-1 system shall 34688
pay the recurring rates for the maintenance and operation of the 34689
telephone network in providing 9-1-1 service. Such rates shall be 34690
computed by dividing the total monthly recurring rates set forth 34691
in a telephone company's schedule as filed in accordance with 34692
section 4905.30 of the Revised Code, by the total number of 34693
residential and business customer access lines, or their 34694
equivalent, within the area served. Each residential and business 34695
customer within the area served shall pay the recurring rates 34696
based on the number of its residential and business customer 34697
access lines or their equivalent. No company may include such 34698
amount on any customer's bill until the company has completed its 34699
portion of the telephone network in accordance with the terms, 34700
conditions, requirements, and specifications of the final plan or 34701
an agreement made under section 4931.48 of the Revised Code. 34702

(C)(1) Except as otherwise provided in division (C)(2) of 34703
this section, the total nonrecurring charges for the telephone 34704
network used in providing 9-1-1 service, as set forth in the 34705
schedule filed by a telephone company in accordance with section 34706
4905.30 of the Revised Code, on completion of the installation of 34707
the network in accordance with the terms, conditions, 34708
requirements, and specifications of the final plan or pursuant to 34709
section 4931.48 of the Revised Code shall be recovered by the 34710
company through the credit authorized by section ~~5727.39~~ 5733.55 34711
of the Revised Code. 34712

(2) The credit shall not be allowed for upgrading of a system 34713
from basic to enhanced 9-1-1 service when: 34714

(a) The telephone company received the credit for the 34715
telephone network portion of the basic 9-1-1 system now proposed 34716
to be upgraded; and 34717

(b) At the time the final plan or agreement pursuant to 34718
section 4931.48 of the Revised Code calling for the basic 9-1-1 34719

system was agreed to, the telephone company was capable of 34720
reasonably meeting the technical and economic requirements of 34721
providing the telephone network portion of an enhanced 9-1-1 34722
system within the territory proposed to be upgraded, as determined 34723
by the public utilities commission under division (A) or (H) of 34724
section 4931.41 or division (C) of section 4931.48 of the Revised 34725
Code. 34726

(3) When the credit is not allowed under division (C)(2) of 34727
this section, the total nonrecurring charges for the telephone 34728
network used in providing 9-1-1 service, as set forth in the 34729
schedule filed by a telephone company in accordance with section 34730
4905.30 of the Revised Code, on completion of the installation of 34731
the network in accordance with the terms, conditions, 34732
requirements, and specifications of the final plan or pursuant to 34733
section 4931.48 of the Revised Code, shall be paid by the 34734
municipal corporations and townships with any territory in the 34735
area in which such upgrade from basic to enhanced 9-1-1 service is 34736
made. 34737

(D) Where customer premises equipment for a public safety 34738
answering point is supplied by a telephone company that is 34739
required to file a schedule under section 4905.30 of the Revised 34740
Code pertaining to customer premises equipment, the recurring and 34741
nonrecurring rates and charges for the installation and 34742
maintenance of the equipment specified in the schedule shall 34743
apply. 34744

Sec. 4931.48. (A) If a final plan is disapproved under 34745
division (B) of section 4931.44 of the Revised Code, by 34746
resolution, the legislative authority of a municipal corporation 34747
or township that contains at least thirty per cent of the county's 34748
population may establish within its boundaries, or the legislative 34749
authorities of a group of municipal corporations or townships each 34750

of which is contiguous with at least one other such municipal 34751
corporation or township in the group, together containing at least 34752
thirty per cent of the county's population, may jointly establish 34753
within their boundaries a 9-1-1 system. For this purpose, the 34754
municipal corporation or township may enter into an agreement, and 34755
the contiguous municipal corporations or townships may jointly 34756
enter into an agreement with a telephone company providing service 34757
in the municipal corporations or townships to provide for the 34758
telephone network portion of the system. 34759

(B) If no resolution has been adopted to convene a 9-1-1 34760
planning committee under section 4931.42 of the Revised Code, but 34761
not sooner than eighteen months after the effective date of such 34762
section, by resolution, the legislative authority of any municipal 34763
corporation in the county may establish within its boundaries, or 34764
the legislative authorities of a group of municipal corporations 34765
and townships each of which is contiguous to at least one of the 34766
other such municipal corporations or townships in the group may 34767
jointly establish within their boundaries, a 9-1-1 system. The 34768
municipal corporation or contiguous municipal corporations and 34769
townships, may enter into an agreement with a telephone company 34770
serving ~~customers~~ customers within the boundaries of the municipal 34771
corporation or contiguous municipal corporations and townships, to 34772
provide for the telephone network portion of a 9-1-1 system. 34773

(C) Whenever a telephone company and one or more municipal 34774
corporations and townships enter into an agreement under this 34775
section to provide for the telephone network portion of a basic 34776
9-1-1 system, the telephone company shall so notify the public 34777
utilities commission, which shall determine whether the telephone 34778
company is capable of reasonably meeting the technical and 34779
economic requirements of providing the telephone network for an 34780
enhanced system within the territory served by the company and 34781
covered by the agreement. The determination shall be made solely 34782

for the purposes of division (C)(2) of section 4931.47 of the Revised Code. 34783
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(D) Within three years from the date of entering into an agreement under division (A) or (B) of this section, the telephone company shall have installed the telephone network portion of the 9-1-1 system according to the terms, conditions, requirements, and specifications set forth in the agreement. 34785
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(E) The telephone company shall recover the cost of installing the telephone network system pursuant to agreements made under this section as provided in ~~sections~~ section 4931.47 and 5727.39 of the Revised Code, as authorized under section 5733.55 of the Revised Code. 34790
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Sec. 4973.17. (A) Upon the application of any bank, building and loan association, or association of banks or building and loan associations in this state, the governor may appoint and commission any persons that the bank, building and loan association, or association of banks or building and loan associations designates, or as many of those persons as the governor considers proper, to act as police officers for and on the premises of that bank, building and loan association, or association of banks or building and loan associations, or elsewhere, when directly in the discharge of their duties. Police officers so appointed shall be citizens of this state and of good character. They shall hold office for three years, unless, for good cause shown, their commission is revoked by the governor, or by the bank, building and loan association, or association of banks or building and loan associations, as provided by law. 34795
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(B) Upon the application of a company owning or using a railroad in this state and subject to section 4973.171 of the Revised Code, the governor may appoint and commission any persons that the railroad company designates, or as many of those persons 34810
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as the governor considers proper, to act as police officers for 34814
and on the premises of the railroad company, its affiliates or 34815
subsidiaries, or elsewhere, when directly in the discharge of 34816
their duties. Police officers so appointed, within the time set by 34817
the Ohio peace officer training commission, shall successfully 34818
complete a commission approved training program and be certified 34819
by the commission. They shall hold office for three years, unless, 34820
for good cause shown, their commission is revoked by the governor, 34821
or railroad company, as provided by law. 34822

Any person holding a similar commission in another state may 34823
be commissioned and may hold office in this state without 34824
completing the approved training program required by this division 34825
provided that ~~that~~ the person has completed a substantially 34826
equivalent training program in the other state. The Ohio peace 34827
officer training commission shall determine whether a training 34828
program in another state meets the requirements of this division. 34829

(C) Upon the application of any company under contract with 34830
the United States atomic energy commission for the construction or 34831
operation of a plant at a site owned by ~~such~~ the commission, the 34832
governor may appoint and commission ~~such~~ persons ~~as~~ the company 34833
designates, not to exceed one hundred fifty, to act as police 34834
officers for the company at the plant or site owned by ~~such~~ the 34835
commission. Police officers so appointed shall be citizens of this 34836
state and of good character. They shall hold office for three 34837
years, unless, for good cause shown, their commission is revoked 34838
by the governor or by the company, as provided by law. 34839

(D)(1) Upon the application of any hospital that is operated 34840
by a public hospital agency or a nonprofit hospital agency and 34841
that employs and maintains its own proprietary police department 34842
or security department and subject to section 4973.171 of the 34843
Revised Code, the governor may appoint and commission any persons 34844
that the hospital designates, or as many of those persons as the 34845

governor considers proper, to act as police officers for the 34846
hospital. No person who is appointed as a police officer under 34847
this division shall engage in any duties or activities as a police 34848
officer for the hospital or any affiliate or subsidiary of the 34849
hospital unless all of the following apply: 34850

(a) The chief of police of the municipal corporation in which 34851
the hospital is located, or, if the hospital is located in the 34852
unincorporated area of a county, the sheriff of that county, has 34853
granted approval to the hospital to permit persons appointed as 34854
police officers under this division to engage in those duties and 34855
activities. The approval required by this division is general in 34856
nature and is intended to cover in the aggregate all persons 34857
appointed as police officers for the hospital under this division; 34858
a separate approval is not required for each appointee on an 34859
individual basis. 34860

(b) Subsequent to the grant of approval described in division 34861
(D)(1)(a) of this section, the hospital has entered into a written 34862
agreement with the chief of police of the municipal corporation in 34863
which the hospital is located, or, if the hospital is located in 34864
the unincorporated area of a county, with the sheriff of that 34865
county, that sets forth the standards and criteria to govern the 34866
interaction and cooperation between persons appointed as police 34867
officers for the hospital under this division and law enforcement 34868
officers serving the agency represented by the chief of police or 34869
sheriff who signed the agreement in areas of their concurrent 34870
jurisdiction. The written agreement shall be signed by the 34871
appointing authority of the hospital and by the chief of police or 34872
sheriff. The standards and criteria may include, but are not 34873
limited to, provisions governing the reporting of offenses 34874
discovered by hospital police officers to the agency represented 34875
by the chief of police or sheriff, provisions governing 34876
investigatory responsibilities relative to offenses committed on 34877

hospital property, and provisions governing the processing and 34878
confinement of persons arrested for offenses committed on hospital 34879
property. The agreement required by this division is intended to 34880
apply in the aggregate to all persons appointed as police officers 34881
for the hospital under this division; a separate agreement is not 34882
required for each appointee on an individual basis. 34883

(c) The person has successfully completed a training program 34884
approved by the Ohio peace officer training commission and has 34885
been certified by the commission. A person appointed as a police 34886
officer under this division may attend a training program approved 34887
by the commission and be certified by the commission regardless of 34888
whether the appropriate chief of police or sheriff has granted the 34889
approval described in division (D)(1)(a) of this section and 34890
regardless of whether the hospital has entered into the written 34891
agreement described in division (D)(1)(b) of this section with the 34892
appropriate chief of police or sheriff. 34893

(2)(a) A person who is appointed as a police officer under 34894
division (D)(1) of this section is entitled, upon the grant of 34895
approval described in division (D)(1)(a) of this section and upon 34896
~~that~~ the person's and the hospital's compliance with the 34897
requirements of divisions (D)(1)(b) and (c) of this section, to 34898
act as a police officer for the hospital on the premises of the 34899
hospital and of its affiliates and subsidiaries that are within 34900
the territory of the municipal corporation served by the chief of 34901
police or the unincorporated area of the county served by the 34902
sheriff who signed the written agreement described in division 34903
(D)(1)(b) of this section, whichever is applicable, and anywhere 34904
else within the territory of that municipal corporation or within 34905
the unincorporated area of that county. The authority to act as a 34906
police officer as described in this division is granted only if 34907
the person, when engaging in that activity, is directly in the 34908
discharge of ~~that~~ the person's duties as a police officer for the 34909

hospital. The authority to act as a police officer as described in 34910
this division shall be exercised in accordance with the standards 34911
and criteria set forth in the written agreement described in 34912
division (D)(1)(b) of this section. 34913

(b) Additionally, a person appointed as a police officer 34914
under division (D)(1) of this section is entitled, upon the grant 34915
of approval described in division (D)(1)(a) of this section and 34916
upon ~~that~~ the person's and the hospital's compliance with the 34917
requirements of divisions (D)(1)(b) and (c) of this section, to 34918
act as a police officer elsewhere, within the territory of a 34919
municipal corporation or within the unincorporated area of a 34920
county, if the chief of police of that municipal corporation or 34921
the sheriff of that county, respectively, has granted approval for 34922
that activity to the hospital, police department, or security 34923
department served by the person as a police officer and if the 34924
person, when engaging in that activity, is directly in the 34925
discharge of ~~that~~ the person's duties as a police officer for the 34926
hospital. The approval described in this division may be general 34927
in nature or may be limited in scope, duration, or applicability, 34928
as determined by the chief of police or sheriff granting the 34929
approval. 34930

(3) Police officers appointed under division (D)(1) of this 34931
section shall hold office for three years, unless, for good cause 34932
shown, their commission is revoked by the governor or by the 34933
hospital, as provided by law. As used in divisions (D)(1) to (3) 34934
of this section, "public hospital agency" and "nonprofit hospital 34935
agency" have the same ~~meaning~~ meanings as in section 140.01 of the 34936
Revised Code. 34937

(E) A fee of ~~five~~ fifteen dollars for each commission applied 34938
for under this section shall be paid at the time the application 34939
is made, and this amount shall be returned if for any reason a 34940
commission is not issued. 34941

Sec. 5101.11. This section does not apply to contracts 34942
entered into under section ~~5111.022~~, 5111.90~~7~~, or 5111.91 of the 34943
Revised Code. 34944

(A) As used in this section: 34945

(1) "Entity" includes an agency, board, commission, or 34946
department of the state or a political subdivision of the state; a 34947
private, nonprofit entity; a school district; a private school; or 34948
a public or private institution of higher education. 34949

(2) "Federal financial participation" means the federal 34950
government's share of expenditures made by an entity in 34951
implementing a program administered by the department of job and 34952
family services. 34953

(B) At the request of any public entity having authority to 34954
implement a program administered by the department of job and 34955
family services or any private entity under contract with a public 34956
entity to implement a program administered by the department, the 34957
department may seek to obtain federal financial participation for 34958
costs incurred by the entity. Federal financial participation may 34959
be sought from programs operated pursuant to Title IV-A, Title 34960
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 34961
(1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 34962
78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or 34963
regulation under which federal financial participation may be 34964
available, except that federal financial participation may be 34965
sought only for expenditures made with funds for which federal 34966
financial participation is available under federal law. 34967

(C) All funds collected by the department of job and family 34968
services pursuant to division (B) of this section shall be 34969
distributed to the entities that incurred the costs, except for 34970
any amounts retained by the department pursuant to division (D)(3) 34971

of this section. 34972

(D) In distributing federal financial participation pursuant 34973
to this section, the department may either enter into an agreement 34974
with the entity that is to receive the funds or distribute the 34975
funds in accordance with rules adopted under division (F) of this 34976
section. If the department decides to enter into an agreement to 34977
distribute the funds, the agreement may include terms that do any 34978
of the following: 34979

(1) Provide for the whole or partial reimbursement of any 34980
cost incurred by the entity in implementing the program; 34981

(2) In the event that federal financial participation is 34982
disallowed or otherwise unavailable for any expenditure, require 34983
the department of job and family services or the entity, whichever 34984
party caused the disallowance or unavailability of federal 34985
financial participation, to assume responsibility for the 34986
expenditures; 34987

(3) Permit the department to retain not more than five per 34988
cent of the amount of the federal financial participation to be 34989
distributed to the entity; 34990

(4) Require the public entity to certify the availability of 34991
sufficient unencumbered funds to match the federal financial 34992
participation it receives under this section; 34993

(5) Establish the length of the agreement, which may be for a 34994
fixed or a continuing period of time; 34995

(6) Establish any other requirements determined by the 34996
department to be necessary for the efficient administration of the 34997
agreement. 34998

(E) An entity that receives federal financial participation 34999
pursuant to this section for a program aiding children and their 35000
families shall establish a process for collaborative planning with 35001

the department of job and family services for the use of the funds 35002
to improve and expand the program. 35003

(F) The director of job and family services shall adopt rules 35004
as necessary to implement this section, including rules for the 35005
distribution of federal financial participation pursuant to this 35006
section. The rules shall be adopted in accordance with Chapter 35007
119. of the Revised Code. The director may adopt or amend any 35008
statewide plan required by the federal government for a program 35009
administered by the department, as necessary to implement this 35010
section. 35011

(G) Federal financial participation received pursuant to this 35012
section shall not be included in any calculation made under 35013
section 5101.16 or 5101.161 of the Revised Code. 35014

Sec. 5101.14. (A) As used in this section and section 35015
5101.144 of the Revised Code, "children services" means services 35016
provided to children pursuant to Chapter 5153. of the Revised 35017
Code. 35018

(B) Within available funds, the department of job and family 35019
services shall ~~make payments~~ distribute funds to the counties 35020
within thirty days after the beginning of each calendar quarter 35021
for a part of ~~their~~ the counties' costs for children services ~~to~~ 35022
~~children performed pursuant to Chapter 5153. of the Revised Code.~~ 35023

Funds provided to the county under this section shall be 35024
deposited into the children services fund created pursuant to 35025
section 5101.144 of the Revised Code. 35026

~~(B)(1) The funds distributed under this section shall be used~~ 35027
~~for the following:~~ 35028

~~(a) Home based services to children and families;~~ 35029

~~(b) Protective services to children;~~ 35030

~~(c) To find, develop, and approve adoptive homes;~~ 35031

~~(d) Short term, out of home care and treatment for children;~~ 35032

~~(e) Costs for the care of a child who resides with a
caretaker relative, other than the child's parent, and is in the
legal custody of a public children services agency pursuant to a
voluntary temporary custody agreement entered into under division
(A) of section 5103.15 of the Revised Code or in the legal custody
of a public children services agency or the caretaker relative
pursuant to an allegation or adjudication of abuse, neglect, or
dependency made under Chapter 2151. of the Revised Code;~~ 35033
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~~(f) Other services a public children services agency
considers necessary to protect children from abuse, neglect, or
dependency.~~ 35041
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~~(2) No funds distributed under this section shall be used for
the costs of maintaining a child in a children's home owned and
operated by the county.~~ 35044
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(C) In each fiscal year, the amount of funds available for 35047
distribution under this section shall be allocated to counties as 35048
follows: 35049

(1) If the amount is less than the amount initially 35050
appropriated for the immediately preceding fiscal year, each 35051
county shall receive an amount equal to the percentage of the 35052
funding it received in the immediately preceding fiscal year, 35053
exclusive of any releases from or additions to the allocation or 35054
any sanctions imposed under this section; 35055

(2) If the amount is equal to the amount initially 35056
appropriated for the immediately preceding fiscal year, each 35057
county shall receive an amount equal to the amount it received in 35058
the preceding fiscal year, exclusive of any releases from or 35059
additions to the allocation or any sanctions imposed under this 35060
section; 35061

(3) If the amount is greater than the amount initially 35062
appropriated for the immediately preceding fiscal year, each 35063
county shall receive the amount determined under division (C)(2) 35064
of this section as a base allocation, plus a percentage of the 35065
amount that exceeds the amount initially appropriated for the 35066
immediately preceding fiscal year. The amount exceeding the amount 35067
initially appropriated in the immediately preceding fiscal year 35068
shall be allocated to the counties as follows: 35069

(a) Twelve per cent divided equally among all counties; 35070

(b) Forty-eight per cent in the ratio that the number of 35071
residents of the county under the age of eighteen bears to the 35072
total number of such persons residing in this state; 35073

(c) Forty per cent in the ratio that the number of residents 35074
of the county with incomes under the federal poverty guideline 35075
bears to the total number of such persons in this state. 35076

As used in division (C)(3)(c) of this section, "federal 35077
poverty guideline" means the poverty guideline as defined by the 35078
United States office of management and budget and revised by the 35079
United States secretary of health and human services in accordance 35080
with section 673 of the "Community Services Block Grant Act," 95 35081
Stat. 511 (1981), 42 U.S.C.A. 9902, as amended. 35082

~~(D) The director of job and family services may adopt rules 35083
as necessary for the allocation of funds under this section. The 35084
rules shall be adopted in accordance with section 111.15 of the 35085
Revised Code. 35086~~

~~(E)(1) As used in this division, "services to children" means 35087
children's protective services, home based services to children 35088
and families, foster home services, residential treatment 35089
services, adoptive services, and independent living services. 35090~~

~~(2) Except as otherwise provided in this section, the 35091~~

~~allocation of funds for a fiscal year to a county under this 35092
section shall be reduced by the department if in the preceding 35093
calendar year the total amount expended for services to children 35094
from local funds was less than the total expended from that source 35095
in the second preceding calendar year. The reduction shall be 35096
equal to the difference between the total expended in the 35097
preceding calendar year and the total expended in the second 35098
preceding calendar year. 35099~~

~~The determination of whether the amount expended for services 35100
to children was less in the preceding calendar year than in the 35101
second preceding calendar year shall not include a difference due 35102
to any of the following factors to the extent that the difference 35103
does not exceed the amount attributable to that factor: 35104~~

~~(a) An across the board reduction in the county budget as a 35105
whole; 35106~~

~~(b) A reduced or failed levy specifically earmarked for 35107
children services; 35108~~

~~(c) The closure of, or a reduction in the operating capacity 35109
of, a children's home owned and operated by the county. 35110~~

~~(3) Funds withheld under this division may be reallocated by 35111
the department to other counties. The department may grant whole 35112
or partial waivers of the provisions of this division. 35113~~

~~(F) Children who are in the temporary or permanent custody of 35114
a certified public or private nonprofit agency or institution, or 35115
who are in adoptions subsidized under division (B) of section 35116
5153.163 of the Revised Code are eligible for medical assistance 35117
through the medical assistance program established under section 35118
5111.01 of the Revised Code. 35119~~

~~(G) Within ninety days after the end of each state fiscal 35120
year biennium, each county shall return any unspent funds to the 35121
department. 35122~~

~~(H) In accordance with Chapter 119. of the Revised Code, the~~ 35123
~~(E) The director shall of job and family services may adopt, and~~ 35124
~~may amend and rescind, the following rules in accordance with~~ 35125
section 111.15 of the Revised Code: 35126

(1) Rules that are necessary for the allocation of funds 35127
under this section; 35128

(2) Rules prescribing reports on expenditures to be submitted 35129
by the counties as necessary for the implementation of this 35130
section. 35131

Sec. 5101.141. (A) As used in sections 5101.141 to 5101.1410 35132
of the Revised Code, "Title IV-E" means Title IV-E of the "Social 35133
Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended. 35134

(B) The department of job and family services shall act as 35135
the single state agency to administer federal payments for foster 35136
care and adoption assistance made pursuant to Title IV-E ~~of the~~ 35137
~~"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as~~ 35138
~~amended.~~ The director of job and family services shall adopt rules 35139
to implement this authority. Internal management rules governing 35140
financial and administrative requirements applicable to public 35141
children services agencies, ~~private child placing agencies, and~~ 35142
~~private noncustodial agencies~~ government entities that provide 35143
Title IV-E reimbursable placement services to children shall be 35144
adopted in accordance with section 111.15 of the Revised Code. 35145
Rules governing requirements applicable to private child placing 35146
agencies and private noncustodial agencies and rules establishing 35147
eligibility, program participation, and other requirements 35148
concerning Title IV-E shall be adopted in accordance with Chapter 35149
119. of the Revised Code. A public children services agency to 35150
which the department distributes Title IV-E funds shall administer 35151
the funds in accordance with those rules. 35152

~~(B)~~(C)(1) The county, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "~~Social Security Act~~," shall make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division ~~(B)~~(C)(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "~~Social Security Act~~," make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5101.142 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more certified foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in divisions ~~(B)~~(C)(1) and (2) of this section.

~~(C)~~(D) To the extent that either foster care maintenance payments under division ~~(B)~~ (C) of this section or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners

shall report the nature and amount of each expenditure of county funds to the department. 35183
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~~(D)~~(E) The department shall distribute to public children services agencies that incur and report such expenditures federal financial participation received for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs. The department may withhold not more than three per cent of the federal financial participation received. The funds withheld may be used only to fund the Ohio child welfare training program established under section 5153.60 of the Revised Code and the university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation. The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan. 35185
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~~(E)~~(F) All federal financial participation funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5101.144 of the Revised Code. 35199
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~~(F)~~(G) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments. 35203
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~~(G)~~(H) The department, by and through its director, is hereby authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with agencies of any other states, for the provision of medical assistance and other social services to children in relation to whom all of the following apply: 35207
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(1) They have special needs. 35213

(2) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf. 35214
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(3) They move into this state from another state or move out of this state to another state. 35217
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Sec. 5101.142. (A) The department of job and family services may apply to the United States secretary of health and human services for a waiver of requirements established under Title IV-E of the ~~"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980)~~, or regulations adopted thereunder, to conduct a demonstration project expanding eligibility for and services provided under Title IV-E. The department may enter into agreements with the secretary necessary to implement the demonstration project, including agreements establishing the terms and conditions of the waiver authorizing the project. If a demonstration project is to be established, the department shall do all of the following: 35219
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(1) Have the director of job and family services adopt rules in accordance with Chapter 119. of the Revised Code governing the project. The rules shall be consistent with the agreements the department enters into with the secretary. 35231
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(2) Enter into agreements with public children services agencies that the department selects for participation in the project. The department shall not select an agency that objects to participation or refuses to be bound by the terms and conditions of the project. 35235
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(3) Contract with persons or governmental agencies providing services under the project; 35240
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(4) Amend the state plan required by section 471 of the "Social Security Act," 42 U.S.C.A. 671, as amended, as needed to 35242
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implement the project; 35244

(5) Conduct ongoing evaluations of the project; 35245

(6) Perform other administrative and operational activities 35246
required by the agreement with the secretary. 35247

(B) The department may apply to the United States secretary 35248
of health and human services for a waiver of the requirements 35249
established under Title IV-B of the "Social Security Act of 1967," 35250
81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder 35251
and established under any other federal law or regulations that 35252
affect the children services functions prescribed by Chapter 5153. 35253
of the Revised Code, to conduct demonstration projects or 35254
otherwise improve the effectiveness and efficiency of the children 35255
services function. 35256

~~Sec. 5101.144. As used in this section, "children services"~~ 35257
~~means services provided to children pursuant to Chapter 5153. of~~ 35258
~~the Revised Code.~~ 35259

Each county shall deposit all funds its public children 35260
services agency receives from appropriations made by the board of 35261
county commissioners or any other source for the purpose of 35262
providing children services into a special fund in the county 35263
treasury known as the children services fund. A county shall use 35264
money in the fund only for the purposes of meeting the expenses of 35265
providing children services. 35266

~~Sec. 5101.145. (A) For the purposes of this section, "Title~~ 35267
~~IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501,~~ 35268
~~42 U.S.C.A. 670 (1980).~~ 35269

~~(B)~~ In adopting rules under section 5101.141 of the Revised 35270
Code regarding financial requirements applicable to public 35271
children services agencies, private child placing agencies, ~~and~~ 35272
private noncustodial agencies, and government entities that 35273

provide Title IV-E reimbursable placement services to children, 35274
the department of job and family services shall establish both of 35275
the following: 35276

(1) A single form for the agencies or entities to report 35277
costs reimbursable under Title IV-E and costs reimbursable under 35278
medicaid; 35279

(2) Procedures to monitor cost reports submitted by the 35280
agencies or entities. 35281

~~(C)~~(B) The procedures established under division ~~(B)~~(A)(2) of 35282
this section shall be implemented not later than October 1, 2003. 35283
The procedures shall be used to do both of the following: 35284

(1) Determine which of the costs are reimbursable under Title 35285
IV-E; 35286

(2) Ensure that costs reimbursable under medicaid are 35287
excluded from determinations made under division ~~(C)~~(B)(1) of this 35288
section. 35289

Sec. 5101.146. The department of job and family services 35290
shall establish the following penalties, which shall be enforced 35291
at the discretion of the department, for the failure of a public 35292
children services agency, private child placing agency, ~~or~~ private 35293
noncustodial agency, or government entity that provides Title IV-E 35294
reimbursable placement services to children to comply with 35295
procedures the department establishes to ensure fiscal 35296
accountability: 35297

(A) For initial failure, the department and the agency or 35298
entity involved shall jointly develop and implement a corrective 35299
action plan according to a specific schedule. If requested by the 35300
agency or entity involved, the department shall provide technical 35301
assistance to the agency or entity to ensure the fiscal 35302
accountability procedures and goals of the plan are met. 35303

(B) For subsequent failures or failure to achieve the goals of the plan described in division (A) of this section, ~~either~~ one of the following:

(1) For public children services agencies, the department may take any action permitted under division ~~(B)~~(C)(3), (4), or (5) of section 5101.24 of the Revised Code.

(2) For private child placing agencies or private noncustodial agencies, cancellation of any Title IV-E allowability rates for the agency involved pursuant to section 5101.141 of the Revised Code or revocation pursuant to Chapter 119. of the Revised Code of that agency's certificate issued under section 5103.03 of the Revised Code;

(3) For government entities, other than public children services agencies, that provide Title IV-E reimbursable placement services to children, cancellation of any Title IV-E allowability rates for the entity involved pursuant to section 5101.141 of the Revised Code.

Sec. 5101.1410. In addition to the remedies available under sections 5101.146 and 5101.24 of the Revised Code, the department of job and family services may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against a public children services agency, private child placing agency, private noncustodial agency, or government entity that provides Title IV-E reimbursable placement services to children if all of the following are the case:

(A) The agency or entity files a cost report with the department pursuant to rules adopted under division (B) of section 5101.141 of the Revised Code.

(B) The department receives and distributes federal Title

<u>IV-E reimbursement funds based on the cost report.</u>	35334
<u>(C) The agency's or entity's misstatement, misclassification,</u>	35335
<u>overstatement, understatement, or other inclusion or omission of</u>	35336
<u>any cost included in the cost report causes the United States</u>	35337
<u>department of health and human services to disallow all or part of</u>	35338
<u>the federal Title IV-E reimbursement funds the department received</u>	35339
<u>and distributed.</u>	35340
Sec. 5101.16. (A) As used in this section and sections	35341
5101.161 and 5101.162 of the Revised Code:	35342
(1) "Disability <u>financial</u> assistance" means <u>the financial and</u>	35343
medical assistance provided <u>program established</u> under Chapter	35344
5115. of the Revised Code.	35345
(2) " <u>Disability medical assistance</u> " means <u>the medical</u>	35346
<u>assistance program established under Chapter 5115. of the Revised</u>	35347
<u>Code.</u>	35348
(3) "Food stamps" means the program administered by the	35349
department of job and family services pursuant to section 5101.54	35350
of the Revised Code.	35351
(3) (4) "Medicaid" means the medical assistance program	35352
established by Chapter 5111. of the Revised Code, excluding	35353
transportation services provided under that chapter.	35354
(4) (5) "Ohio works first" means the program established by	35355
Chapter 5107. of the Revised Code.	35356
(5) (6) "Prevention, retention, and contingency" means the	35357
program established by Chapter 5108. of the Revised Code.	35358
(6) (7) "Public assistance expenditures" means expenditures	35359
for all of the following:	35360
(a) Ohio works first;	35361
(b) County administration of Ohio works first;	35362

(c) Prevention, retention, and contingency;	35363
(d) County administration of prevention, retention, and contingency;	35364 35365
(e) Disability <u>financial</u> assistance;	35366
(f) <u>Disability medical assistance</u> ;	35367
(g) County administration of disability <u>financial</u> assistance;	35368
(g) (h) <u>County administration of disability medical assistance</u> ;	35369 35370
(i) County administration of food stamps;	35371
(h) (j) County administration of medicaid.	35372
<u>(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.</u>	35373 35374
(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:	35375 35376 35377 35378 35379 35380
(1) The amount that is twenty-five per cent of the county's total expenditures for disability <u>financial assistance and disability medical</u> assistance and county administration of disability assistance <u>those programs</u> during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.	35381 35382 35383 35384 35385 35386
(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less	35387 35388 35389 35390 35391

the amount of federal reimbursement credited to the county under 35392
division (E) of this section for the state fiscal year ending in 35393
the previous calendar year; 35394

~~(3)(a) Except as provided in division (B)(3)(b) of this 35395
section, A percentage of the actual amount, as determined by the 35396
department of job and family services from expenditure reports 35397
submitted to the United States department of health and human 35398
services, of the county share of program and administrative 35399
expenditures during federal fiscal year 1994 for assistance and 35400
services, other than child day-care, provided under Titles IV-A 35401
and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 35402
U.S.C. 301, as those titles existed prior to the enactment of the 35403
"Personal Responsibility and Work Opportunity Reconciliation Act 35404
of 1996," 110 Stat. 2105. The department of job and family 35405
services shall determine the actual amount of the county share 35406
from expenditure reports submitted to the United States department 35407
of health and human services. The percentage shall be the 35408
percentage established in rules adopted under division (F) of this 35409
section. 35410~~

~~(b) For state fiscal years 2000 and 2001, seventy seven per 35411
cent of the amount determined under division (B)(3)(a) of this 35412
section. 35413~~

(C)(1) If a county's share of public assistance expenditures 35414
determined under division (B) of this section for a state fiscal 35415
year exceeds one hundred ten per cent of the county's share for 35416
those expenditures for the immediately preceding state fiscal 35417
year, the department of job and family services shall reduce the 35418
county's share for expenditures under divisions (B)(1) and (2) of 35419
this section so that the total of the county's share for 35420
expenditures under division (B) of this section equals one hundred 35421
ten per cent of the county's share of those expenditures for the 35422
immediately preceding state fiscal year. 35423

(2) A county's share of public assistance expenditures 35424
determined under division (B) of this section may be increased 35425
pursuant to a sanction under section 5101.24 of the Revised Code. 35426

(D)(1) If the per capita tax duplicate of a county is less 35427
than the per capita tax duplicate of the state as a whole and 35428
division (D)(2) of this section does not apply to the county, the 35429
percentage to be used for the purpose of division (B)(2) of this 35430
section is the product of ten multiplied by a fraction of which 35431
the numerator is the per capita tax duplicate of the county and 35432
the denominator is the per capita tax duplicate of the state as a 35433
whole. The department of job and family services shall compute the 35434
per capita tax duplicate for the state and for each county by 35435
dividing the tax duplicate for the most recent available year by 35436
the current estimate of population prepared by the department of 35437
development. 35438

(2) If the percentage of families in a county with an annual 35439
income of less than three thousand dollars is greater than the 35440
percentage of such families in the state and division (D)(1) of 35441
this section does not apply to the county, the percentage to be 35442
used for the purpose of division (B)(2) of this section is the 35443
product of ten multiplied by a fraction of which the numerator is 35444
the percentage of families in the state with an annual income of 35445
less than three thousand dollars a year and the denominator is the 35446
percentage of such families in the county. The department of job 35447
and family services shall compute the percentage of families with 35448
an annual income of less than three thousand dollars for the state 35449
and for each county by multiplying the most recent estimate of 35450
such families published by the department of development, by a 35451
fraction, the numerator of which is the estimate of average annual 35452
personal income published by the bureau of economic analysis of 35453
the United States department of commerce for the year on which the 35454
census estimate is based and the denominator of which is the most 35455

recent such estimate published by the bureau. 35456

(3) If the per capita tax duplicate of a county is less than 35457
the per capita tax duplicate of the state as a whole and the 35458
percentage of families in the county with an annual income of less 35459
than three thousand dollars is greater than the percentage of such 35460
families in the state, the percentage to be used for the purpose 35461
of division (B)(2) of this section shall be determined as follows: 35462

(a) Multiply ten by the fraction determined under division 35463
(D)(1) of this section; 35464

(b) Multiply the product determined under division (D)(3)(a) 35465
of this section by the fraction determined under division (D)(2) 35466
of this section. 35467

(4) The department of job and family services shall 35468
determine, for each county, the percentage to be used for the 35469
purpose of division (B)(2) of this section not later than the 35470
first day of July of the year preceding the state fiscal year for 35471
which the percentage is used. 35472

(E) The department of job and family services shall credit to 35473
a county the amount of federal reimbursement the department 35474
receives from the United States departments of agriculture and 35475
health and human services for the county's expenditures for 35476
administration of food stamps and medicaid that the department 35477
determines are allowable administrative expenditures. 35478

(F)(1) The director of job and family services shall adopt 35479
rules in accordance with section 111.15 of the Revised Code to 35480
establish all of the following: 35481

~~(1)~~(a) The method the department is to use to change a 35482
county's share of public assistance expenditures determined under 35483
division (B) of this section as provided in division (C) of this 35484
section; 35485

~~(2)(b)~~ The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section; 35486
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~~(3)(c)~~ The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis; 35489
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~~(4)(d)~~ The percentage to be used for the purpose of division (B)(3) of this section, which shall not be less than seventy-five per cent nor more than eighty-two per cent; 35492
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~~(e)~~ Other procedures and requirements necessary to implement this section. 35495
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(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management. 35497
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Sec. 5101.162. The Subject to available federal funds and appropriations made by the general assembly, the department of job and family services may, at its sole discretion, use available federal funds to reimburse county expenditures for county administration of food stamps or medicaid even though the county expenditures meet or exceed the maximum allowable reimbursement amount established by rules adopted under section 5101.161 of the Revised Code if the board of county commissioners has ~~not~~ entered into a ~~partnership~~ fiscal agreement with the director of job and family services under section 5101.21 of the Revised Code. The director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section. 35504
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Sec. 5101.18. (A) When the director of job and family services adopts rules under section 5107.05 regarding income requirements for the Ohio works first program and under section ~~5115.05~~ 5115.03 of the Revised Code regarding income and resource requirements for the disability financial assistance program, the director shall determine what payments shall be regarded or disregarded. In making this determination, the director shall consider:

(1) The source of the payment;

(2) The amount of the payment;

(3) The purpose for which the payment was made;

(4) Whether regarding the payment as income would be in the public interest;

(5) Whether treating the payment as income would be detrimental to any of the programs administered in whole or in part by the department of job and family services and whether such determination would jeopardize the receipt of any federal grant or payment by the state or any receipt of aid under Chapter 5107. of the Revised Code.

(B) Any recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, whose money payment is discontinued as the result of a general increase in old-age, survivors, and disability insurance benefits under such act, shall remain a recipient for the purpose of receiving medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first; ~~prevention~~, all of the following:

<u>(1) Prevention retention, and contingency; medicaid</u>	35545
<u>(2) Medicaid; and disability</u>	35546
<u>(3) Disability financial assistance, general;</u>	35547
<u>(4) Disability medical assistance;</u>	35548
<u>(5) General</u> assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.	35549 35550
(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of job and family services shall furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.	35551 35552 35553 35554 35555 35556 35557 35558 35559 35560 35561 35562 35563 35564 35565 35566 35567 35568 35569 35570 35571 35572
(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names,	35573 35574 35575

current or most recent addresses, or social security numbers of 35576
persons receiving public assistance under Title IV-A or under 35577
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 35578
U.S.C. 301, as amended. 35579

(D)(1) The auditor of state shall retain, for not less than 35580
two years, at least one copy of all information received under 35581
this section and sections 145.27, 742.41, 3307.20, 3309.22, 35582
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 35583
shall review the information to determine whether overpayments 35584
were made to recipients of public assistance under Chapters 5107., 35585
5108., 5111., and 5115. of the Revised Code. The auditor of state 35586
shall initiate action leading to prosecution, where warranted, of 35587
recipients who received overpayments by forwarding the name of 35588
each recipient who received overpayment, together with other 35589
pertinent information, to the director of job and family services 35590
and the attorney general, to the district director of job and 35591
family services of the district through which public assistance 35592
was received, and to the county director of job and family 35593
services and county prosecutor of the county through which public 35594
assistance was received. 35595

(2) The auditor of state and the attorney general or their 35596
designees may examine any records, whether in computer or printed 35597
format, in the possession of the director of job and family 35598
services or any county director of job and family services. They 35599
shall provide safeguards which restrict access to such records to 35600
purposes directly connected with an audit or investigation, 35601
prosecution, or criminal or civil proceeding conducted in 35602
connection with the administration of the programs and shall 35603
comply with the rules of the director of job and family services 35604
restricting the disclosure of information regarding recipients of 35605
public assistance. Any person who violates this provision shall 35606
thereafter be disqualified from acting as an agent or employee or 35607

in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

~~Sec. 5101.21. (A) As used in sections 5101.21 to 5101.24 of the Revised Code, "workforce development agency" and "workforce development activity" have the same meanings as in section 6301.01 of the Revised Code.~~

~~(B) The director of job and family services shall enter into a one or more written partnership agreement fiscal agreements with each board of county commissioners.~~

~~(C)(1) Each partnership agreement shall include provisions regarding the administration and design of all of the following:~~

~~(a) The Ohio works first program established under Chapter 5107. of the Revised Code;~~

~~(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;~~

~~(c) Duties assumed by a county department of job and family services pursuant to an agreement entered into under section 329.05 of the Revised Code;~~

~~(d) Any other county department of job and family services' duties that the director and board mutually agree to include in the agreement;~~

~~(e) If, for the purpose of Chapter 6301. of the Revised Code, the county the board serves is a local area defined in division (A)(2) or (3) of section 6301.01 of the Revised Code, workforce development activities provided by the workforce development agency established or designated for the local area.~~

~~(2) Each partnership agreement may include provisions regarding the administration and design of the duties of child support enforcement agencies and public children services agencies included in a plan of cooperation entered into under section 307.983 of the Revised Code that the director and board mutually agree to include in the agreement.~~

~~(D) Family services duties and workforce development activities included in a partnership agreement shall be vested in the board of county commissioners. The agreement shall comply with federal statutes and regulations, state statutes, and, except as provided in division (D)(9) of this section, state rules governing the family services duties or workforce development activities included in the agreement.~~

~~A partnership under which financial assistance is awarded for family services duties included in the agreements. A fiscal agreement shall include responsibilities that the state department of job and family services, county family services agencies administering family services duties included in the agreement, and workforce development agencies administering workforce development activities included in the agreement must satisfy. The agreement shall establish, specify, or provide for do all of the following:~~

~~(1) Requirements governing the administration and design of, and county family services agencies' or workforce development agencies' cooperation to enhance, family services duties or workforce development activities included in the agreement Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties;~~

~~(2) Outcomes that county family services agencies or~~

~~workforce development agencies are expected to achieve from the~~ 35668
~~administration and design of family services duties or workforce~~ 35669
~~development activities included in the agreement and assistance,~~ 35670
~~services, and technical support the state department will provide~~ 35671
~~the county family services agencies or workforce development~~ 35672
~~agencies to aid the agencies in achieving the expected outcomes~~ 35673
Provide for the department of job and family services to award 35674
financial assistance for the family services duties included in 35675
the agreement in accordance with a methodology for determining the 35676
amount of the award established by rules adopted under division 35677
(C) of this section; 35678

(3) ~~Performance and other administrative standards county~~ 35679
~~family services agencies or workforce development agencies are~~ 35680
~~required to meet in the design, administration, and outcomes of~~ 35681
~~family services duties or workforce development activities~~ 35682
~~included in the agreement and assistance, services, and technical~~ 35683
~~support the state department will provide the county family~~ 35684
~~services agencies or workforce development agencies to aid the~~ 35685
~~agencies in meeting the performance and other administrative~~ 35686
~~standards~~ Specify the form of the award of financial assistance 35687
which may be an allocation, cash draw, reimbursement, or, to the 35688
extent authorized by an appropriation made the general assembly 35689
and to the extent practicable and not in conflict with a federal 35690
or state law, a consolidated funding allocation for two or more 35691
family services duties included in the agreement; 35692

(4) ~~Criteria and methodology the state department will use to~~ 35693
~~evaluate whether expected outcomes are achieved and performance~~ 35694
~~and other administrative standards are met and county family~~ 35695
~~services agencies or workforce development agencies will use to~~ 35696
~~evaluate whether the state department is providing agreed upon~~ 35697
~~assistance, services, and technical support~~ Provide that the award 35698
of financial assistance is subject to the availability of federal 35699

funds and appropriations made by the general assembly; 35700

(5) ~~Annual~~ Specify annual financial, administrative, or other 35701
incentive awards, if any, to be provided in accordance with 35702
section 5101.23 of the Revised Code; 35703

(6) ~~The state~~ Include the board of county commissioners' 35704
assurance that the board will do all of the following: 35705

(a) Ensure that the financial assistance awarded under the 35706
agreement is used, and the family services duties included in the 35707
agreement are performed, in accordance with requirements for the 35708
duties established by the department or any of the following: a 35709
federal or state law, state plan for receipt of federal financial 35710
participation, grant agreement between the department and a 35711
federal agency, or executive order; 35712

(b) Ensure that the board and county family services agencies 35713
utilize a financial management system and other accountability 35714
mechanisms for the financial assistance awarded under the 35715
agreement that meet requirements the department establishes; 35716

(c) Require the county family services agencies to do both of 35717
the following: 35718

(i) Monitor all private and government entities that receive 35719
a payment from financial assistance awarded under the agreement to 35720
ensure that each entity uses the payment in accordance with 35721
requirements for the family services duties included in the 35722
agreement; 35723

(ii) Take action to recover payments that are not used in 35724
accordance with the requirements for the family services duties 35725
included in the agreement. 35726

(d) Require county family services agencies to promptly 35727
reimburse the department the amount that represents the amount an 35728
agency is responsible for of funds the department pays to any 35729

entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty; 35730
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(e) Require county family services agencies to take prompt corrective action if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a family services duty included in the agreement determines compliance has not been achieved; 35733
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(f) If the department establishes a consolidated funding allocation for two or more family services duties included in the agreement, require the county family services agencies to use funds available in the consolidated funding allocation only for the purpose for which the funds are appropriated. 35739
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(7) Provide for the department taking action pursuant to division (C) of section 5101.24 of the Revised Code if authorized by division (B)(1), (2), ~~or~~ (3), or (4) of that section applies; 35744
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~~(7) The funding of family services duties or workforce development activities included in the agreement and whether the state department will establish a consolidated funding allocation under division (E) of this section. The agreement shall either specify the amount of payments to be made for the family services duties or workforce development activities included in the agreement or the method that will be used to determine the amount of payments.~~ 35747
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(8) ~~Audits~~ Provide for audits required by federal ~~statutes~~ and regulations and state law and ~~requirements for~~ require prompt release of audit findings and prompt action to correct problems identified in an audit; 35755
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(9) ~~Which, if any, of the state department's rules will be waived so that a policy provided for in the agreement may be~~ 35759
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~~implemented~~ Comply with all of the requirements for the family 35761
services duties that are included in the agreement and have been 35762
established by the department or any of the following: federal or 35763
state law, state plans for receipt of federal financial 35764
participation, grant agreements between the department and a 35765
federal agency, or executive orders; 35766

(10) ~~The~~ Establish the method of amending or terminating the 35767
agreement and an expedited process for correcting terms or 35768
conditions of the agreement that the director and board of county 35769
commissioners agree are erroneous; 35770

(11) ~~Dispute resolution procedures for anticipated and~~ 35771
~~unanticipated disputes. The agreement may establish different~~ 35772
~~dispute resolution procedures for different types of disputes.~~ 35773
~~Dispute resolution procedures may include negotiation, mediation,~~ 35774
~~arbitration, adjudication conducted by a hearing officer or~~ 35775
~~fact finding panel, and other procedures.~~ 35776

~~(12) The~~ Specify the date the agreement is to commence ~~or~~ and 35777
~~end. An agreement may not commence before it is entered into nor~~ 35778
~~end later than the last day of the state fiscal biennium for which~~ 35779
~~it is entered into.~~ 35780

~~(13) If workforce development activities are included in the~~ 35781
~~agreement, all of the following:~~ 35782

~~(a) The workforce development plan prepared under section~~ 35783
~~6301.07 of the Revised Code to be attached to and incorporated~~ 35784
~~into the agreement;~~ 35785

~~(b) A description of the services, and a list of the core~~ 35786
~~services, provided in the one stop system for workforce~~ 35787
~~development activities the county served by the board participates~~ 35788
~~in under section 6301.06 of the Revised Code to be included in the~~ 35789
~~agreement;~~ 35790

~~(c) If the county served by the board of county commissioners~~ 35791

~~is in the type of local area defined in division (A)(3) of section 35792
6301.01 of the Revised Code, the method and manner by which the 35793
board of county commissioners of each county and the chief elected 35794
official of a municipal corporation in the local area shall 35795
coordinate workforce development activities and resolve 35796
disagreements concerning either of the following: 35797~~

~~(i) Choices concerning specifically who to appoint to the 35798
workforce policy board created under section 6301.06 of the 35799
Revised Code, within the criteria for membership set forth in that 35800
section; 35801~~

~~(ii) Whether a member of the workforce policy board is 35802
performing satisfactorily for purposes of serving at the pleasure 35803
of the chief elected officials of the local area. 35804~~

~~(14) Other provisions determined necessary by the state 35805
department, board, county family services agency, and workforce 35806
development agency. 35807~~

~~(E)(B) The state department shall make payments authorized by 35808
a partnership fiscal agreement on vouchers it prepares and may 35809
include any funds appropriated or allocated to it for carrying out 35810
family services duties ~~or workforce development activities vested~~ 35811
~~in the board of county commissioners under~~ included in the 35812
agreement, including funds for personal services and maintenance. 35813~~

~~(F)(1) To the extent practicable and not in conflict with 35814
federal statutes or regulations, state law, or an appropriation 35815
made by the general assembly, the director may establish a 35816
consolidated funding allocation for any of the following: 35817~~

~~(a) Two or more family services duties included in the 35818
agreement; 35819~~

~~(b) Two or more workforce development activities included in 35820
the agreement; 35821~~

(c) One or more family services duties and workforce development activities included in the agreement.	35822
(2) The consolidated funding allocation may be for either of the following:	35823
(a) A county that is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code;	35824
(b) Two or more counties, or a municipal corporation and one or more counties, in the type of local area defined in division (A)(3) of section 6301.01 of the Revised Code that are coordinating and integrating workforce development activities in the local area.	35825
(3) A county family services agency or workforce development agency shall use funds available in a consolidated funding allocation only for the purpose for which the funds were appropriated.	35826
(C)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing fiscal agreements. The director shall adopt the rules as if they were internal management rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements and may do any or all of the following:	35827
(a) Govern the establishment of consolidated funding allocations and other allocations;	35828
(b) Specify allowable uses of financial assistance awarded under the agreements;	35829
(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department or any of the following: a federal	35830
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or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal entity, or executive orders. 35852
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(2) A requirement of a fiscal agreement established by a rule adopted under this division is applicable to a fiscal agreement without having to be restated in the fiscal agreement. 35855
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Sec. 5101.211. (A) As used in this section of the Revised Code: 35858
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(1) "Local area" has the same meaning as in section 101 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, and division (A) of section 6301.01 of the Revised Code; 35860
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(2) "Chief elected official" has the same meaning as in section 101 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, and division (F) of section 6301.01 of the Revised Code; 35864
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(3) "Grantee" means the chief elected officials of a local area. 35868
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(B) The director of job and family services shall enter into one or more written grant agreements with each local area under which financial assistance is awarded for workforce development activities included in the agreements. A grant agreement shall establish the terms and conditions governing the accountability for and use of grants provided by the department of job and family services to the grantee for the administration of workforce development activities funded under the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended. 35870
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(C) In the case of a local area comprised of multiple political subdivisions, nothing in this section shall preclude the chief elected officials of a local area from entering into an 35879
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agreement among themselves to distribute any liability for 35882
activities of the local area, but such an agreement shall not be 35883
binding on the department of job and family services. 35884

(D) The written grant agreement entered into under division 35885
(B) of this section shall comply with all applicable federal and 35886
state laws governing workforce development activities. All federal 35887
conditions and restrictions that apply to the use of grants 35888
received by the department of job and family services shall apply 35889
to the use of the grants received by the local areas from the 35890
department. 35891

(E) A written grant agreement entered into under division (B) 35892
of this section shall: 35893

(1) Identify the chief elected officials for the local area; 35894

(2) Provide for the incorporation of the local workforce 35895
development plan; 35896

(3) Include the chief elected officials' assurance that the 35897
local area and any subgrantee or contractor of the local area will 35898
do all of the following: 35899

(a) Ensure that the financial assistance awarded under the 35900
grant agreement is used, and the workforce development duties 35901
included in the agreement are performed, in accordance with 35902
requirements established by the department or any of the 35903
following: federal or state law, the state plan for receipt of 35904
federal financial participation, grant agreements between the 35905
department and a federal agency, or executive orders. 35906

(b) Ensure that the chief elected officials and any 35907
subgrantee or contractor of the local area utilize a financial 35908
management system and other accountability mechanisms that meet 35909
requirements the department establishes; 35910

(c) Require the chief elected officials and any subgrantee or 35911

contractor of the local area to do both of the following: 35912

(i) Monitor all private and government entities that receive 35913
a payment from financial assistance awarded under the grant 35914
agreement to ensure that each entity uses the payment in 35915
accordance with requirements for the workforce development duties 35916
included in the agreement; 35917

(ii) Take action to recover payments that are not used in 35918
accordance with the requirements for the workforce development 35919
duties that are included in the agreement. 35920

(d) Require the chief elected officials of a local area to 35921
promptly reimburse the department the amount that represents the 35922
amount a local area is responsible for of funds the department 35923
pays to any entity because of an adverse audit finding, adverse 35924
quality control finding, final disallowance of federal financial 35925
participation, or other sanction or penalty; 35926

(e) Require chief elected officials of a local area to take 35927
prompt corrective action if the department, auditor of state, 35928
federal agency, or other entity authorized by federal or state law 35929
to determine compliance with requirements for a workforce 35930
development duty included in the agreement determines compliance 35931
has not been achieved; 35932

(4) Provide that the award of financial assistance is subject 35933
to the availability of federal funds and appropriations made by 35934
the general assembly; 35935

(5) Provide for annual financial, administrative, or other 35936
incentive awards, if any, to be provided in accordance with 35937
section 5101.23 of the Revised Code. 35938

(6) Establish the method of amending or terminating the grant 35939
agreement and an expedited process for correcting terms or 35940
conditions of the agreement that the director and the chief 35941
elected officials agree are erroneous. 35942

(7) Provide for the department of job and family services to award financial assistance for the workforce development duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (F) of this section. 35943
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(8) Determine the dates that the grant agreement begins and ends. 35948
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(F)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing grant agreements. The director shall adopt the rules as if they were internal management rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements and may do any of the following: 35950
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(a) Govern the establishment of consolidated funding allocations and other allocations; 35956
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(b) Specify allowable uses of financial assistance awarded under the agreements; 35958
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(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department or any of the following: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal entity, or executive order. 35960
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(2) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement. 35968
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Sec. ~~5101.211~~ 5101.212. The director of job and family services may enter into a written agreement with one or more state 35971
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agencies, as defined in section 117.01 of the Revised Code, and 35973
state universities and colleges to assist in the coordination, 35974
provision, or enhancement of the family services duties of a 35975
county family services agency or the workforce development 35976
activities of a workforce development agency. The director also 35977
may enter into written agreements or contracts with, or issue 35978
grants to, private and government entities under which funds are 35979
provided for the enhancement or innovation of family services 35980
duties or workforce development activities on the state or local 35981
level. ~~The terms of an agreement, contract, or grant under this~~ 35982
~~section may be incorporated into a partnership agreement the~~ 35983
~~director enters into with a board of county commissioners under~~ 35984
~~section 5101.21 or with the chief elected official of a municipal~~ 35985
~~corporation under section 5101.213 of the Revised Code, if the~~ 35986
~~director and board or chief elected official and state agency,~~ 35987
~~state university or college, or private or government entity~~ 35988
~~agree.~~ 35989

The director may adopt internal management rules in 35990
accordance with section 111.15 of the Revised Code to implement 35991
this section. 35992

Sec. ~~5101.212~~ 5101.213. If the director of job and family 35993
services enters into an agreement or contracts with, or issues a 35994
grant to, a religious organization under section ~~5101.211~~ 5101.212 35995
of the Revised Code, the religious organization shall comply with 35996
section 104 of the Personal Responsibility and Work Opportunity 35997
and Reconciliation Act of 1996 (P.L. 104-193). 35998

Sec. 5101.214. The director of job and family services may 35999
enter into agreements with one-stop operators and one-stop 36000
partners for the purpose of implementing the requirements of 36001
section 121 of the "Workforce Investment Act of 1998," 112 Stat. 36002
936, 29 U.S.C. 2801. 36003

Sec. 5101.22. The department of job and family services may 36004
establish performance and other administrative standards for the 36005
administration and outcomes of family services duties and 36006
workforce development activities and determine at intervals the 36007
department decides the degree to which a county family services 36008
agency or workforce development agency complies with a performance 36009
or other administrative standard. The department may use 36010
statistical sampling, performance audits, case reviews, or other 36011
methods it determines necessary and appropriate to determine 36012
compliance with performance and administrative standards. 36013

~~A performance or other administrative standard established 36014
under this section for a family service duty or workforce 36015
development activity does not apply to a county family services 36016
agency or workforce development agency administering the duty if a 36017
different performance or administrative standard is specified for 36018
the agency's administration of the duty or activity pursuant to a 36019
partnership agreement entered into under section 5101.21 or 36020
5101.213 of the Revised Code. 36021~~

The director of job and family services may adopt rules in 36022
accordance with section 111.15 of the Revised Code to implement 36023
this section. If the director adopts the rules, the director shall 36024
adopt the rules as if they were internal management rules. 36025

Sec. 5101.24. (A) As used in this section, "responsible 36026
entity" means ~~the following:~~ 36027

~~(1) If the family services duty or workforce development 36028
activity involved is included in a partnership agreement a board 36029
of county commissioners and the director of job and family 36030
services enters into under section 5101.21 of the Revised Code, 36031
the board regardless of the fact that or a county family services 36032
agency performs the family services duty or a workforce 36033~~

~~development agency performs the workforce development activity.~~ 36034

~~(2) If the family services duty or workforce development activity involved is not included in a partnership agreement, the county family services agency or workforce development agency, whichever the director of job and family services determines is appropriate to take action against under division (C) of this section.~~ 36035
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~~(B) The~~ Regardless of whether a family services duty is performed by a county family services agency, private or government entity pursuant to a contract entered into under section 307.982 of the Revised Code or division (C)(2) of section 5153.16 of the Revised Code, or private or government provider of a family service duty, the department of job and family services may take action under division (C) of this section against the responsible entity if the department determines any of the following apply to the county family services agency performing the family services duty or workforce development agency providing the workforce development activity are the case: 36041
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~~(1) The agency fails to meet a~~ A requirement of a fiscal agreement entered into under section 5101.21 of the Revised Code that includes the family services duty, including a requirement for fiscal agreements established by rules adopted under that section, is not complied with; 36052
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~~(2) A performance standard specified in a partnership agreement entered into under section 5101.21 or for the family services duty established under section 5101.22 of the Revised Code for the duty or activity is not met;~~ 36057
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~~(2) The agency fails to comply with a~~ (3) A requirement for the family services duty established by the department or any of the following is not complied with: a federal statute or regulations, state statute, or a department rule for the duty or 36061
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activity law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order; 36065
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~~(3)~~(4) The agency responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the family services duty ~~or~~ activity. 36068
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(C) The department may take one or more of the following actions against the responsible entity ~~if~~ when authorized by division (B)(1), (2), ~~or~~ (3), or (4) of this section ~~applies~~: 36074
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(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department; 36077
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(2) Require the responsible entity to do one of the following: 36081
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(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty; 36083
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(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the agency responsible entity is responsible for of an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity; 36085
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(c) Pay the federal government or another entity the amount that represents the amount the agency responsible entity is responsible for of an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial 36092
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participation, or other sanction or penalty issued by the federal 36096
government, auditor of state, or other entity; 36097

(d) Pay the department the amount that represents the amount 36098
the responsible entity is responsible for of an adverse audit 36099
finding, adverse quality control finding, or other sanction or 36100
penalty issued by the department. 36101

(3) Impose a financial or administrative sanction or adverse 36102
audit finding issued by the department against the responsible 36103
entity. A sanction may be increased if the department has 36104
previously taken action against the responsible entity under this 36105
division. 36106

(4) Perform, or contract with a government or private entity 36107
for the entity to perform, the family services duty ~~or workforce~~ 36108
~~development activity~~ until the department is satisfied that the 36109
responsible entity ensures that the duty ~~or activity~~ will be 36110
performed satisfactorily. If the department performs or contracts 36111
with an entity to perform a family services duty ~~or workforce~~ 36112
~~development activity~~ under division (C)(4) of this section, the 36113
department may do either or both of the following: 36114

(a) Spend funds in the county treasury appropriated by the 36115
board of county commissioners for the duty ~~or activity~~; 36116

(b) Withhold funds allocated or reimbursements due to the 36117
responsible entity for the duty ~~or activity~~ and spend the funds 36118
for the duty ~~or activity~~. 36119

(5) Request that the attorney general bring mandamus 36120
proceedings to compel the responsible entity to take or cease the 36121
action that causes division (B)(1), (2), ~~or~~ (3), or (4) of this 36122
section to apply. The attorney general shall bring mandamus 36123
proceedings in the Franklin county court of appeals at the 36124
department's request. 36125

(6) If the department takes action under this division 36126

because of division (B)(3) of this section, withhold funds 36127
allocated or reimbursement due to the responsible entity until the 36128
department determines that the responsible entity is in compliance 36129
with the requirement. The department shall release the funds when 36130
the department determines that compliance has been achieved. 36131

(D) If the department ~~decides~~ proposes to take action against 36132
the responsible entity under division (C) of this section, the 36133
department shall notify the responsible entity and county auditor. 36134
The notice shall be in writing and specify the action the 36135
department proposes to take. The department shall send the notice 36136
by regular United States mail. 36137

~~The~~ Except as provided by division (E) of this section, the 36138
responsible entity may request an administrative review of a 36139
proposed action, ~~other than a proposed action under division~~ 36140
~~(C)(5) of this section, by sending a written request to the~~ 36141
~~department not later than~~ in accordance with administrative review 36142
procedures the department shall establish. The administrative 36143
review procedures shall comply with all of the following: 36144

(1) A request for an administrative review shall state 36145
specifically all of the following: 36146

(a) The proposed action specified in the notice from the 36147
department for which the review is requested; 36148

(b) The reason why the responsible entity believes the 36149
proposed action is inappropriate; 36150

(c) All facts and legal arguments that the responsible entity 36151
wants the department to consider; 36152

(d) The name of the person who will serve as the responsible 36153
entity's representative in the review. 36154

(2) If the department's notice specifies more than one 36155
proposed action and the responsible entity does not specify all of 36156

the proposed actions in its request pursuant to division (D)(1)(a) 36157
of this section, the proposed actions not specified in the request 36158
shall not be subject to administrative review and the parts of the 36159
notice regarding those proposed actions shall be final and binding 36160
on the responsible entity. 36161

(3) In the case of a proposed action under division (C)(1) of 36162
this section, the responsible entity shall have fifteen calendar 36163
days after the department mails the notice to the responsible 36164
entity to send a written request to the department for an 36165
administrative review. If it receives such a request within the 36166
required time, the department shall postpone taking action under 36167
division (C)(1) of this section for fifteen calendar days 36168
following the day it receives the request. ~~The~~ to allow a 36169
representative of the department and a representative of the 36170
responsible entity ~~shall attempt~~ an informal opportunity to 36171
resolve any dispute during that fifteen-day period. 36172

~~(2)~~(4) In the case of a proposed action under division 36173
(C)(2), ~~(3), or (4)~~ of this section, ~~forty-five~~ the responsible 36174
entity shall have thirty calendar days after the department mails 36175
the notice to the responsible entity to send a written request to 36176
the department for an administrative review. ~~The administrative~~ 36177
~~review shall be limited solely to the issue of the amount the~~ 36178
~~responsible entity shall share with the department, reimburse the~~ 36179
~~department, or pay to the federal government or another entity~~ 36180
~~under division (C)(2) of this section.~~ If it receives such a 36181
request within the required time, the department shall postpone 36182
taking action under division (C)(2), (3), or (4) of this section 36183
for thirty calendar days following the day it receives the request 36184
to allow a representative of the department and a representative 36185
of the responsible entity ~~shall attempt~~ an informal opportunity to 36186
resolve any dispute ~~within sixty days~~ during that thirty-day 36187
period. 36188

~~(3) In the case of a proposed action under division (C)(3) or
(4) of this section, forty five days after the department mails
the notice to the responsible entity. The department and
responsible entity shall attempt to resolve any dispute within
sixty days.~~ 36189
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~~If the department and responsible entity fail to resolve any
dispute within the required time, the department shall conduct a
hearing in accordance with Chapter 119. of the Revised Code,
except that the department, notwithstanding section 119.07 of the
Revised Code, is not required to schedule the hearing within
fifteen days of the responsible entity's request.~~ 36194
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~~(E)(5) In the case of a proposed action under division (C)(2)
of this section, the responsible entity may not include in its
request disputes over a finding, final disallowance of federal
financial participation, or other sanction or penalty issued by
the federal government, auditor of state, or entity other than the
department.~~ 36200
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~~(6) If the responsible entity fails to request an
administrative review within the required time, the responsible
entity loses the right to request an administrative review of the
proposed actions specified in the notice and the notice becomes
final and binding on the responsible entity.~~ 36206
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~~(7) If the informal opportunity provided in division (D)(3)
or (4) of this section does not result in a written resolution to
the dispute, the director of job and family services shall appoint
an administrative review panel to conduct the administrative
review. The review panel shall consist of department employees who
are not involved in the department's proposal to take action
against the responsible party. The review panel shall review the
responsible party's request. The review panel may require that the
department or responsible party submit additional information and~~ 36211
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schedule and conduct an informal hearing to obtain testimony or 36220
additional evidence. A review of a proposal to take action under 36221
division (C)(2) of this section shall be limited solely to the 36222
issue of the amount the responsible entity shall share with the 36223
department, reimburse the department, or pay to the federal 36224
government, department, or other entity under division (C)(2) of 36225
this section. The review panel is not required to make a 36226
stenographic record of its hearing or other proceedings. 36227

(8) After finishing an administrative review, an 36228
administrative review panel appointed under division (D)(7) of 36229
this section shall submit a written report to the director setting 36230
forth its findings of fact, conclusions of law, and 36231
recommendations for action. The director may approve, modify, or 36232
disapprove the recommendations. If the director modifies or 36233
disapproves the recommendations, the director shall state the 36234
reasons for the modification or disapproval and the actions to be 36235
taken against the responsible entity. 36236

(9) The director's approval, modification, or disapproval 36237
under division (D)(8) of this section shall be final and binding 36238
on the responsible entity and shall not be subject to further 36239
departmental review. 36240

(E) The responsible entity is not entitled to an 36241
administrative review under division (D) of this section for any 36242
of the following: 36243

(1) An action taken under division (C)(5) or (6) of this 36244
section; 36245

(2) An action taken under section 5101.242 of the Revised 36246
Code; 36247

(3) An action taken under division (C)(2) of this section if 36248
the federal government, auditor of state, or entity other than the 36249
department has identified the county family services agency as 36250

being solely or partially responsible for an adverse audit 36251
finding, adverse quality control finding, final disallowance of 36252
federal financial participation, or other sanction or penalty; 36253

(4) An adjustment to an allocation, cash draw, advance, or 36254
reimbursement to a county family services agency that the 36255
department determines necessary for budgetary reasons; 36256

(5) Withholding of a cash draw or reimbursement due to 36257
noncompliance with a reporting requirement established in rules 36258
adopted under section 5101.243 of the Revised Code. 36259

(F) This section does not apply to other actions the 36260
department takes against the responsible entity pursuant to 36261
authority granted by another state law unless the other state law 36262
requires the department to take the action in accordance with this 36263
section. 36264

(G) The director of job and family services may adopt rules 36265
in accordance with Chapter 119. of the Revised Code as necessary 36266
to implement this section. 36267

Sec. 5101.241. (A) As used in this section: 36268

(1) "Local area" and "chief elected official" have the same 36269
meaning as in section 5101.211 of the Revised Code. 36270

(2) "Responsible entity" means the chief elected officials of 36271
a local area. 36272

(B) The department of job and family services may take action 36273
under division (C) of this section against the responsible entity, 36274
regardless of who performs the workforce development activity, if 36275
the department determines any of the following are the case: 36276

(1) A requirement of a grant agreement entered into under 36277
section 5101.211 of the Revised Code that includes the workforce 36278
development activity, including a requirement for grant agreements 36279
established by rules adopted under that section, is not complied 36280

<u>with;</u>	36281
<u>(2) A performance standard for the workforce development activity established under section 5101.22 of the Revised Code is not met;</u>	36282 36283 36284
<u>(3) A requirement for the workforce development activity established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order;</u>	36285 36286 36287 36288 36289
<u>(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity.</u>	36290 36291 36292 36293 36294 36295
<u>(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section:</u>	36296 36297
<u>(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;</u>	36298 36299 36300 36301 36302
<u>(2) Require the responsible entity to do one of the following:</u>	36303 36304
<u>(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;</u>	36305 36306
<u>(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance</u>	36307 36308 36309 36310

of federal financial participation, or other sanction or penalty 36311
issued by the federal government, auditor of state, or other 36312
entity; 36313

(c) Pay the federal government or another entity the amount 36314
that represents the amount the responsible entity is responsible 36315
for of an adverse audit finding, adverse quality control finding, 36316
final disallowance of federal financial participation, or other 36317
sanction or penalty issued by the federal government, auditor of 36318
state, or other entity; 36319

(d) Pay the department the amount that represents the amount 36320
the responsible entity is responsible for of an adverse audit 36321
finding, adverse quality control finding, or other sanction or 36322
penalty issued by the department. 36323

(3) Impose a financial or administrative sanction or adverse 36324
audit finding issued by the department against the responsible 36325
entity, which may be increased with each subsequent action taken 36326
against the responsible entity. 36327

(4) Perform or contract with a government or private entity 36328
for the entity to perform the workforce development activity until 36329
the department is satisfied that the responsible entity ensures 36330
that the activity will be performed to the department's 36331
satisfaction. If the department performs or contracts with an 36332
entity to perform the workforce development activity under 36333
division (C)(4) of this section, the department may withhold funds 36334
allocated to or reimbursements due to the responsible entity for 36335
the activity and use those funds to implement division (C)(4) of 36336
this section. 36337

(5) Request the attorney general to bring mandamus 36338
proceedings to compel the responsible entity to take or cease the 36339
actions listed in division (B) of this section. The attorney 36340
general shall bring any mandamus proceedings in the Franklin 36341

county court of appeals at the department's request. 36342

(6) If the department takes action under this division 36343
because of division (B)(3) of this section, withhold funds 36344
allocated or reimbursement due to the responsible entity until the 36345
department determines that the responsible entity is in compliance 36346
with the requirement. The department shall release the funds when 36347
the department determines that compliance has been achieved. 36348

(D) The department shall notify the responsible entity and 36349
the appropriate county auditor when the department proposes to 36350
take action under division (C) of this section. The notice shall 36351
be in writing and specify the action the department proposes to 36352
take. The department shall send the notice by regular United 36353
States mail. Except as provided in division (E) of this section, 36354
the responsible entity may request an administrative review of a 36355
proposed action in accordance with administrative review 36356
procedures the department shall establish. The administrative 36357
review procedures shall comply with all of the following: 36358

(1) A request for an administrative review shall state 36359
specifically all of the following: 36360

(a) The proposed action specified in the notice from the 36361
department for which the review is requested; 36362

(b) The reason why the responsible entity believes the 36363
proposed action is inappropriate; 36364

(c) All facts and legal arguments that the responsible entity 36365
wants the department to consider; 36366

(d) The name of the person who will serve as the responsible 36367
entity's representative in the review. 36368

(2) If the department's notice specifies more than one 36369
proposed action and the responsible entity does not specify all of 36370
the proposed actions in its request pursuant to division (D)(1)(a) 36371

of this section, the proposed actions not specified in the request 36372
shall not be subject to administrative review and the parts of the 36373
notice regarding those proposed actions shall be final and binding 36374
on the responsible entity. 36375

(3) In the case of a proposed action under division (C)(1) of 36376
this section, the responsible entity shall have fifteen calendar 36377
days after the department mails the notice to the responsible 36378
entity to send a written request to the department for an 36379
administrative review. If it receives such a request within the 36380
required time, the department shall postpone taking action under 36381
division (C)(1) of this section for fifteen calendar days 36382
following the day it receives the request to allow a 36383
representative of the department and a representative of the 36384
responsible entity an informal opportunity to resolve any dispute 36385
during that fifteen-day period. 36386

(4) In the case of a proposed action under division (C)(2), 36387
(3), or (4) of this section, the responsible entity shall have 36388
thirty calendar days after the department mails the notice to the 36389
responsible entity to send a written request to the department for 36390
an administrative review. If it receives such a request within the 36391
required time, the department shall postpone taking action under 36392
division (C)(2), (3), or (4) of this section for thirty calendar 36393
days following the day it receives the request to allow a 36394
representative of the department and a representative of the 36395
responsible entity an informal opportunity to resolve any dispute 36396
during that thirty-day period. 36397

(5) In the case of a proposed action under division (C)(2) of 36398
this section, the responsible entity may not include in its 36399
request disputes over a finding, final disallowance of federal 36400
financial participation, or other sanction or penalty issued by 36401
the federal government, auditor of state, or other entity other 36402
than the department. 36403

(6) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible entity. 36404
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(7) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute, the director of job and family services shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees who are not involved in the department's proposal to take action against the responsible entity. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(2) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(2) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings. 36409
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(8) After finishing an administrative review, an administrative review panel appointed under division (D)(7) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible entity. 36426
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(9) The director's approval, modification, or disapproval 36435

under division (D)(8) of this section shall be final and binding 36436
on the responsible entity and shall not be subject to further 36437
departmental review. 36438

(E) The responsible entity is not entitled to an 36439
administrative review under division (D) of this section for any 36440
of the following: 36441

(1) An action taken under division (C)(5) or (6) of this 36442
section; 36443

(2) An action taken under section 5101.242 of the Revised 36444
Code; 36445

(3) An action taken under division (C)(2) of this section if 36446
the federal government, auditor of state, or entity other than the 36447
department has identified the responsible entity as being solely 36448
or partially responsible for an adverse audit finding, adverse 36449
quality control finding, final disallowance of federal financial 36450
participation, or other sanction or penalty; 36451

(4) An adjustment to an allocation, cash draw, advance, or 36452
reimbursement to the responsible entity's local area that the 36453
department determines necessary for budgetary reasons; 36454

(5) Withholding of a cash draw or reimbursement due to 36455
noncompliance with a reporting requirement established in rules 36456
adopted under section 5101.243 of the Revised Code. 36457

(F) This section does not apply to other actions the 36458
department takes against the responsible entity pursuant to 36459
authority granted by another state law unless the other state law 36460
requires the department to take the action in accordance with this 36461
section. 36462

(G) The director of job and family services may adopt rules 36463
in accordance with Chapter 119. of the Revised Code as necessary 36464
to implement this section. 36465

Sec. 5101.242. The department of job and family services may 36466
certify a claim to the attorney general under section 131.02 of 36467
the Revised Code for the attorney general to take action under 36468
that section against a responsible entity to recover any funds 36469
that the department determines the responsible entity owes the 36470
department for actions taken under division (C)(2), (3), or (4) of 36471
section 5101.24 or 5101.241 of the Revised Code. 36472

Sec. 5101.243. The director of job and family services may 36473
adopt rules in accordance with section 111.15 of the Revised Code 36474
establishing reporting requirements for family services duties and 36475
workforce development activities. If the director adopts the 36476
rules, the director shall adopt the rules as if they were internal 36477
management rules. 36478

Sec. 5101.36. Any application for public assistance gives a 36479
right of subrogation to the department of job and family services 36480
for any workers' compensation benefits payable to a person who is 36481
subject to a support order, as defined in section 3119.01 of the 36482
Revised Code, on behalf of the applicant, to the extent of any 36483
public assistance payments made on the applicant's behalf. If the 36484
director of job and family services, in consultation with a child 36485
support enforcement agency and the administrator of the bureau of 36486
workers' compensation, determines that a person responsible for 36487
support payments to a recipient of public assistance is receiving 36488
workers' compensation, the director shall notify the administrator 36489
of the amount of the benefit to be paid to the department of job 36490
and family services. 36491

For purposes of this section, "public assistance" means 36492
medical assistance provided through the medical assistance program 36493
established under section 5111.01 of the Revised Code; Ohio works 36494
first provided under Chapter 5107. of the Revised Code; 36495

prevention, retention, and contingency benefits and services 36496
provided under Chapter 5108. of the Revised Code; ~~or~~ disability 36497
financial assistance provided under Chapter 5115. of the Revised 36498
Code; or disability medical assistance provided under Chapter 36499
5115. of the Revised Code. 36500

Sec. 5101.58. As used in this section and section 5101.59 of 36501
the Revised Code, "public assistance" means aid provided under 36502
Chapter 5111. or 5115. of the Revised Code and participation in 36503
the Ohio works first program established under Chapter 5107. of 36504
the Revised Code. 36505

The acceptance of public assistance gives a right of recovery 36506
to the department of job and family services and a county 36507
department of job and family services against the liability of a 36508
third party for the cost of medical services and care arising out 36509
of injury, disease, or disability of the public assistance 36510
recipient or participant. When an action or claim is brought 36511
against a third party by a public assistance recipient or 36512
participant, the entire amount of any settlement or compromise of 36513
the action or claim, or any court award or judgment, is subject to 36514
the recovery right of the department of job and family services or 36515
county department of job and family services. Except in the case 36516
of a recipient or participant who receives medical services or 36517
care through a managed care organization, the department's or 36518
county department's claim shall not exceed the amount of medical 36519
expenses paid by the departments on behalf of the recipient or 36520
participant. In the case of a recipient or participant who 36521
receives medical services or care through a managed care 36522
organization, the amount of the department's or county 36523
department's claim shall be the amount the managed care 36524
organization pays for medical services or care rendered to the 36525
recipient or participant, even if that amount is more than the 36526
amount the departments pay to the managed care organization for 36527

the recipient's or participant's medical services or care. Any 36528
settlement, compromise, judgment, or award that excludes the cost 36529
of medical services or care shall not preclude the departments 36530
from enforcing their rights under this section. 36531

Prior to initiating any recovery action, the recipient or 36532
participant, or the recipient's or participant's representative, 36533
shall disclose the identity of any third party against whom the 36534
recipient or participant has or may have a right of recovery. 36535
Disclosure shall be made to the department of job and family 36536
services when medical expenses have been paid pursuant to Chapter 36537
5111. or 5115. of the Revised Code. Disclosure shall be made to 36538
both the department of job and family services and the appropriate 36539
county department of job and family services when medical expenses 36540
have been paid pursuant to Chapter 5115. of the Revised Code. No 36541
settlement, compromise, judgment, or award or any recovery in any 36542
action or claim by a recipient or participant where the 36543
departments have a right of recovery shall be made final without 36544
first giving the appropriate departments notice and a reasonable 36545
opportunity to perfect their rights of recovery. If the 36546
departments are not given appropriate notice, the recipient or 36547
participant is liable to reimburse the departments for the 36548
recovery received to the extent of medical payments made by the 36549
departments. The departments shall be permitted to enforce their 36550
recovery rights against the third party even though they accepted 36551
prior payments in discharge of their rights under this section if, 36552
at the time the departments received such payments, they were not 36553
aware that additional medical expenses had been incurred but had 36554
not yet been paid by the departments. The third party becomes 36555
liable to the department of job and family services or county 36556
department of job and family services as soon as the third party 36557
is notified in writing of the valid claims for recovery under this 36558
section. 36559

The right of recovery does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the recipient's or participant's own resources. Attorney fees and costs or other expenses in securing any recovery shall not be assessed against any claims of the departments.

To enforce their recovery rights, the departments may do any of the following:

(A) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(B) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(C) Initiate legal proceedings in conjunction with the injured, diseased, or disabled recipient or participant or the recipient's or participant's legal representative.

Recovery rights created by this section may be enforced separately or jointly by the department of job and family services and the county department of job and family services.

The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code the department considers necessary to implement this section.

Sec. 5101.59. (A) The application for or acceptance of public assistance constitutes an automatic assignment of certain rights to the department of job and family services. This assignment includes the rights of the applicant, recipient, or participant and also the rights of any other member of the assistance group for whom the applicant, recipient, or participant can legally make an assignment.

Pursuant to this section, the applicant, recipient, or participant assigns to the department any rights to medical support available to the applicant, recipient, or participant or for other members of the assistance group under an order of a court or administrative agency, and any rights to payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant, recipient, participant, or other members of the assistance group.

Medicare benefits shall not be assigned pursuant to this section. Benefits assigned to the department by operation of this section are directly reimbursable to the department by liable third parties.

(B) Refusal by the applicant, recipient, or participant to cooperate in obtaining medical support and payments for self or any other member of the assistance group renders the applicant, recipient, or participant ineligible for public assistance, unless cooperation is waived by the department. Eligibility shall continue for any individual who cannot legally assign the individual's own rights and who would have been eligible for public assistance but for the refusal to assign the individual's

rights or to cooperate as required by this section by another 36622
person legally able to assign the individual's rights. 36623

If the applicant, recipient, or participant or any member of 36624
the assistance group becomes ineligible for public assistance, the 36625
department shall restore to the applicant, recipient, participant, 36626
or member of the assistance group any future rights to benefits 36627
assigned under this section. 36628

The rights of assignment given to the department under this 36629
section do not include rights to support assigned under section 36630
5107.20 or ~~5115.13~~ 5115.07 of the Revised Code. 36631

(C) The director of job and family services may adopt rules 36632
in accordance with Chapter 119. of the Revised Code to implement 36633
this section, including rules that specify what constitutes 36634
cooperating with efforts to obtain medical support and payments 36635
and when the cooperation requirement may be waived. 36636

Sec. 5101.60. As used in sections 5101.60 to ~~5101.71~~ 5101.70 36637
of the Revised Code: 36638

(A) "Abuse" means the infliction upon an adult, by ~~self~~ the 36639
adult or others, of injury, unreasonable confinement, 36640
intimidation, or cruel punishment with resulting physical harm, 36641
pain, or mental anguish. 36642

(B) "Adult" means any person sixty years of age or older 36643
within this state who is handicapped by the infirmities of aging 36644
or who has a physical or mental impairment which prevents the 36645
person from providing for the person's own care or protection, and 36646
who resides in an independent living arrangement. An "independent 36647
living arrangement" is a domicile of a person's own choosing, 36648
including, but not limited to, a private home, apartment, trailer, 36649
or rooming house. Except as otherwise provided in this division, 36650
"independent living arrangement" includes a community alternative 36651

home licensed pursuant to section 3724.03 of the Revised Code but 36652
does not include other institutions or facilities licensed by the 36653
state, or facilities in which a person resides as a result of 36654
voluntary, civil, or criminal commitment. "Independent living 36655
arrangement" does include adult care facilities licensed pursuant 36656
to Chapter 3722. of the Revised Code. 36657

(C) "Caretaker" means the person assuming the responsibility 36658
for the care of an adult on a voluntary basis, by contract, 36659
through receipt of payment for care, as a result of a family 36660
relationship, or by order of a court of competent jurisdiction. 36661

(D) "Court" means the probate court in the county where an 36662
adult resides. 36663

(E) "Designated agency" means a county agency designated 36664
under division (A)(2) of section 5101.601 of the Revised Code by 36665
the board of county commissioners to serve as the administrative 36666
agency for the county's adult protective services system. 36667

(F) "Emergency" means that ~~the~~ an adult is living in 36668
conditions which present a substantial risk of immediate and 36669
irreparable physical harm or death to ~~self~~ the adult or any other 36670
person. 36671

~~(F)~~(G) "Emergency services" means protective services 36672
furnished to an adult in an emergency. 36673

~~(G)~~(H) "Exploitation" means the unlawful or improper act of a 36674
caretaker using an adult or an adult's resources for monetary or 36675
personal benefit, profit, or gain. 36676

~~(H)~~(I) "In need of protective services" means an adult known 36677
or suspected to be suffering from abuse, neglect, or exploitation 36678
to an extent that either life is endangered or physical harm, 36679
mental anguish, or mental illness results or is likely to result. 36680

~~(I)~~(J) "Incapacitated person" means a person who is impaired 36681

for any reason to the extent that the person lacks sufficient 36682
understanding or capacity to make and carry out reasonable 36683
decisions concerning the person's self or resources, with or 36684
without the assistance of a caretaker. Refusal to consent to the 36685
provision of services shall not be the sole determinative that the 36686
person is incapacitated. "Reasonable decisions" are decisions made 36687
in daily living which facilitate the provision of food, shelter, 36688
clothing, and health care necessary for life support. 36689

~~(J)~~(K) "Law enforcement agency" means a township or municipal 36690
police department or a county sheriff's office. 36691

(L) "Mental illness" means a substantial disorder of thought, 36692
mood, perception, orientation, or memory that grossly impairs 36693
judgment, behavior, capacity to recognize reality, or ability to 36694
meet the ordinary demands of life. 36695

~~(K)~~(M) "Neglect" means the failure of an adult to provide for 36696
~~self~~ the adult the goods or services necessary to avoid physical 36697
harm, mental anguish, or mental illness or the failure of a 36698
caretaker to provide such goods or services. 36699

~~(L)~~(N) "Peace officer" means a peace officer as defined in 36700
section 2935.01 of the Revised Code. 36701

~~(M)~~(O) "Physical harm" means bodily pain, injury, impairment, 36702
or disease suffered by an adult. 36703

~~(N)~~(P) "Protective services" means services ~~provided by that~~ 36704
the county department of job and family services or ~~its~~ a 36705
designated agency provides to an adult who has been determined by 36706
evaluation to require such services for the prevention, 36707
correction, or discontinuance of an act of as well as conditions 36708
resulting from abuse, neglect, or exploitation. Protective 36709
services may include, but are not limited to, case ~~work~~ management 36710
services, medical care, mental health services, legal services, 36711
fiscal management, home health care, homemaker services, 36712

housing-related services, guardianship services, and placement 36713
services as well as the provision of such commodities as food, 36714
clothing, and shelter. 36715

~~(0)~~(0) "Working day" means Monday, Tuesday, Wednesday, 36716
Thursday, and Friday, except when such day is a holiday as defined 36717
in section 1.14 of the Revised Code. 36718

Sec. 5101.601. (A) An adult protective services system may be 36719
implemented in a county. If implemented, the system shall be 36720
implemented in accordance with sections 5101.60 to 5101.70 of the 36721
Revised Code. In implementing the system, both of the following 36722
apply: 36723

(1) The county department of job and family services may 36724
serve as the administrative agency for the system. 36725

(2) If the department does not serve as the administrative 36726
agency, the board of county commissioners may designate another 36727
county agency to serve as the administrative agency for the 36728
system. If the board makes the designation, all reports received 36729
by the department under section 5101.61 of the Revised Code and 36730
all cases referred to it under section 5126.31 of the Revised Code 36731
shall be referred immediately to the agency. 36732

(B) If an adult protective services system is not implemented 36733
in a county, all reports received by a county department of job 36734
and family services under section 5101.61 of the Revised Code and 36735
all cases referred to it under section 5126.31 of the Revised Code 36736
shall be referred immediately to a law enforcement agency with 36737
jurisdiction in the area in which the abuse, neglect, or 36738
exploitation allegedly occurred or is occurring. The department's 36739
responsibility for the report or case is limited to referring the 36740
report or case to the law enforcement agency. 36741

~~Sec. 5101.61. (A) As used in this section:~~ 36742

~~(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.~~

~~(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:~~

~~(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;~~

~~(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;~~

~~(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;~~

~~(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;~~

~~(e) Maintains clinical records on all patients;~~

~~(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services~~

~~supervised by a registered professional nurse, and has a 36773
registered professional nurse on duty at all times of clinical 36774
operations; 36775~~

~~(g) Provides approved methods and procedures for the 36776
dispensing and administration of drugs and biologicals; 36777~~

~~(h) Has established an accounting and record keeping system 36778
to determine reasonable and allowable costs; 36779~~

~~(i) "Ambulatory health facilities" also includes an 36780
alcoholism treatment facility approved by the joint commission on 36781
accreditation of healthcare organizations as an alcoholism 36782
treatment facility or certified by the department of alcohol and 36783
drug addiction services, and such facility shall comply with other 36784
provisions of this division not inconsistent with such 36785
accreditation or certification. 36786~~

~~(3) "Community mental health facility" means a facility which 36787
provides community mental health services and is included in the 36788
comprehensive mental health plan for the alcohol, drug addiction, 36789
and mental health service district in which it is located. 36790~~

~~(4) "Community mental health service" means services, other 36791
than inpatient services, provided by a community mental health 36792
facility. 36793~~

~~(5) "Home health agency" means an institution or a distinct 36794
part of an institution operated in this state which: 36795~~

~~(a) Is primarily engaged in providing home health services; 36796~~

~~(b) Has home health policies which are established by a group 36797
of professional personnel, including one or more duly licensed 36798
doctors of medicine or osteopathy and one or more registered 36799
professional nurses, to govern the home health services it 36800
provides and which includes a requirement that every patient must 36801
be under the care of a duly licensed doctor of medicine or 36802~~

osteopathy; 36803

~~(c) Is under the supervision of a duly licensed doctor of 36804
medicine or doctor of osteopathy or a registered professional 36805
nurse who is responsible for the execution of such home health 36806
policies; 36807~~

~~(d) Maintains comprehensive records on all patients; 36808~~

~~(e) Is operated by the state, a political subdivision, or an 36809
agency of either, or is operated not for profit in this state and 36810
is licensed or registered, if required, pursuant to law by the 36811
appropriate department of the state, county, or municipality in 36812
which it furnishes services; or is operated for profit in this 36813
state, meets all the requirements specified in divisions (A)(5)(a) 36814
to (d) of this section, and is certified under Title XVIII of the 36815
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 36816
amended. 36817~~

~~(6) "Home health service" means the following items and 36818
services, provided, except as provided in division (A)(6)(g) of 36819
this section, on a visiting basis in a place of residence used as 36820
the patient's home: 36821~~

~~(a) Nursing care provided by or under the supervision of a 36822
registered professional nurse; 36823~~

~~(b) Physical, occupational, or speech therapy ordered by the 36824
patient's attending physician; 36825~~

~~(c) Medical social services performed by or under the 36826
supervision of a qualified medical or psychiatric social worker 36827
and under the direction of the patient's attending physician; 36828~~

~~(d) Personal health care of the patient performed by aides in 36829
accordance with the orders of a doctor of medicine or osteopathy 36830
and under the supervision of a registered professional nurse; 36831~~

~~(e) Medical supplies and the use of medical appliances; 36832~~

~~(f) Medical services of interns and residents in training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;~~ 36833
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~~(g) Any of the foregoing items and services which:~~ 36837

~~(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;~~ 36838
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~~(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient there to receive any item or service involving the use of such equipment.~~ 36841
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~~Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 of the Revised Code, any employee of a community alternative home as defined in section 3724.01 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in~~ 36846
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~~section 5122.01 of the Revised Code.~~ 36864

~~(B)~~ Any person having reasonable cause to believe that an 36865
adult has suffered abuse, neglect, or exploitation may report, or 36866
cause reports to be made of such belief to the county department 36867
of job and family services, the designated agency if such an 36868
agency exists for the county, or the law enforcement agency with 36869
jurisdiction in the area in which the abuse, neglect, or 36870
exploitation allegedly occurred or is occurring. 36871

~~(C)~~(B) The reports made under this section shall be made 36872
orally or in writing except that oral reports shall be followed by 36873
a written report if a written report is requested by the 36874
~~department~~ entity that receives the report. Written reports shall 36875
include: 36876

(1) The name, address, and approximate age of the adult who 36877
is the subject of the report; 36878

(2) The name and address of the individual responsible for 36879
the adult's care, if any individual is, and if the individual is 36880
known; 36881

(3) The nature and extent of the alleged abuse, neglect, or 36882
exploitation of the adult; 36883

(4) The basis of the reporter's belief that the adult has 36884
been abused, neglected, or exploited. 36885

~~(D)~~(C) Any person with reasonable cause to believe that an 36886
adult is suffering abuse, neglect, or exploitation who makes a 36887
report pursuant to this section or who testifies in any 36888
administrative or judicial proceeding arising from such a report, 36889
or any employee of the state or any of its subdivisions who is 36890
discharging responsibilities under section 5101.62 of the Revised 36891
Code shall be immune from civil or criminal liability on account 36892
of such investigation, report, or testimony, except liability for 36893
perjury, unless the person has acted in bad faith or with 36894

malicious purpose. 36895

~~(E)~~(D) No employer or any other person with the authority to 36896
do so shall discharge, demote, transfer, prepare a negative work 36897
performance evaluation, or reduce benefits, pay, or work 36898
privileges, or take any other action detrimental to an employee or 36899
in any way retaliate against an employee as a result of the 36900
employee's having filed a report under this section. 36901

~~(F)~~(E) Neither the written or oral report provided for in 36902
this section nor the investigatory report provided for in section 36903
5101.62 of the Revised Code shall be considered a public record as 36904
defined in section 149.43 of the Revised Code. Information 36905
contained in ~~the~~ a report to the department or designated agency 36906
shall upon request be made available to the adult who is the 36907
subject of the report, to agencies authorized by the department or 36908
designated agency to receive information contained in the report, 36909
and to legal counsel for the adult. 36910

Sec. 5101.611. If a county department of job and family 36911
services or designated agency knows or has reasonable cause to 36912
believe that the subject of a report made under section 5101.61 or 36913
of an investigation conducted under sections 5101.62 to 5101.64 or 36914
on the initiative of the department or designated agency is 36915
mentally retarded or developmentally disabled as defined in 36916
section 5126.01 of the Revised Code, the department or designated 36917
agency shall refer the case to the county board of mental 36918
retardation and developmental disabilities of that county for 36919
review pursuant to section 5126.31 of the Revised Code. 36920

If a county board of mental retardation and developmental 36921
disabilities refers a case to the county department of job and 36922
family services or designated agency in accordance with section 36923
5126.31, the department or designated agency shall proceed with 36924
the case in accordance with sections 5101.60 to ~~5101.71~~ 5101.70 of 36925

the Revised Code. 36926

Sec. 5101.62. ~~The~~ In implementing an adult protective 36927
services system, a county department of job and family services 36928
~~shall be responsible for the investigation of all~~ or designated 36929
agency may investigate reports ~~provided for in it~~ receives under 36930
section 5101.61 and ~~all~~ cases referred to it under section 5126.31 36931
of the Revised Code ~~and for evaluating.~~ The department or 36932
designated agency may evaluate the need for and, to the extent of 36933
available funds, ~~providing~~ provide or ~~arranging~~ arrange for the 36934
provision of protective services. ~~The department may designate~~ 36935
~~another agency to perform the department's duties under this~~ 36936
~~section.~~ 36937

Investigation of ~~the~~ a report ~~provided for in~~ received under 36938
section 5101.61 or a case referred to the department or designated 36939
agency under section 5126.31 of the Revised Code shall be 36940
initiated within twenty-four hours after the department or 36941
designated agency receives the report or case if any emergency 36942
exists; otherwise investigation shall be initiated within three 36943
working days. 36944

Investigation of the need for protective services shall 36945
include a face-to-face visit with the adult who is the subject of 36946
the report, preferably in the adult's residence, and consultation 36947
with the person who made the report, if feasible, and agencies or 36948
persons who have information about the adult's alleged abuse, 36949
neglect, or exploitation. 36950

The department or designated agency shall give written notice 36951
of the intent of the investigation and an explanation of the 36952
notice in language reasonably understandable to the adult who is 36953
the subject of the investigation, at the time of the initial 36954
interview with that person. 36955

Upon completion of the investigation, the department or 36956

designated agency shall determine from its findings whether or not the adult who is the subject of the report is in need of protective services. No adult shall be determined to be abused, neglected, or in need of protective services for the sole reason that, in lieu of medical treatment, the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the adult is a member or adherent. The department or designated agency shall write a report which confirms or denies the need for protective services and states why it reached this conclusion.

Sec. 5101.63. If, during the course of an investigation conducted under section 5101.62 of the Revised Code, any person, including the adult who is the subject of the investigation, denies or obstructs access to the residence of the adult, the county department of job and family services or designated agency may file a petition in court for a temporary restraining order to prevent the interference or obstruction. The court shall issue a temporary restraining order to prevent the interference or obstruction if it finds there is reasonable cause to believe that the adult is being or has been abused, neglected, or exploited and access to the person's residence has been denied or obstructed. Such a finding is prima-facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required. After obtaining an order restraining the obstruction of or interference with the access of the protective services representative, the representative may be accompanied to the residence by a peace officer.

Sec. 5101.65. ~~If the county department of job and family services~~ Any person or government entity that determines ~~that~~ an adult is in need of protective services and is an incapacitated

person, ~~the department~~ may petition the court for an order 36988
authorizing the provision of locally available protective 36989
services. The petition shall state the specific facts alleging the 36990
abuse, neglect, or exploitation and shall include a proposed 36991
protective service plan. Any plan for protective services shall be 36992
specified in the petition. 36993

Sec. 5101.67. (A) The court shall hold a hearing on the 36994
petition as provided in section 5101.65 of the Revised Code within 36995
fourteen days after its filing. The adult who is the subject of 36996
the petition shall have the right to be present at the hearing, 36997
present evidence, and examine and cross-examine witnesses. The 36998
adult shall be represented by counsel unless the right to counsel 36999
is knowingly waived. If the adult is indigent, the court shall 37000
appoint counsel to represent the adult. If the court determines 37001
that the adult lacks the capacity to waive the right to counsel, 37002
the court shall appoint counsel to represent the adult's 37003
interests. 37004

(B) If the court finds, on the basis of clear and convincing 37005
evidence, that the adult has been abused, neglected, or exploited, 37006
is in need of protective services, and is incapacitated, and no 37007
person authorized by law or by court order is available to give 37008
consent, it shall issue an order requiring the provision of 37009
protective services only if they are available locally. 37010

(C) If the court orders placement under this section it shall 37011
give consideration to the choice of residence of the adult. The 37012
court may order placement in settings which have been approved by 37013
the county department of job and family services or designated 37014
agency as meeting at least minimum community standards for safety, 37015
security, and the requirements of daily living. The court shall 37016
not order an institutional placement unless it has made a specific 37017
finding entered in the record that no less restrictive alternative 37018

can be found to meet the needs of the individual. No individual 37019
may be committed to a hospital or public hospital as defined in 37020
section 5122.01 of the Revised Code pursuant to this section. 37021

(D) The placement of an adult pursuant to court order as 37022
provided in this section shall not be changed unless the court 37023
authorized the transfer of placement after finding compelling 37024
reasons to justify the transfer. Unless the court finds that an 37025
emergency exists, the court shall notify the adult of a transfer 37026
at least thirty days prior to the actual transfer. 37027

(E) A court order provided for in this section shall remain 37028
in effect for no longer than six months. Thereafter, ~~the county~~ 37029
~~department of job and family services shall review the adult's~~ 37030
~~need for continued services and, if the department determines that~~ 37031
~~there is a continued need, it shall~~ any person or government 37032
entity may apply for a renewal of the order for additional periods 37033
of no longer than one year each. The adult who is the subject of 37034
the court-ordered services may petition for modification of the 37035
order at any time. 37036

Sec. 5101.68. (A) If an adult has consented to the provision 37037
of protective services but any other person refuses to allow such 37038
provision, the county department of human services or designated 37039
agency may petition the court for a temporary restraining order to 37040
restrain the person from interfering with the provision of 37041
protective services for the adult. 37042

(B) The petition shall state specific facts sufficient to 37043
demonstrate the need for protective services, the consent of the 37044
adult, and the refusal of some other person to allow the provision 37045
of these services. 37046

(C) Notice of the petition shall be given in language 37047
reasonably understandable to the person alleged to be interfering 37048
with the provision of services+. 37049

(D) The court shall hold a hearing on the petition within 37050
fourteen days after its filing. If the court finds that the 37051
protective services are necessary, that the adult has consented to 37052
the provisions of such services, and that the person who is the 37053
subject of the petition has prevented such provision, the court 37054
shall issue a temporary restraining order to restrain the person 37055
from interfering with the provision of protective services to the 37056
adult. 37057

Sec. 5101.69. (A) Upon petition by ~~the county department of~~ 37058
~~human services~~ any person or government entity, the court may 37059
issue an order authorizing the provision of protective services on 37060
an emergency basis to an adult. The petition for any emergency 37061
order shall include: 37062

(1) The name, age, and address of the adult in need of 37063
protective services; 37064

(2) The nature of the emergency; 37065

(3) The proposed protective services; 37066

(4) The petitioner's reasonable belief, together with facts 37067
supportive thereof, as to the existence of the circumstances 37068
described in divisions (D)(1) to (3) of this section; 37069

(5) Facts showing the petitioner's attempts to obtain the 37070
adult's consent to the protective services. 37071

(B) Notice of the filing and contents of the petition 37072
provided for in division (A) of this section, the rights of the 37073
person in the hearing provided for in division (C) of this 37074
section, and the possible consequences of a court order, shall be 37075
given to the adult. Notice shall also be given to the spouse of 37076
the adult or, if ~~he~~ the adult has none, to ~~his~~ the adult's adult 37077
children or next of kin, and ~~his~~ the adult's guardian, if any, if 37078
~~his~~ the guardian's whereabouts are known. The notice shall be 37079

given in language reasonably understandable to its recipients at 37080
least twenty-four hours prior to the hearing provided for in this 37081
section. The court may waive the twenty-four hour notice 37082
~~requirement~~ requirement upon a showing that: 37083

(1) Immediate and irreparable physical harm to the adult or 37084
others will result from the twenty-four hour delay; and 37085

(2) Reasonable attempts have been made to notify the adult, 37086
~~his~~ the adult's spouse, or, if ~~he~~ the adult has none, ~~his~~ the 37087
adult's adult children or next of kin, if any, and ~~his~~ the adult's 37088
guardian, if any, if ~~his~~ the guardian's whereabouts are known. 37089

Notice of the court's determination shall be given to all 37090
persons receiving notice of the filing of the petition provided 37091
for in this division. 37092

(C) Upon receipt of a petition for an order for emergency 37093
services, the court shall hold a hearing no sooner than 37094
twenty-four and no later than seventy-two hours after the notice 37095
provided for in division (B) of this section has been given, 37096
unless the court has waived the notice. The adult who is the 37097
subject of the petition shall have the right to be present at the 37098
hearing, present, evidence, and examine and cross-examine 37099
witnesses. 37100

(D) The court shall issue an order authorizing the provision 37101
of protective services on an emergency basis if it finds, on the 37102
basis of clear and convincing evidence, that: 37103

(1) The adult is an incapacitated person; 37104

(2) An emergency exists; 37105

(3) No person authorized by law or court order to give 37106
consent for the adult is available or willing to consent to 37107
emergency services. 37108

(E) In issuing an emergency order, the court shall adhere to 37109

the following limitations: 37110

(1) The court shall order only such protective services as 37111
are necessary and available locally to remove the conditions 37112
creating the emergency, and the court shall specifically designate 37113
those protective services the adult shall receive; 37114

(2) The court shall not order any change of residence under 37115
this section unless the court specifically finds that a change of 37116
residence is necessary; 37117

(3) The court may order emergency ~~services~~ services only for 37118
fourteen days. ~~The department~~ Any person or government entity may 37119
petition the court for a renewal of the order for a fourteen-day 37120
period upon a showing that continuation of the order is necessary 37121
to remove the emergency. 37122

(4) In its order the court shall authorize ~~the director of~~ 37123
~~the department or his designee to give consent for the person for~~ 37124
the approved emergency services until the expiration of the order; 37125

(5) The court shall not order a person to a hospital or 37126
public hospital as defined in section 5122.01 of the Revised Code. 37127

(F) If ~~the department~~ any person or government entity 37128
determines that the adult continues to need protective services 37129
after the order provided for in division (D) of this section has 37130
expired, the ~~department~~ person or government entity may petition 37131
the court for an order to continue protective services that are 37132
available locally, pursuant to section 5101.65 of the Revised 37133
Code. After the filing of the petition, the department or 37134
designated agency may continue to provide protective services 37135
pending a hearing by the court. If no petition is filed pursuant 37136
to this division and the court determines that the adult continues 37137
to need protective services, the court on its own motion may order 37138
the continuation of protective services that are available 37139
locally. 37140

Sec. 5101.70. (A) ~~If~~ In implementing an adult protective services system, if it appears that an adult in need of protective services has the financial means sufficient to pay for such services, the county department of job and family services or designated agency shall make an evaluation regarding such means. If the evaluation establishes that the adult has such financial means, the department or designated agency shall initiate procedures for reimbursement ~~pursuant to rules promulgated by the department~~. If the evaluation establishes that the adult does not have such financial means, the services shall be provided if available locally and in accordance with the policies and procedures established by the department ~~of job and family services for the provision of welfare assistance~~ or designated agency. An adult shall not be required to pay for court-ordered protective services unless the court determines upon a showing by the department that the adult is financially able to pay and the court orders the adult to pay.

(B) Whenever the department or designated agency has petitioned the court to authorize the provision of protective services and the adult who is the subject of the petition is indigent, the court shall appoint legal counsel.

Sec. 5101.75. (A) As used in sections 5101.75, 5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code:

(1) "Alternative source of long-term care" includes a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under Chapter 3722. of the Revised Code, home and community-based services, and a nursing home licensed under Chapter 3721. of the Revised Code that is not a nursing facility.

(2) "Medicaid" means the medical assistance program

established under Chapter 5111. of the Revised Code. 37171

(3) "Nursing facility" has the same meaning as in section 37172
5111.20 of the Revised Code. 37173

(4) "Representative" means a person acting on behalf of an 37174
applicant for admission to a nursing facility. A representative 37175
may be a family member, attorney, hospital social worker, or any 37176
other person chosen to act on behalf of an applicant. 37177

(5) "Third-party payment source" means a third-party payer as 37178
defined in section 3901.38 of the Revised Code or medicaid. 37179

(B) Effective July 1, 1994, the department of job and family 37180
services may assess a person applying or intending to apply for 37181
admission to a nursing facility who is not an applicant for or 37182
recipient of medicaid to determine whether the person is in need 37183
of nursing facility services and whether an alternative source of 37184
long-term care is more appropriate for the person in meeting the 37185
person's physical, mental, and psychosocial needs than admission 37186
to the facility to which the person has applied. 37187

Each assessment shall be performed by the department or an 37188
agency designated by the department under section 5101.751 of the 37189
Revised Code and shall be based on information provided by the 37190
person or the person's representative. It shall consider the 37191
person's physical, mental, and psychosocial needs and the 37192
availability and effectiveness of informal support and care. The 37193
department or designated agency shall determine the person's 37194
physical, mental, and psychosocial needs by using, to the maximum 37195
extent appropriate, information from the resident assessment 37196
~~instrument~~ medium or media specified in rules adopted by the 37197
department under ~~division (A)~~ of section 5111.231 of the Revised 37198
Code. The department or designated agency shall also use the 37199
criteria and procedures established in rules adopted by the 37200
department under division (I) of this section. Assessments may be 37201

performed only by persons certified by the department under 37202
section 5101.752 of the Revised Code. The department or designated 37203
agency shall make a recommendation on the basis of the assessment 37204
and, not later than the time the assessment is required to be 37205
performed under division (D) of this section, give the person 37206
assessed written notice of the recommendation, which shall explain 37207
the basis for the recommendation. If the department or designated 37208
agency determines pursuant to an assessment that an alternative 37209
source of long-term care is more appropriate for the person than 37210
admission to the facility to which the person has applied, the 37211
department or designated agency shall include in the notice 37212
possible sources of financial assistance for the alternative 37213
source of long-term care. If the department or designated agency 37214
has been informed that the person has a representative, it shall 37215
give the notice to the representative. 37216

(C) A person is not required to be assessed under division 37217
(B) of this section if any of the following apply: 37218

(1) The circumstances specified by rules adopted under 37219
division (I) of this section exist. 37220

(2) The person is to receive care in a nursing facility under 37221
a contract for continuing care as defined in section 173.13 of the 37222
Revised Code. 37223

(3) The person has a contractual right to admission to a 37224
nursing facility operated as part of a system of continuing care 37225
in conjunction with one or more facilities that provide a less 37226
intensive level of services, including a residential care facility 37227
licensed under Chapter 3721. of the Revised Code, an adult-care 37228
facility licensed under Chapter 3722. of the Revised Code, or an 37229
independent living arrangement; 37230

(4) The person is to receive continual care in a home for the 37231
aged exempt from taxation under section 5701.13 of the Revised 37232

Code;	37233
(5) The person is to receive care in the nursing facility for not more than fourteen days in order to provide temporary relief to the person's primary caregiver and the nursing facility notifies the department of the person's admittance not later than twenty-four hours after admitting the person;	37234 37235 37236 37237 37238
(6) The person is to be transferred from another nursing facility, unless the nursing facility from which or to which the person is to be transferred determines that the person's medical condition has changed substantially since the person's admission to the nursing facility from which the person is to be transferred or a review is required by a third-party payment source;	37239 37240 37241 37242 37243 37244
(7) The person is to be readmitted to a nursing facility following a period of hospitalization, unless the hospital or nursing facility determines that the person's medical condition has changed substantially since the person's admission to the hospital, or a review is required by a third-party payment source;	37245 37246 37247 37248 37249
(8) The department or designated agency fails to complete an assessment within the time required by division (D) or (E) of this section or determines after a partial assessment that the person should be exempt from the assessment.	37250 37251 37252 37253
(D) The department or designated agency shall perform a complete assessment, or, if circumstances provided by rules adopted under division (I) of this section exist, a partial assessment, as follows:	37254 37255 37256 37257
(1) In the case of a hospitalized person applying or intending to apply to a nursing facility, not later than two working days after the person or the person's representative is notified that a bed is available in a nursing facility;	37258 37259 37260 37261
(2) In the case of an emergency as determined in accordance with rules adopted under division (I) of this section, not later	37262 37263

than one working day after the person or the person's 37264
representative is notified that a bed is available in a nursing 37265
facility; 37266

(3) In all other cases, not later than five calendar days 37267
after the person or the person's representative who submits the 37268
application is notified that a bed is available in a nursing 37269
facility. 37270

(E) If the department or designated agency conducts a partial 37271
assessment under division (D) of this section, it shall complete 37272
the rest of the assessment not later than one hundred eighty days 37273
after the date the person is admitted to the nursing facility 37274
unless the assessment entity determines the person should be 37275
exempt from the assessment. 37276

(F) A person assessed under this section or the person's 37277
representative may file a complaint with the department about the 37278
assessment process. The department shall work to resolve the 37279
complaint in accordance with rules adopted under division (I) of 37280
this section. 37281

(G) A person is not required to seek an alternative source of 37282
long-term care and may be admitted to or continue to reside in a 37283
nursing facility even though an alternative source of long-term 37284
care is available or the person is determined pursuant to an 37285
assessment under this section not to need nursing facility 37286
services. 37287

(H) No nursing facility ~~with~~ for which an operator has a 37288
provider agreement with the department under section 5111.22 of 37289
the Revised Code shall admit or retain any person, other than a 37290
person exempt from the assessment requirement as provided by 37291
division (C) of this section, as a resident unless the nursing 37292
facility has received evidence that a complete or partial 37293
assessment has been completed. 37294

(I) The director of job and family services shall adopt rules 37295
in accordance with Chapter 119. of the Revised Code to implement 37296
and administer this section. The rules shall include all of the 37297
following: 37298

(1) The information a person being assessed or the person's 37299
representative must provide to enable the department or designated 37300
agency to do the assessment; 37301

(2) Criteria to be used to determine whether a person is in 37302
need of nursing facility services; 37303

(3) Criteria to be used to determine whether an alternative 37304
source of long-term care is appropriate for the person being 37305
assessed; 37306

(4) Criteria and procedures to be used to determine a 37307
person's physical, mental, and psychosocial needs; 37308

(5) Criteria to be used to determine the effectiveness and 37309
continued availability of a person's current source of informal 37310
support and care; 37311

(6) Circumstances, in addition to those specified in division 37312
(C) of this section, under which a person is not required to be 37313
assessed; 37314

(7) Circumstances under which the department or designated 37315
agency may perform a partial assessment under division (D) of this 37316
section; 37317

(8) The method by which a situation will be determined to be 37318
an emergency for the purpose of division (D)(2) of this section; 37319

(9) The method by which the department will attempt to 37320
resolve complaints filed under division (F) of this section. 37321

(J) The director of job and family services may fine a 37322
nursing facility an amount determined by rules the director shall 37323
adopt in accordance with Chapter 119. of the Revised Code in 37324

either of the following circumstances:	37325
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	37326 37327 37328
(2) The nursing facility admits, without evidence that a complete or partial assessment has been conducted, a person other than a person exempt from the assessment requirement as provided by division (C) of this section.	37329 37330 37331 37332
The director shall deposit all fines collected under this division into the residents protection fund established by section 5111.62 of the Revised Code.	37333 37334 37335
Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:	37336 37337
(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.	37338 37339
(2) "State agency" has the same meaning as in section 9.82 of the Revised Code.	37340 37341
(3) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended:	37342 37343 37344 37345 37346
(a) The Ohio works first program established under Chapter 5107. of the Revised Code;	37347 37348
(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;	37349 37350
(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant	37351 37352 37353

to section 5101.801 of the Revised Code; 37354

(d) A component of a Title IV-A program identified under 37355
divisions (A)(3)(a) to (c) of this section that the Title IV-A 37356
state plan prepared under division (C)(1) of this section 37357
identifies as a component. 37358

(B) The department of job and family services shall act as 37359
the single state agency to administer and supervise the 37360
administration of Title IV-A programs. The Title IV-A state plan 37361
and amendments to the plan prepared under division (C) of this 37362
section are binding on county family services agencies and state 37363
agencies that administer a Title IV-A program. No county family 37364
services agency or state agency administering a Title IV-A program 37365
may establish, by rule or otherwise, a policy governing the Title 37366
IV-A program that is inconsistent with a Title IV-A program policy 37367
established, in rule or otherwise, by the director of job and 37368
family services. 37369

(C) The department of job and family services shall do all of 37370
the following: 37371

(1) Prepare and submit to the United States secretary of 37372
health and human services a Title IV-A state plan for Title IV-A 37373
programs; 37374

(2) Prepare and submit to the United States secretary of 37375
health and human services amendments to the Title IV-A state plan 37376
that the department determines necessary, including amendments 37377
necessary to implement Title IV-A programs identified in division 37378
(A)(3)(c) and (d) of this section; 37379

(3) Prescribe forms for applications, certificates, reports, 37380
records, and accounts of county family services agencies and state 37381
agencies administering a Title IV-A program, and other matters 37382
related to Title IV-A programs; 37383

(4) Make such reports, in such form and containing such 37384

information as the department may find necessary to assure the 37385
correctness and verification of such reports, regarding Title IV-A 37386
programs; 37387

(5) Require reports and information from each county family 37388
services agency and state agency administering a Title IV-A 37389
program as may be necessary or advisable regarding the Title IV-A 37390
program; 37391

(6) Afford a fair hearing in accordance with section 5101.35 37392
of the Revised Code to any applicant for, or participant or former 37393
participant of, a Title IV-A program aggrieved by a decision 37394
regarding the program; 37395

(7) Administer and expend, pursuant to Chapters 5104., 5107., 37396
and 5108. of the Revised Code and section 5101.801 of the Revised 37397
Code, any sums appropriated by the general assembly for the 37398
purpose of those chapters and section and all sums paid to the 37399
state by the secretary of the treasury of the United States as 37400
authorized by Title IV-A of the "Social Security Act," 110 Stat. 37401
2113 (1996), 42 U.S.C. 601, as amended; 37402

(8) Conduct investigations and audits as are necessary 37403
regarding Title IV-A programs; 37404

(9) Enter into reciprocal agreements with other states 37405
relative to the provision of Ohio works first and prevention, 37406
retention, and contingency to residents and nonresidents; 37407

(10) Contract with a private entity to conduct an independent 37408
on-going evaluation of the Ohio works first program and the 37409
prevention, retention, and contingency program. The contract must 37410
require the private entity to do all of the following: 37411

(a) Examine issues of process, practice, impact, and 37412
outcomes; 37413

(b) Study former participants of Ohio works first who have 37414

not participated in Ohio works first for at least one year to 37415
determine whether they are employed, the type of employment in 37416
which they are engaged, the amount of compensation they are 37417
receiving, whether their employer provides health insurance, 37418
whether and how often they have received benefits or services 37419
under the prevention, retention, and contingency program, and 37420
whether they are successfully self sufficient; 37421

(c) Provide the department with reports at times the 37422
department specifies. 37423

(11) Not later than January 1, 2001, and the first day of 37424
each January and July thereafter, prepare a report containing 37425
information on the following: 37426

(a) Individuals exhausting the time limits for participation 37427
in Ohio works first set forth in section 5107.18 of the Revised 37428
Code. 37429

(b) Individuals who have been exempted from the time limits 37430
set forth in section 5107.18 of the Revised Code and the reasons 37431
for the exemption. 37432

(12) Not later than January 1, 2001, and on a quarterly basis 37433
thereafter until December 1, 2003, prepare, to the extent the 37434
necessary data is available to the department, a report based on 37435
information determined under section 5107.80 of the Revised Code 37436
that states how many former Ohio works first participants entered 37437
the workforce during the most recent previous quarter for which 37438
the information is known and includes information regarding the 37439
earnings of those former participants. The report shall include a 37440
county-by-county breakdown and shall not contain the names or 37441
social security numbers of former participants. 37442

(13) To the extent authorized by section 5101.801 of the 37443
Revised Code, enter into interagency agreements with state 37444
agencies for the administration of Title IV-A programs identified 37445

under division (A)(3)(c) and (d) of this section. 37446

(D) The department shall provide copies of the reports it 37447
receives under division (C)(10) of this section and prepares under 37448
divisions (C)(11) and (12) of this section to the governor, the 37449
president and minority leader of the senate, and the speaker and 37450
minority leader of the house of representatives. The department 37451
shall provide copies of the reports to any private or government 37452
entity on request. 37453

(E) An authorized representative of the department or a 37454
county family services agency or state agency administering a 37455
Title IV-A program shall have access to all records and 37456
information bearing thereon for the purposes of investigations 37457
conducted pursuant to this section. 37458

Sec. 5101.83. (A) As used in this section: 37459

(1) "Assistance group" has the same meaning as in ~~sections~~ 37460
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it 37461
also means a group provided benefits and services under the 37462
prevention, retention, and contingency program ~~because the members~~ 37463
~~of the group share a common need for benefits and services.~~ 37464

(2) "Fraudulent assistance" means assistance and service, 37465
including cash assistance, provided under the Ohio works first 37466
program established under Chapter 5107., or benefits and services 37467
provided under the prevention, retention, and contingency program 37468
established under Chapter 5108. of the Revised Code, to or on 37469
behalf of an assistance group that is provided as a result of 37470
fraud by a member of the assistance group, including an 37471
intentional violation of the program's requirements. "Fraudulent 37472
assistance" does not include assistance or services to or on 37473
behalf of an assistance group that is provided as a result of an 37474
error that is the fault of a county department of job and family 37475
services or the state department of job and family services. 37476

(B) If a county director of job and family services 37477
determines that an assistance group has received fraudulent 37478
assistance, the assistance group is ineligible to participate in 37479
the Ohio works first program or the prevention, retention, and 37480
contingency program until a member of the assistance group repays 37481
the cost of the fraudulent assistance. If a member repays the cost 37482
of the fraudulent assistance and the assistance group otherwise 37483
meets the eligibility requirements for the Ohio works first 37484
program or the prevention, retention, and contingency program, the 37485
assistance group shall not be denied the opportunity to 37486
participate in the program. 37487

This section does not limit the ability of a county 37488
department of job and family services to recover erroneous 37489
payments under section 5107.76 of the Revised Code. 37490

The state department of job and family services shall adopt 37491
rules in accordance with Chapter 119. of the Revised Code to 37492
implement this section. 37493

Sec. 5101.97. (A)(1) Not later than the ~~first~~ last day of 37494
each July and January, the department of job and family services 37495
shall complete a report on the characteristics of the individuals 37496
who participate in or receive services through the programs 37497
operated by the department and the outcomes of the individuals' 37498
participation in or receipt of services through the programs. The 37499
~~report~~ reports shall be for the six-month periods ending on the 37500
last days of June and December and shall include information on 37501
the following: 37502

(a) Work activities, developmental activities, and 37503
alternative work activities established under sections 5107.40 to 37504
5107.69 of the Revised Code; 37505

(b) Programs of publicly funded child day-care, as defined in 37506

section 5104.01 of the Revised Code; 37507

(c) Child support enforcement programs; 37508

(d) Births to recipients of the medical assistance program 37509
established under Chapter 5111. of the Revised Code. 37510

~~(2) Not later than the first day of each July, the department 37511
shall complete a progress report on the partnership agreements 37512
between the director of job and family services and boards of 37513
county commissioners under section 5101.21 of the Revised Code. 37514
The report shall include a review of whether the county family 37515
services agencies and workforce development agencies satisfied 37516
performance standards included in the agreements and whether the 37517
department provided assistance, services, and technical support 37518
specified in the agreements to aid the agencies in meeting the 37519
performance standards. 37520~~

~~(3) The department shall submit the reports required under 37521
divisions division (A)(1) and (2) of this section to the speaker 37522
and minority leader of the house of representatives, the president 37523
and minority leader of the senate, the legislative budget officer, 37524
the director of budget and management, and each board of county 37525
commissioners. The department shall provide copies of ~~each report~~ 37526
the reports to any person or government entity on request. 37527~~

In designing the format for ~~each report~~ the reports, the 37528
department shall consult with individuals, organizations, and 37529
government entities interested in the programs operated by the 37530
department, so that the reports are designed to enable the general 37531
assembly and the public to evaluate the effectiveness of the 37532
programs and identify any needs that the programs are not meeting. 37533

(B) Whenever the federal government requires that the 37534
department submit a report on a program that is operated by the 37535
department or is otherwise under the department's jurisdiction, 37536
the department shall prepare and submit the report in accordance 37537

with the federal requirements applicable to that report. To the 37538
extent possible, the department may coordinate the preparation and 37539
submission of a particular report with any other report, plan, or 37540
other document required to be submitted to the federal government, 37541
as well as with any report required to be submitted to the general 37542
assembly. The reports required by the Personal Responsibility and 37543
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 37544
submitted as an annual summary. 37545

Sec. 5101.99. ~~(A) Whoever violates division (A) or (B) of 37546
section 5101.61 of the Revised Code shall be fined not more than 37547
five hundred dollars. 37548~~

~~(B) Whoever violates division (A) of section 5101.27 of the 37549
Revised Code is guilty of a misdemeanor of the first degree. 37550~~

Sec. 5103.031. (A) Except as provided in section 5103.033 of 37551
the Revised Code, the department of job and family services may 37552
not issue a certificate under section 5103.03 of the Revised Code 37553
to a foster home unless the foster caregiver successfully 37554
completes the following amount of preplacement training through 37555
~~the Ohio child welfare training program or~~ a preplacement training 37556
program operated under section 5103.034 or 5153.60 of the Revised 37557
Code: 37558

(1) If the foster home is a family foster home, at least 37559
twelve hours; 37560

(2) If the foster home is a specialized foster home, at least 37561
thirty-six hours. 37562

(B) No child may be placed in a family foster home unless the 37563
foster caregiver completes at least twelve additional hours of 37564
preplacement training through ~~the Ohio child welfare training 37565
program or~~ a preplacement training program operated under section 37566
5103.034 or 5153.60 of the Revised Code. 37567

Sec. 5103.033. The department of job and family services may 37568
issue or renew a certificate under section 5103.03 of the Revised 37569
Code to a foster home for the care of a child who is in the 37570
custody of a public children services agency or private child 37571
placing agency pursuant to an agreement entered into under section 37572
5103.15 of the Revised Code regarding a child who was less than 37573
six months of age on the date the agreement was executed if the 37574
foster caregiver successfully completes the following amount of 37575
training: 37576

(A) For an initial certificate, at least twelve hours of 37577
preplacement training through ~~the Ohio child welfare training~~ 37578
~~program~~ or a preplacement training program operated under section 37579
5103.034 or 5153.60 of the Revised Code; 37580

(B) For renewal of a certificate, at least twelve hours each 37581
year of continuing training in accordance with the foster 37582
caregiver's needs assessment and continuing training plan 37583
developed and implemented under section 5103.035 of the Revised 37584
Code. 37585

Sec. 5103.034. (A) A public children services agency, private 37586
child placing agency, or private noncustodial agency operating a 37587
preplacement training program or continuing training program 37588
approved by the department of job and family services under 37589
section 5103.038 of the Revised Code or the Ohio child welfare 37590
training program operating a preplacement training program or 37591
continuing training program pursuant to section 5153.60 of the 37592
Revised Code shall make the program available to foster 37593
caregivers. The agency or program shall make the programs 37594
available without regard to the type of recommending agency from 37595
which a foster caregiver seeks a recommendation ~~and without charge~~ 37596
~~to the foster caregiver.~~ 37597

(B) A private child placing agency or private noncustodial agency operating a preplacement training program or continuing training program approved by the department of job and family services under section 5103.038 of the Revised Code may condition the enrollment of a foster caregiver in a program on either or both of the following: 37598
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(1) Availability of space in the training program; 37604

(2) If applicable, payment of an instruction or registration fee, if any, by the foster caregiver's recommending agency. 37605
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(C) The Ohio child welfare training program operating a preplacement training program or continuing training program pursuant to section 5153.60 of the Revised Code may condition the enrollment in a preplacement training program or continuing training program of a foster caregiver whose recommending agency is a private child placing agency or private noncustodial agency on either or both of the following: 37607
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(1) Availability of space in the training program; 37614

(2) Assignment to the program by the foster caregiver's recommending agency of the allowance payable under section 5103.0313 of the Revised Code. 37615
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(D) A private child placing agency or private noncustodial agency may contract with an individual or a public or private entity to administer a preplacement training program or continuing training program operated by the agency and approved by the department of job and family services under section 5103.038 of the Revised Code. 37618
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Sec. 5103.036. For the purpose of determining whether a foster caregiver has satisfied the requirement of section 5103.031 or 5103.032 of the Revised Code, a recommending agency shall accept training obtained from ~~the Ohio child welfare training~~ 37624
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~~program or pursuant to~~ a preplacement training program or 37628
continuing training program operated under section 5103.034 or 37629
5153.60 of the Revised Code regardless of whether the program is 37630
operated by the recommending agency ~~operated the preplacement~~ 37631
~~training program or continuing training program~~. The agency may 37632
require that the foster caregiver successfully complete additional 37633
training as a condition of the agency recommending that the 37634
department of job and family services certify or recertify the 37635
foster caregiver's foster home under section 5103.03 of the 37636
Revised Code. 37637

Sec. 5103.037. The department of job and family services, in 37638
consultation with the departments of youth services, mental 37639
health, education, mental retardation and developmental 37640
disabilities, and alcohol and drug addiction services, shall 37641
develop a model design of a preplacement training program for 37642
foster caregivers seeking an initial certificate under section 37643
5103.03 of the Revised Code and a model design of a continuing 37644
training program for foster caregivers seeking renewal of a 37645
certificate under that section. The model design of a preplacement 37646
training program shall comply with section 5103.039 of the Revised 37647
Code. The model design of a continuing training program shall 37648
comply with section 5103.0310 of the Revised Code. The department 37649
of job and family services shall make the model designs available 37650
to ~~public children services agencies~~ the Ohio child welfare 37651
training program, private child placing agencies, and private 37652
noncustodial agencies. 37653

Sec. 5103.038. (A) Every other year by a date specified in 37654
rules adopted under section 5103.0316 of the Revised Code, each 37655
~~public children services agency~~, private child placing agency, and 37656
private noncustodial agency that seeks to operate a preplacement 37657
training program or continuing training program under section 37658

5103.034 of the Revised Code shall submit to the department of job 37659
and family services a proposal outlining the program. The proposal 37660
may be the same as, a modification of, or different from, a model 37661
design developed under section 5103.037 of the Revised Code. ~~The 37662
proposal shall include a budget for the program regarding the cost 37663
associated with trainers, obtaining sites at which the training is 37664
provided, and the administration of the training. The budget shall 37665
be consistent with rules adopted under section 5103.0316 of the 37666
Revised Code governing the department of job and family services' 37667
reimbursement of public children services agencies, private child 37668
placing agencies, and private noncustodial agencies under section 37669
5103.0313 of the Revised Code.~~ 37670

(B) Not later than thirty days after receiving a proposal 37671
under division (A) of this section, the department shall either 37672
approve or disapprove the proposed program. The department shall 37673
approve a proposed preplacement training program if it complies 37674
with section 5103.039 or 5103.0310 of the Revised Code, as 37675
appropriate, and, in the case of a proposal submitted by an agency 37676
operating a preplacement training program at the time the proposal 37677
is submitted, the department is satisfied with the agency's 37678
operation of the program. The department shall approve a proposed 37679
continuing training program if it complies with section 5103.0310 37680
or 5103.0311 of the Revised Code, as appropriate, and, in the case 37681
of a proposal submitted by an agency operating a continuing 37682
training program at the time the proposal is submitted, the 37683
department is satisfied with the agency's operation of the 37684
program. ~~The department shall disapprove a proposed program if the 37685
program's budget is not consistent with rules adopted under 37686
section 5103.0316 of the Revised Code governing the department's 37687
reimbursement of public children services agencies, private child 37688
placing agencies, and private noncustodial agencies under section 37689
5103.0313 of the Revised Code.~~ If the department disapproves a 37690
proposal, it shall provide the reason for disapproval to the 37691

agency that submitted the proposal and advise the agency of how to 37692
revise the proposal so that the department can approve it. 37693

(C) The department's approval under division (B) of this 37694
section of a proposed preplacement training program or continuing 37695
training program is valid only for two years following the year 37696
the proposal for the program is submitted to the department under 37697
division (A) of this section. 37698

Sec. 5103.0312. A public children services agency, private 37699
child placing agency, or private noncustodial agency acting as a 37700
recommending agency for foster caregivers who hold certificates 37701
issued under section 5103.03 of the Revised Code shall pay those 37702
foster caregivers ~~who have had at least one foster child placed in~~ 37703
~~their home~~ a stipend to reimburse them for attending ~~training~~ 37704
~~courses provided by the Ohio child welfare training program or~~ 37705
~~pursuant to~~ a preplacement training program or continuing training 37706
program operated under section 5103.034 or 5153.60 of the Revised 37707
Code. The payment shall be based on a stipend rate established by 37708
the department of job and family services. The stipend rate shall 37709
be the same regardless of the type of recommending agency from 37710
which a foster caregiver seeks a recommendation. The department 37711
shall, pursuant to rules adopted under section 5103.0316 of the 37712
Revised Code, reimburse the recommending agency for stipend 37713
payments it makes in accordance with this section. 37714

Sec. 5103.0313. The department of job and family services 37715
shall ~~reimburse the following~~ compensate a private child placing 37716
agency or private noncustodial agency for the cost of ~~providing~~ 37717
procuring or operating preplacement and continuing training ~~to~~ 37718
~~foster caregivers.~~ 37719

~~(A) The Ohio child welfare training program;~~ 37720

~~(B) A public children services agency, private child placing~~ 37721

~~agency, or private noncustodial agency through a preplacement training program or continuing training program operated programs under section 5103.034 of the Revised Code for foster caregivers who are recommended for initial certification or recertification by the agency.~~ 37722
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~~The ~~reimbursement~~ compensation shall be ~~on a per diem basis~~ and limited to the cost associated with the trainer, obtaining a site at which the training is provided, and the administration of the training paid to the agency in the form of an allowance for each hour of preplacement and continuing training provided or received. A reimbursement rate shall be the same regardless of whether the training program is operated by the Ohio child welfare training program or a public children services agency, private child placing agency, or private noncustodial agency.~~ 37727
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Sec. 5103.0314. The department of job and family services shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ of any training the agency requires a foster caregiver to undergo as a condition of the agency recommending the department certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code if the training is in addition to the minimum training required by section 5103.031 or 5103.032 of the Revised Code. 37736
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Sec. 5103.0315. The department of job and family services shall seek federal financial participation for the cost of making payments under section 5103.0312 of the Revised Code and ~~reimbursements~~ allowances under section 5103.0313 of the Revised Code. The department shall notify the governor, president of the senate, minority leader of the senate, speaker of the house of representatives, and minority leader of the house of representatives of any proposed federal legislation that endangers the federal financial participation. 37744
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Sec. 5103.0316. ~~Not later than ninety days after January 1,~~ 37753
~~2001,~~ The department of job and family services shall adopt 37754
rules in accordance with Chapter 119. of the Revised Code as 37755
necessary for the efficient administration of sections 5103.031 to 37756
5103.0316 of the Revised Code. The rules shall provide for all of 37757
the following: 37758

(A) For the purpose of section 5103.038 of the Revised Code, 37759
the date by which a ~~public children services agency,~~ private child 37760
placing agency~~,~~ or private noncustodial agency that seeks to 37761
operate a preplacement training program or continuing training 37762
program under section 5103.034 of the Revised Code must submit to 37763
the department a proposal outlining the program; 37764

(B) Requirements governing the department's ~~reimbursement~~ 37765
compensation of ~~the Ohio child welfare training program and public~~ 37766
~~children services agencies,~~ private child placing agencies~~,~~ and 37767
private noncustodial agencies under sections 5103.0312 and 37768
5103.0313 of the Revised Code; 37769

(C) Any other matter the department considers appropriate. 37770

Sec. 5103.154. (A) Information concerning all children who 37771
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 37772
in the permanent custody of an institution or association 37773
certified by the department of job and family services under 37774
section 5103.03 of the Revised Code shall be listed with the 37775
department within ninety days after permanent custody is 37776
effective, unless the child has been placed for adoption or unless 37777
an application for placement was initiated under section 5103.16 37778
of the Revised Code. 37779

(B) All persons who wish to adopt children, and are approved 37780
by an agency so empowered under this chapter, shall be listed with 37781
the department within ninety days of approval, unless a person 37782

requests in writing that that person's name not be so listed, or 37783
has had a child placed in that person's home in preparation for 37784
adoption, or has filed a petition for adoption. 37785

(C) All persons who wish to adopt a child with special needs 37786
as defined in rules adopted under section 5153.163 of the Revised 37787
Code, and who are approved by an agency so empowered under this 37788
chapter, shall be listed separately by the department within 37789
ninety days of approval, unless a person requests in writing that 37790
that person's name not be so listed, or has had a child with 37791
special needs placed in that person's home in preparation for 37792
adoption, or has filed a petition for adoption. 37793

(D) The department shall forward information on such children 37794
and listed persons at least quarterly, to all public children 37795
services agencies and all certified agencies. 37796

(E) The appropriate listed names shall be removed when a 37797
child is placed in an adoptive home or when a person withdraws an 37798
application for adoption. 37799

(F) No later than six months after the end of each fiscal 37800
year, the department shall compile a report of its conclusions 37801
regarding the effectiveness of its actions pursuant to this 37802
section and of the restrictions on placement under division ~~(E)~~(G) 37803
of section 5153.163 of the Revised Code in increasing adoptive 37804
placements of children with special needs, together with its 37805
recommendations, and shall submit a copy of the report to the 37806
chairpersons of the principal committees of the senate and the 37807
house of representatives who consider welfare legislation. 37808

Sec. 5103.155. As used in this section, "children with 37809
special needs" has the same meaning as in rules adopted under 37810
section 5153.163 of the Revised Code. 37811

If the department of job and family services determines that 37812

money in the putative father registry fund created under section 37813
2101.16 of the Revised Code is more than is needed to perform its 37814
duties related to the putative father registry, the department may 37815
use surplus moneys in the fund to promote adoption of children 37816
with special needs. 37817

Sec. 5104.01. As used in this chapter: 37818

(A) "Administrator" means the person responsible for the 37819
daily operation of a center or type A home. The administrator and 37820
the owner may be the same person. 37821

(B) "Approved child day camp" means a child day camp approved 37822
pursuant to section 5104.22 of the Revised Code. 37823

(C) "Authorized provider" means a person authorized by a 37824
county director of job and family services to operate a certified 37825
type B family day-care home. 37826

(D) "Border state child day-care provider" means a child 37827
day-care provider that is located in a state bordering Ohio and 37828
that is licensed, certified, or otherwise approved by that state 37829
to provide child day-care. 37830

(E) "Caretaker parent" means the father or mother of a child 37831
whose presence in the home is needed as the caretaker of the 37832
child, a person who has legal custody of a child and whose 37833
presence in the home is needed as the caretaker of the child, a 37834
guardian of a child whose presence in the home is needed as the 37835
caretaker of the child, and any other person who stands in loco 37836
parentis with respect to the child and whose presence in the home 37837
is needed as the caretaker of the child. 37838

(F) "Certified type B family day-care home" and "certified 37839
type B home" mean a type B family day-care home that is certified 37840
by the director of the county department of job and family 37841
services pursuant to section 5104.11 of the Revised Code to 37842

receive public funds for providing child day-care pursuant to this 37843
chapter and any rules adopted under it. 37844

(G) "Chartered nonpublic school" means a school that meets 37845
standards for nonpublic schools prescribed by the state board of 37846
education for nonpublic schools pursuant to section 3301.07 of the 37847
Revised Code. 37848

(H) "Child" includes an infant, toddler, preschool child, or 37849
school child. 37850

(I) "Child care block grant act" means the "Child Care and 37851
Development Block Grant Act of 1990," established in section 5082 37852
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 37853
1388-236 (1990), 42 U.S.C. 9858, as amended. 37854

(J) "Child day camp" means a program in which only school 37855
children attend or participate, that operates for no more than 37856
seven hours per day, that operates only during one or more public 37857
school district's regular vacation periods or for no more than 37858
fifteen weeks during the summer, and that operates outdoor 37859
activities for each child who attends or participates in the 37860
program for a minimum of fifty per cent of each day that children 37861
attend or participate in the program, except for any day when 37862
hazardous weather conditions prevent the program from operating 37863
outdoor activities for a minimum of fifty per cent of that day. 37864
For purposes of this division, the maximum seven hours of 37865
operation time does not include transportation time from a child's 37866
home to a child day camp and from a child day camp to a child's 37867
home. 37868

(K) "Child day-care" means administering to the needs of 37869
infants, toddlers, preschool children, and school children outside 37870
of school hours by persons other than their parents or guardians, 37871
custodians, or relatives by blood, marriage, or adoption for any 37872
part of the twenty-four-hour day in a place or residence other 37873

than a child's own home. 37874

(L) "Child day-care center" and "center" mean any place in 37875
which child day-care or publicly funded child day-care is provided 37876
for thirteen or more children at one time or any place that is not 37877
the permanent residence of the licensee or administrator in which 37878
child day-care or publicly funded child day-care is provided for 37879
seven to twelve children at one time. In counting children for the 37880
purposes of this division, any children under six years of age who 37881
are related to a licensee, administrator, or employee and who are 37882
on the premises of the center shall be counted. "Child day-care 37883
center" and "center" do not include any of the following: 37884

(1) A place located in and operated by a hospital, as defined 37885
in section 3727.01 of the Revised Code, in which the needs of 37886
children are administered to, if all the children whose needs are 37887
being administered to are monitored under the on-site supervision 37888
of a physician licensed under Chapter 4731. of the Revised Code or 37889
a registered nurse licensed under Chapter 4723. of the Revised 37890
Code, and the services are provided only for children who, in the 37891
opinion of the child's parent, guardian, or custodian, are 37892
exhibiting symptoms of a communicable disease or other illness or 37893
are injured; 37894

(2) A child day camp; 37895

(3) A place that provides child day-care, but not publicly 37896
funded child day-care, if all of the following apply: 37897

(a) An organized religious body provides the child day-care; 37898

(b) A parent, custodian, or guardian of at least one child 37899
receiving child day-care is on the premises and readily accessible 37900
at all times; 37901

(c) The child day-care is not provided for more than thirty 37902
days a year; 37903

(d) The child day-care is provided only for preschool and school children.	37904 37905
(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.	37906 37907 37908 37909
(N) "Child day-care resource and referral services" means all of the following services:	37910 37911
(1) Maintenance of a uniform data base of all child day-care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	37912 37913 37914
(2) Provision of individualized consumer education to families seeking child day-care;	37915 37916
(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;	37917 37918
(4) Recruitment of child day-care providers;	37919
(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;	37920 37921 37922 37923
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	37924 37925
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	37926 37927 37928
(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;	37929 37930 37931
(9) Provision of written educational materials to caretaker	37932

parents and informational resources to child day-care providers;	37933
(10) Coordination of services among child day-care resource	37934
and referral service organizations to assist in developing and	37935
maintaining a statewide system of child day-care resource and	37936
referral services if required by the department of job and family	37937
services;	37938
(11) Cooperation with the county department of job and family	37939
services in encouraging the establishment of parent cooperative	37940
child day-care centers and parent cooperative type A family	37941
day-care homes.	37942
(O) "Child-care staff member" means an employee of a child	37943
day-care center or type A family day-care home who is primarily	37944
responsible for the care and supervision of children. The	37945
administrator may be a part-time child-care staff member when not	37946
involved in other duties.	37947
(P) "Drop-in child day-care center," "drop-in center,"	37948
"drop-in type A family day-care home," and "drop-in type A home"	37949
mean a center or type A home that provides child day-care or	37950
publicly funded child day-care for children on a temporary,	37951
irregular basis.	37952
(Q) "Employee" means a person who either:	37953
(1) Receives compensation for duties performed in a child	37954
day-care center or type A family day-care home;	37955
(2) Is assigned specific working hours or duties in a child	37956
day-care center or type A family day-care home.	37957
(R) "Employer" means a person, firm, institution,	37958
organization, or agency that operates a child day-care center or	37959
type A family day-care home subject to licensure under this	37960
chapter.	37961
(S) "Federal poverty line" means the official poverty	37962

guideline as revised annually in accordance with section 673(2) of 37963
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 37964
U.S.C. 9902, as amended, for a family size equal to the size of 37965
the family of the person whose income is being determined. 37966

(T) "Head start program" means a comprehensive child 37967
development program that receives funds distributed under the 37968
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 37969
amended, or under ~~section~~ sections 3301.31 to 3301.37 of the 37970
Revised Code. 37971

(U) "Income" means gross income, as defined in section 37972
5107.10 of the Revised Code, less any amounts required by federal 37973
statutes or regulations to be disregarded. 37974

(V) "Indicator checklist" means an inspection tool, used in 37975
conjunction with an instrument-based program monitoring 37976
information system, that contains selected licensing requirements 37977
that are statistically reliable indicators or predictors of a 37978
child day-care center or type A family day-care home's compliance 37979
with licensing requirements. 37980

(W) "Infant" means a child who is less than eighteen months 37981
of age. 37982

(X) "In-home aide" means a person certified by a county 37983
director of job and family services pursuant to section 5104.12 of 37984
the Revised Code to provide publicly funded child day-care to a 37985
child in a child's own home pursuant to this chapter and any rules 37986
adopted under it. 37987

(Y) "Instrument-based program monitoring information system" 37988
means a method to assess compliance with licensing requirements 37989
for child day-care centers and type A family day-care homes in 37990
which each licensing requirement is assigned a weight indicative 37991
of the relative importance of the requirement to the health, 37992
growth, and safety of the children that is used to develop an 37993

indicator checklist. 37994

(Z) "License capacity" means the maximum number in each age 37995
category of children who may be cared for in a child day-care 37996
center or type A family day-care home at one time as determined by 37997
the director of job and family services considering building 37998
occupancy limits established by the department of commerce, number 37999
of available child-care staff members, amount of available indoor 38000
floor space and outdoor play space, and amount of available play 38001
equipment, materials, and supplies. 38002

(AA) "Licensed preschool program" or "licensed school child 38003
program" means a preschool program or school child program, as 38004
defined in section 3301.52 of the Revised Code, that is licensed 38005
by the department of education pursuant to sections 3301.52 to 38006
3301.59 of the Revised Code. 38007

(BB) "Licensee" means the owner of a child day-care center or 38008
type A family day-care home that is licensed pursuant to this 38009
chapter and who is responsible for ensuring its compliance with 38010
this chapter and rules adopted pursuant to this chapter. 38011

(CC) "Operate a child day camp" means to operate, establish, 38012
manage, conduct, or maintain a child day camp. 38013

(DD) "Owner" includes a person, as defined in section 1.59 of 38014
the Revised Code, or government entity. 38015

(EE) "Parent cooperative child day-care center," "parent 38016
cooperative center," "parent cooperative type A family day-care 38017
home," and "parent cooperative type A home" mean a corporation or 38018
association organized for providing educational services to the 38019
children of members of the corporation or association, without 38020
gain to the corporation or association as an entity, in which the 38021
services of the corporation or association are provided only to 38022
children of the members of the corporation or association, 38023
ownership and control of the corporation or association rests 38024

solely with the members of the corporation or association, and at 38025
least one parent-member of the corporation or association is on 38026
the premises of the center or type A home during its hours of 38027
operation. 38028

(FF) "Part-time child day-care center," "part-time center," 38029
"part-time type A family day-care home," and "part-time type A 38030
home" mean a center or type A home that provides child day-care or 38031
publicly funded child day-care for no more than four hours a day 38032
for any child. 38033

(GG) "Place of worship" means a building where activities of 38034
an organized religious group are conducted and includes the 38035
grounds and any other buildings on the grounds used for such 38036
activities. 38037

(HH) "Preschool child" means a child who is three years old 38038
or older but is not a school child. 38039

(II) "Protective day-care" means publicly funded child 38040
day-care for the direct care and protection of a child to whom 38041
either of the following applies: 38042

(1) A case plan prepared and maintained for the child 38043
pursuant to section 2151.412 of the Revised Code indicates a need 38044
for protective day-care and the child resides with a parent, 38045
stepparent, guardian, or another person who stands in loco 38046
parentis as defined in rules adopted under section 5104.38 of the 38047
Revised Code; 38048

(2) The child and the child's caretaker either temporarily 38049
reside in a facility providing emergency shelter for homeless 38050
families or are determined by the county department of job and 38051
family services to be homeless, and are otherwise ineligible for 38052
publicly funded child day-care. 38053

(JJ) "Publicly funded child day-care" means administering to 38054
the needs of infants, toddlers, preschool children, and school 38055

children under age thirteen during any part of the 38056
twenty-four-hour day by persons other than their caretaker parents 38057
for remuneration wholly or in part with federal or state funds, 38058
including funds available under the child care block grant act 38059
funds, Title IV-A, and Title XX, distributed by the department of 38060
job and family services. 38061

(KK) "Religious activities" means any of the following: 38062
worship or other religious services; religious instruction; Sunday 38063
school classes or other religious classes conducted during or 38064
prior to worship or other religious services; youth or adult 38065
fellowship activities; choir or other musical group practices or 38066
programs; meals; festivals; or meetings conducted by an organized 38067
religious group. 38068

(LL) "School child" means a child who is enrolled in or is 38069
eligible to be enrolled in a grade of kindergarten or above but is 38070
less than fifteen years old. 38071

(MM) "School child day-care center," "school child center," 38072
"school child type A family day-care home," and "school child type 38073
A family home" mean a center or type A home that provides child 38074
day-care for school children only and that does either or both of 38075
the following: 38076

(1) Operates only during that part of the day that 38077
immediately precedes or follows the public school day of the 38078
school district in which the center or type A home is located; 38079

(2) Operates only when the public schools in the school 38080
district in which the center or type A home is located are not 38081
open for instruction with pupils in attendance. 38082

(NN) "Special needs day-care" means publicly funded child 38083
day-care that is provided for a child who is physically or 38084
developmentally handicapped, mentally retarded, or mentally ill. 38085

(OO) "State median income" means the state median income 38086

calculated by the department of development pursuant to division 38087
(A)(1)(g) of section 5709.61 of the Revised Code. 38088

(PP) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 38089
38090

(OO) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 38091
38092

(RR) "Toddler" means a child who is at least eighteen months 38093
of age but less than three years of age. 38094

~~(QQ)~~(SS) "Type A family day-care home" and "type A home" mean 38095
a permanent residence of the administrator in which child day-care 38096
or publicly funded child day-care is provided for seven to twelve 38097
children at one time or a permanent residence of the administrator 38098
in which child day-care is provided for four to twelve children at 38099
one time if four or more children at one time are under two years 38100
of age. In counting children for the purposes of this division, 38101
any children under six years of age who are related to a licensee, 38102
administrator, or employee and who are on the premises of the type 38103
A home shall be counted. "Type A family day-care home" does not 38104
include a residence in which the needs of children are 38105
administered to, if all of the children whose needs are being 38106
administered to are siblings of the same immediate family and the 38107
residence is the home of the siblings. "Type A family day-care 38108
home" and "type A home" do not include any child day camp. 38109

~~(RR)~~(TT) "Type B family day-care home" and "type B home" mean 38110
a permanent residence of the provider in which child day-care is 38111
provided for one to six children at one time and in which no more 38112
than three children are under two years of age at one time. In 38113
counting children for the purposes of this division, any children 38114
under six years of age who are related to the provider and who are 38115
on the premises of the type B home shall be counted. "Type B 38116
family day-care home" does not include a residence in which the 38117

needs of children are administered to, if all of the children 38118
whose needs are being administered to are siblings of the same 38119
immediate family and the residence is the home of the siblings. 38120
"Type B family day-care home" and "type B home" do not include any 38121
child day camp. 38122

Sec. 5104.011. (A) The director of job and family services 38123
shall adopt rules pursuant to Chapter 119. of the Revised Code 38124
governing the operation of child day-care centers, including, but 38125
not limited to, parent cooperative centers, part-time centers, 38126
drop-in centers, and school child centers, which rules shall 38127
reflect the various forms of child day-care and the needs of 38128
children receiving child day-care or publicly funded child 38129
day-care and, ~~no later than January 1, 1992,~~ shall include 38130
specific rules for school child day-care centers that are 38131
developed in consultation with the department of education. The 38132
rules shall not require an existing school facility that is in 38133
compliance with applicable building codes to undergo an additional 38134
building code inspection or to have structural modifications. The 38135
rules shall include the following: 38136

(1) Submission of a site plan and descriptive plan of 38137
operation to demonstrate how the center proposes to meet the 38138
requirements of this chapter and rules adopted pursuant to this 38139
chapter for the initial license application; 38140

(2) Standards for ensuring that the physical surroundings of 38141
the center are safe and sanitary including, but not limited to, 38142
the physical environment, the physical plant, and the equipment of 38143
the center; 38144

(3) Standards for the supervision, care, and discipline of 38145
children receiving child day-care or publicly funded child 38146
day-care in the center; 38147

(4) Standards for a program of activities, and for play 38148

equipment, materials, and supplies, to enhance the development of 38149
each child; however, any educational curricula, philosophies, and 38150
methodologies that are developmentally appropriate and that 38151
enhance the social, emotional, intellectual, and physical 38152
development of each child shall be permissible. As used in this 38153
division, "program" does not include instruction in religious or 38154
moral doctrines, beliefs, or values that is conducted at child 38155
day-care centers owned and operated by churches and does include 38156
methods of disciplining children at child day-care centers. 38157

(5) Admissions policies and procedures, health care policies 38158
and procedures, including, but not limited to, procedures for the 38159
isolation of children with communicable diseases, first aid and 38160
emergency procedures, procedures for discipline and supervision of 38161
children, standards for the provision of nutritious meals and 38162
snacks, and procedures for screening children and employees, 38163
including, but not limited to, any necessary physical examinations 38164
and immunizations; 38165

(6) Methods for encouraging parental participation in the 38166
center and methods for ensuring that the rights of children, 38167
parents, and employees are protected and that responsibilities of 38168
parents and employees are met; 38169

(7) Procedures for ensuring the safety and adequate 38170
supervision of children traveling off the premises of the center 38171
while under the care of a center employee; 38172

(8) Procedures for record keeping, organization, and 38173
administration; 38174

(9) Procedures for issuing, renewing, denying, and revoking a 38175
license that are not otherwise provided for in Chapter 119. of the 38176
Revised Code; 38177

(10) Inspection procedures; 38178

(11) Procedures and standards for setting initial and renewal 38179

license application fees;	38180
(12) Procedures for receiving, recording, and responding to complaints about centers;	38181 38182
(13) Procedures for enforcing section 5104.04 of the Revised Code;	38183 38184
(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;	38185 38186 38187 38188 38189
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.	38190 38191 38192 38193 38194 38195
(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;	38196 38197 38198 38199
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the center;	38200 38201 38202 38203
(18) Any other procedures and standards necessary to carry out this chapter.	38204 38205
(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child day-care operation exclusive of any parts of the	38206 38207 38208 38209

structure in which the care of children is prohibited by law or by 38210
rules adopted by the board of building standards. The minimum of 38211
thirty-five square feet of usable indoor floor space shall not 38212
include hallways, kitchens, storage areas, or any other areas that 38213
are not available for the care of children, as determined by the 38214
director, in meeting the space requirement of this division, and 38215
bathrooms shall be counted in determining square footage only if 38216
they are used exclusively by children enrolled in the center, 38217
except that the exclusion of hallways, kitchens, storage areas, 38218
bathrooms not used exclusively by children enrolled in the center, 38219
and any other areas not available for the care of children from 38220
the minimum of thirty-five square feet of usable indoor floor 38221
space shall not apply to: 38222

(a) Centers licensed prior to or on September 1, 1986, that 38223
continue under licensure after that date; 38224

(b) Centers licensed prior to or on September 1, 1986, that 38225
are issued a new license after that date solely due to a change of 38226
ownership of the center. 38227

(2) The child day-care center shall have on the site a safe 38228
outdoor play space which is enclosed by a fence or otherwise 38229
protected from traffic or other hazards. The play space shall 38230
contain not less than sixty square feet per child using such space 38231
at any one time, and shall provide an opportunity for supervised 38232
outdoor play each day in suitable weather. The director may exempt 38233
a center from the requirement of this division, if an outdoor play 38234
space is not available and if all of the following are met: 38235

(a) The center provides an indoor recreation area that has 38236
not less than sixty square feet per child using the space at any 38237
one time, that has a minimum of one thousand four hundred forty 38238
square feet of space, and that is separate from the indoor space 38239
required under division (B)(1) of this section. 38240

(b) The director has determined that there is regularly 38241
available and scheduled for use a conveniently accessible and safe 38242
park, playground, or similar outdoor play area for play or 38243
recreation. 38244

(c) The children are closely supervised during play and while 38245
traveling to and from the area. 38246

The director also shall exempt from the requirement of this 38247
division a child day-care center that was licensed prior to 38248
September 1, 1986, if the center received approval from the 38249
director prior to September 1, 1986, to use a park, playground, or 38250
similar area, not connected with the center, for play or 38251
recreation in lieu of the outdoor space requirements of this 38252
section and if the children are closely supervised both during 38253
play and while traveling to and from the area and except if the 38254
director determines upon investigation and inspection pursuant to 38255
section 5104.04 of the Revised Code and rules adopted pursuant to 38256
that section that the park, playground, or similar area, as well 38257
as access to and from the area, is unsafe for the children. 38258

(3) The child day-care center shall have at least two 38259
responsible adults available on the premises at all times when 38260
seven or more children are in the center. The center shall 38261
organize the children in the center in small groups, shall provide 38262
child-care staff to give continuity of care and supervision to the 38263
children on a day-by-day basis, and shall ensure that no child is 38264
left alone or unsupervised. Except as otherwise provided in 38265
division (E) of this section, the maximum number of children per 38266
child-care staff member and maximum group size, by age category of 38267
children, are as follows: 38268

	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
			38269
			38270
			38271
			38272

(a) Infants:			38273
(i) Less than twelve months old			38274
	5:1, or		38275
	12:2 if two		38276
	child-care		38277
	staff members		38278
	are in the room	12	38279
(ii) At least twelve months old, but less than eighteen months old			38280
			38281
			38282
	6:1	12	38283
(b) Toddlers:			38284
(i) At least eighteen months old, but less than thirty months old			38285
			38286
			38287
	7:1	14	38288
(ii) At least thirty months old, but less than three years old			38289
			38290
	8:1	16	38291
(c) Preschool children:			38292
			38293
(i) Three years old	12:1	24	38294
(ii) Four years old and five years old who are not school children			38295
			38296
			38297
	14:1	28	38298
(d) School children:			38299
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but			38300
			38301
			38302
			38303
			38304
			38305

is less than 38306
eleven years old 18:1 36 38307
(ii) Eleven through fourteen 38308
years old 20:1 40 38309

Except as otherwise provided in division (E) of this section, 38310
the maximum number of children per child-care staff member and 38311
maximum group size requirements of the younger age group shall 38312
apply when age groups are combined. 38313

(4)(a) The child day-care center administrator shall show the 38314
director both of the following: 38315

(i) Evidence of at least high school graduation or 38316
certification of high school equivalency by the state board of 38317
education or the appropriate agency of another state; 38318

(ii) Evidence of having completed at least two years of 38319
training in an accredited college, university, or technical 38320
college, including courses in child development or early childhood 38321
education, or at least two years of experience in supervising and 38322
giving daily care to children attending an organized group 38323
program. 38324

(b) In addition to the requirements of division (B)(4)(a) of 38325
this section, any administrator employed or designated on or after 38326
September 1, 1986, shall show evidence of, and any administrator 38327
employed or designated prior to September 1, 1986, shall show 38328
evidence within six years after such date of, at least one of the 38329
following: 38330

(i) Two years of experience working as a child-care staff 38331
member in a center and at least four courses in child development 38332
or early childhood education from an accredited college, 38333
university, or technical college, except that a person who has two 38334
years of experience working as a child-care staff member in a 38335
particular center and who has been promoted to or designated as 38336

administrator of that center shall have one year from the time the 38337
person was promoted to or designated as administrator to complete 38338
the required four courses; 38339

(ii) Two years of training, including at least four courses 38340
in child development or early childhood education from an 38341
accredited college, university, or technical college; 38342

(iii) A child development associate credential issued by the 38343
national child development associate credentialing commission; 38344

(iv) An associate or higher degree in child development or 38345
early childhood education from an accredited college, technical 38346
college, or university, or a license designated for teaching in an 38347
associate teaching position in a preschool setting issued by the 38348
state board of education. 38349

(5) All child-care staff members of a child day-care center 38350
shall be at least eighteen years of age, and shall furnish the 38351
director evidence of at least high school graduation or 38352
certification of high school equivalency by the state board of 38353
education or the appropriate agency of another state or evidence 38354
of completion of a training program approved by the department of 38355
job and family services or state board of education, except as 38356
follows: 38357

(a) A child-care staff member may be less than eighteen years 38358
of age if the staff member is either of the following: 38359

(i) A graduate of a two-year vocational child-care training 38360
program approved by the state board of education; 38361

(ii) A student enrolled in the second year of a vocational 38362
child-care training program approved by the state board of 38363
education which leads to high school graduation, provided that the 38364
student performs the student's duties in the child day-care center 38365
under the continuous supervision of an experienced child-care 38366
staff member, receives periodic supervision from the vocational 38367

child-care training program teacher-coordinator in the student's 38368
high school, and meets all other requirements of this chapter and 38369
rules adopted pursuant to this chapter. 38370

(b) A child-care staff member shall be exempt from the 38371
educational requirements of this division if the staff member: 38372

(i) Prior to January 1, 1972, was employed or designated by a 38373
child day-care center and has been continuously employed since 38374
either by the same child day-care center employer or at the same 38375
child day-care center; or 38376

(ii) Is a student enrolled in the second year of a vocational 38377
child-care training program approved by the state board of 38378
education which leads to high school graduation, provided that the 38379
student performs the student's duties in the child day-care center 38380
under the continuous supervision of an experienced child-care 38381
staff member, receives periodic supervision from the vocational 38382
child-care training program teacher-coordinator in the student's 38383
high school, and meets all other requirements of this chapter and 38384
rules adopted pursuant to this chapter. 38385

(6) Every child day-care staff member of a child day-care 38386
center annually shall complete fifteen hours of inservice training 38387
in child development or early childhood education, child abuse 38388
recognition and prevention, first aid, and in prevention, 38389
recognition, and management of communicable diseases, until a 38390
total of forty-five hours of training has been completed, unless 38391
the staff member furnishes one of the following to the director: 38392

(a) Evidence of an associate or higher degree in child 38393
development or early childhood education from an accredited 38394
college, university, or technical college; 38395

(b) A license designated for teaching in an associate 38396
teaching position in a preschool setting issued by the state board 38397
of education; 38398

(c) Evidence of a child development associate credential; 38399

(d) Evidence of a preprimary credential from the American 38400
Montessori society or the association Montessori international. 38401
For the purposes of division (B)(6) of this section, "hour" means 38402
sixty minutes. 38403

(7) The administrator of each child day-care center shall 38404
prepare at least once annually and for each group of children at 38405
the center a roster of names and telephone numbers of parents, 38406
custodians, or guardians of each group of children attending the 38407
center and upon request shall furnish the roster for each group to 38408
the parents, custodians, or guardians of the children in that 38409
group. The administrator may prepare a roster of names and 38410
telephone numbers of all parents, custodians, or guardians of 38411
children attending the center and upon request shall furnish the 38412
roster to the parents, custodians, or guardians of the children 38413
who attend the center. The administrator shall not include in any 38414
roster the name or telephone number of any parent, custodian, or 38415
guardian who requests the administrator not to include the 38416
parent's, custodian's, or guardian's name or number and shall not 38417
furnish any roster to any person other than a parent, custodian, 38418
or guardian of a child who attends the center. 38419

(C)(1) Each child day-care center shall have on the center 38420
premises and readily available at all times at least one 38421
child-care staff member who has completed a course in first aid 38422
and in prevention, recognition, and management of communicable 38423
diseases which is approved by the state department of health and a 38424
staff member who has completed a course in child abuse recognition 38425
and prevention training which is approved by the department of job 38426
and family services. 38427

(2) The administrator of each child day-care center shall 38428
maintain enrollment, health, and attendance records for all 38429

children attending the center and health and employment records 38430
for all center employees. The records shall be confidential, 38431
except as otherwise provided in division (B)(7) of this section 38432
and except that they shall be disclosed by the administrator to 38433
the director upon request for the purpose of administering and 38434
enforcing this chapter and rules adopted pursuant to this chapter. 38435
Neither the center nor the licensee, administrator, or employees 38436
of the center shall be civilly or criminally liable in damages or 38437
otherwise for records disclosed to the director by the 38438
administrator pursuant to this division. It shall be a defense to 38439
any civil or criminal charge based upon records disclosed by the 38440
administrator to the director that the records were disclosed 38441
pursuant to this division. 38442

(3)(a) Any parent who is the residential parent and legal 38443
custodian of a child enrolled in a child day-care center and any 38444
custodian or guardian of such a child shall be permitted unlimited 38445
access to the center during its hours of operation for the 38446
purposes of contacting their children, evaluating the care 38447
provided by the center, evaluating the premises of the center, or 38448
for other purposes approved by the director. A parent of a child 38449
enrolled in a child day-care center who is not the child's 38450
residential parent shall be permitted unlimited access to the 38451
center during its hours of operation for those purposes under the 38452
same terms and conditions under which the residential parent of 38453
that child is permitted access to the center for those purposes. 38454
However, the access of the parent who is not the residential 38455
parent is subject to any agreement between the parents and, to the 38456
extent described in division (C)(3)(b) of this section, is subject 38457
to any terms and conditions limiting the right of access of the 38458
parent who is not the residential parent, as described in division 38459
(I) of section 3109.051 of the Revised Code, that are contained in 38460
a parenting time order or decree issued under that section, 38461
section 3109.12 of the Revised Code, or any other provision of the 38462

Revised Code. 38463

(b) If a parent who is the residential parent of a child has 38464
presented the administrator or the administrator's designee with a 38465
copy of a parenting time order that limits the terms and 38466
conditions under which the parent who is not the residential 38467
parent is to have access to the center, as described in division 38468
(I) of section 3109.051 of the Revised Code, the parent who is not 38469
the residential parent shall be provided access to the center only 38470
to the extent authorized in the order. If the residential parent 38471
has presented such an order, the parent who is not the residential 38472
parent shall be permitted access to the center only in accordance 38473
with the most recent order that has been presented to the 38474
administrator or the administrator's designee by the residential 38475
parent or the parent who is not the residential parent. 38476

(c) Upon entering the premises pursuant to division (C)(3)(a) 38477
or (b) of this section, the parent who is the residential parent 38478
and legal custodian, the parent who is not the residential parent, 38479
or the custodian or guardian shall notify the administrator or the 38480
administrator's designee of the parent's, custodian's, or 38481
guardian's presence. 38482

(D) The director of job and family services, in addition to 38483
the rules adopted under division (A) of this section, shall adopt 38484
rules establishing minimum requirements for child day-care 38485
centers. The rules shall include, but not be limited to, the 38486
requirements set forth in divisions (B) and (C) of this section. 38487
Except as provided in section 5104.07 of the Revised Code, the 38488
rules shall not change the square footage requirements of division 38489
(B)(1) or (2) of this section; the maximum number of children per 38490
child-care staff member and maximum group size requirements of 38491
division (B)(3) of this section; the educational and experience 38492
requirements of division (B)(4) of this section; the age, 38493
educational, and experience requirements of division (B)(5) of 38494

this section; the number of inservice training hours required 38495
under division (B)(6) of this section; or the requirement for at 38496
least annual preparation of a roster for each group of children of 38497
names and telephone numbers of parents, custodians, or guardians 38498
of each group of children attending the center that must be 38499
furnished upon request to any parent, custodian, or guardian of 38500
any child in that group required under division (B)(7) of this 38501
section; however, the rules shall provide procedures for 38502
determining compliance with those requirements. 38503

(E)(1) When age groups are combined, the maximum number of 38504
children per child-care staff member shall be determined by the 38505
age of the youngest child in the group, except that when no more 38506
than one child thirty months of age or older receives services in 38507
a group in which all the other children are in the next older age 38508
group, the maximum number of children per child-care staff member 38509
and maximum group size requirements of the older age group 38510
established under division (B)(3) of this section shall apply. 38511

(2) The maximum number of toddlers or preschool children per 38512
child-care staff member in a room where children are napping shall 38513
be twice the maximum number of children per child-care staff 38514
member established under division (B)(3) of this section if all 38515
the following criteria are met: 38516

(a) At least one child-care staff member is present in the 38517
room. 38518

(b) Sufficient child-care staff members are on the child 38519
day-care center premises to meet the maximum number of children 38520
per child-care staff member requirements established under 38521
division (B)(3) of this section. 38522

(c) Naptime preparations are complete and all napping 38523
children are resting or sleeping on cots. 38524

(d) The maximum number established under division (E)(2) of 38525

this section is in effect for no more than one and one-half hours 38526
during a twenty-four-hour day. 38527

(F) The director of job and family services shall adopt rules 38528
pursuant to Chapter 119. of the Revised Code governing the 38529
operation of type A family day-care homes, including, but not 38530
limited to, parent cooperative type A homes, part-time type A 38531
homes, drop-in type A homes, and school child type A homes, which 38532
shall reflect the various forms of child day-care and the needs of 38533
children receiving child day-care. The rules shall include the 38534
following: 38535

(1) Submission of a site plan and descriptive plan of 38536
operation to demonstrate how the type A home proposes to meet the 38537
requirements of this chapter and rules adopted pursuant to this 38538
chapter for the initial license application; 38539

(2) Standards for ensuring that the physical surroundings of 38540
the type A home are safe and sanitary, including, but not limited 38541
to, the physical environment, the physical plant, and the 38542
equipment of the type A home; 38543

(3) Standards for the supervision, care, and discipline of 38544
children receiving child day-care or publicly funded child 38545
day-care in the type A home; 38546

(4) Standards for a program of activities, and for play 38547
equipment, materials, and supplies, to enhance the development of 38548
each child; however, any educational curricula, philosophies, and 38549
methodologies that are developmentally appropriate and that 38550
enhance the social, emotional, intellectual, and physical 38551
development of each child shall be permissible; 38552

(5) Admissions policies and procedures, health care policies 38553
and procedures, including, but not limited to, procedures for the 38554
isolation of children with communicable diseases, first aid and 38555
emergency procedures, procedures for discipline and supervision of 38556

children, standards for the provision of nutritious meals and	38557
snacks, and procedures for screening children and employees,	38558
including, but not limited to, any necessary physical examinations	38559
and immunizations;	38560
(6) Methods for encouraging parental participation in the	38561
type A home and methods for ensuring that the rights of children,	38562
parents, and employees are protected and that the responsibilities	38563
of parents and employees are met;	38564
(7) Procedures for ensuring the safety and adequate	38565
supervision of children traveling off the premises of the type A	38566
home while under the care of a type A home employee;	38567
(8) Procedures for record keeping, organization, and	38568
administration;	38569
(9) Procedures for issuing, renewing, denying, and revoking a	38570
license that are not otherwise provided for in Chapter 119. of the	38571
Revised Code;	38572
(10) Inspection procedures;	38573
(11) Procedures and standards for setting initial and renewal	38574
license application fees;	38575
(12) Procedures for receiving, recording, and responding to	38576
complaints about type A homes;	38577
(13) Procedures for enforcing section 5104.04 of the Revised	38578
Code;	38579
(14) A standard requiring the inclusion, on or after July 1,	38580
1987, of a current department of job and family services toll-free	38581
telephone number on each type A home provisional license or	38582
license which any person may use to report a suspected violation	38583
by the type A home of this chapter or rules adopted pursuant this	38584
chapter;	38585
(15) Requirements for the training of administrators and	38586

child-care staff members in first aid, in prevention, recognition,	38587
and management of communicable diseases, and in child abuse	38588
recognition and prevention;	38589
(16) Procedures to be used by licensees for checking the	38590
references of potential employees of type A homes and procedures	38591
to be used by the director for checking the references of	38592
applicants for licenses to operate type A homes;	38593
(17) Standards providing for the special needs of children	38594
who are handicapped or who require treatment for health conditions	38595
while the child is receiving child day-care or publicly funded	38596
child day-care in the type A home;	38597
(18) Standards for the maximum number of children per	38598
child-care staff member;	38599
(19) Requirements for the amount of usable indoor floor space	38600
for each child;	38601
(20) Requirements for safe outdoor play space;	38602
(21) Qualifications and training requirements for	38603
administrators and for child-care staff members;	38604
(22) Procedures for granting a parent who is the residential	38605
parent and legal custodian, or a custodian or guardian access to	38606
the type A home during its hours of operation;	38607
(23) Standards for the preparation and distribution of a	38608
roster of parents, custodians, and guardians;	38609
(24) Any other procedures and standards necessary to carry	38610
out this chapter.	38611
(G) The director of job and family services shall adopt rules	38612
pursuant to Chapter 119. of the Revised Code governing the	38613
certification of type B family day-care homes.	38614
(1) The rules shall include procedures, standards, and other	38615
necessary provisions for granting limited certification to type B	38616

family day-care homes that are operated by the following adult 38617
providers: 38618

(a) Persons who provide child day-care for eligible children 38619
who are great-grandchildren, grandchildren, nieces, nephews, or 38620
siblings of the provider or for eligible children whose caretaker 38621
parent is a grandchild, child, niece, nephew, or sibling of the 38622
provider; 38623

(b) Persons who provide child day-care for eligible children 38624
all of whom are the children of the same caretaker parent. 38625

The rules shall require, and shall include procedures for the 38626
director to ensure, that type B family day-care homes that receive 38627
a limited certification provide child day-care to children in a 38628
safe and sanitary manner. With regard to providers who apply for 38629
limited certification, a provider shall be granted a provisional 38630
limited certification on signing a declaration under oath 38631
attesting that the provider meets the standards for limited 38632
certification. Such provisional limited certifications shall 38633
remain in effect for no more than sixty calendar days and shall 38634
entitle the provider to offer publicly funded child day-care 38635
during the provisional period. Except as otherwise provided in 38636
division (G)(1) of this section, prior to the expiration of the 38637
provisional limited certificate, a county department of job and 38638
family services shall inspect the home and shall grant limited 38639
certification to the provider if the provider meets the 38640
requirements of this division. Limited certificates remain valid 38641
for two years unless earlier revoked. Except as otherwise provided 38642
in division (G)(1) of this section, providers operating under 38643
limited certification shall be inspected annually. 38644

If a provider is a person described in division (G)(1)(a) of 38645
this section or a person described in division (G)(1)(b) of this 38646
section who is a friend of the caretaker parent, the provider and 38647
the caretaker parent may verify in writing to the county 38648

department of job and family services that minimum health and 38649
safety requirements are being met in the home. If such 38650
verification is provided, the county shall waive any inspection 38651
and any criminal records check required by this chapter and grant 38652
limited certification to the provider. 38653

(2) The rules shall provide for safeguarding the health, 38654
safety, and welfare of children receiving child day-care or 38655
publicly funded child day-care in a certified type B home and 38656
shall include the following: 38657

(a) Standards for ensuring that the type B home and the 38658
physical surroundings of the type B home are safe and sanitary, 38659
including, but not limited to, physical environment, physical 38660
plant, and equipment; 38661

(b) Standards for the supervision, care, and discipline of 38662
children receiving child day-care or publicly funded child 38663
day-care in the home; 38664

(c) Standards for a program of activities, and for play 38665
equipment, materials, and supplies to enhance the development of 38666
each child; however, any educational curricula, philosophies, and 38667
methodologies that are developmentally appropriate and that 38668
enhance the social, emotional, intellectual, and physical 38669
development of each child shall be permissible; 38670

(d) Admission policies and procedures, health care, first aid 38671
and emergency procedures, procedures for the care of sick 38672
children, procedures for discipline and supervision of children, 38673
nutritional standards, and procedures for screening children and 38674
authorized providers, including, but not limited to, any necessary 38675
physical examinations and immunizations; 38676

(e) Methods of encouraging parental participation and 38677
ensuring that the rights of children, parents, and authorized 38678
providers are protected and the responsibilities of parents and 38679

authorized providers are met;	38680
(f) Standards for the safe transport of children when under the care of authorized providers;	38681 38682
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	38683 38684
(h) Procedures for the inspection of type B family day-care homes that require, at a minimum, that each type B family day-care home be inspected prior to certification to ensure that the home is safe and sanitary;	38685 38686 38687 38688
(i) Procedures for record keeping and evaluation;	38689
(j) Procedures for receiving, recording, and responding to complaints;	38690 38691
(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type B home;	38692 38693 38694 38695
(l) Requirements for the amount of usable indoor floor space for each child;	38696 38697
(m) Requirements for safe outdoor play space;	38698
(n) Qualification and training requirements for authorized providers;	38699 38700
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	38701 38702 38703
(p) Any other procedures and standards necessary to carry out this chapter.	38704 38705
(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary	38706 38707 38708

provisions for granting limited certification to in-home aides who 38709
provide child day-care for eligible children who are 38710
great-grandchildren, grandchildren, nieces, nephews, or siblings 38711
of the in-home aide or for eligible children whose caretaker 38712
parent is a grandchild, child, niece, nephew, or sibling of the 38713
in-home aide. The rules shall require, and shall include 38714
procedures for the director to ensure, that in-home aides that 38715
receive a limited certification provide child day-care to children 38716
in a safe and sanitary manner. The rules shall provide for 38717
safeguarding the health, safety, and welfare of children receiving 38718
publicly funded child day-care in their own home and shall include 38719
the following: 38720

(1) Standards for ensuring that the child's home and the 38721
physical surroundings of the child's home are safe and sanitary, 38722
including, but not limited to, physical environment, physical 38723
plant, and equipment; 38724

(2) Standards for the supervision, care, and discipline of 38725
children receiving publicly funded child day-care in their own 38726
home; 38727

(3) Standards for a program of activities, and for play 38728
equipment, materials, and supplies to enhance the development of 38729
each child; however, any educational curricula, philosophies, and 38730
methodologies that are developmentally appropriate and that 38731
enhance the social, emotional, intellectual, and physical 38732
development of each child shall be permissible; 38733

(4) Health care, first aid, and emergency procedures, 38734
procedures for the care of sick children, procedures for 38735
discipline and supervision of children, nutritional standards, and 38736
procedures for screening children and in-home aides, including, 38737
but not limited to, any necessary physical examinations and 38738
immunizations; 38739

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;	38740 38741 38742 38743
(6) Standards for the safe transport of children when under the care of in-home aides;	38744 38745
(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	38746 38747
(8) Procedures for inspection of homes of children receiving publicly funded child day-care in their own homes;	38748 38749
(9) Procedures for record keeping and evaluation;	38750
(10) Procedures for receiving, recording, and responding to complaints;	38751 38752
(11) Qualifications and training requirements for in-home aides;	38753 38754
(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child day-care in the child's own home;	38755 38756 38757 38758
(13) Any other procedures and standards necessary to carry out this chapter.	38759 38760
(I)(1) The director of job and family services shall send <u>copies do all of the following:</u>	38761 38762
<u>(a) Send to each licensee notice of proposed rules to each licensee and each county director of job and family services and shall give governing the licensure of child day-care centers and type A homes;</u>	38763 38764 38765 38766
<u>(b) Give</u> public notice of hearings regarding the rules to each licensee and each county director of job and family services	38767 38768

at least thirty days prior to the date of the public hearing, in 38769
accordance with section 119.03 of the Revised Code. ~~Prior;~~ 38770

(c) Prior to the effective date of a rule, ~~the director of~~ 38771
~~job and family services shall provide copies,~~ in either paper or 38772
electronic form, a copy of the adopted rule to each licensee ~~and~~ 38773
~~each county director of job and family services.~~ 38774

(2) The director shall do all of the following: 38775

(a) Send to each county director of job and family services a 38776
notice of proposed rules governing the certification of type B 38777
family homes and in-home aides that includes an internet web site 38778
address where the proposed rules can be viewed; 38779

(b) Give public notice of hearings regarding the proposed 38780
rules not less than thirty days in advance; 38781

(c) Provide to each county director of job and family 38782
services an electronic copy of each adopted rule prior to the 38783
rule's effective date. 38784

(3) The county director of job and family services shall send 38785
copies of proposed rules to each authorized provider and in-home 38786
aide and shall give public notice of hearings regarding the rules 38787
to each authorized provider and in-home aide at least thirty days 38788
prior to the date of the public hearing, in accordance with 38789
section 119.03 of the Revised Code. Prior to the effective date of 38790
a rule, the county director of job and family services shall 38791
provide copies of the adopted rule to each authorized provider and 38792
in-home aide. 38793

(4) Additional copies of proposed and adopted rules shall be 38794
made available by the director of job and family services to the 38795
public on request at no charge. 38796

(J) The director of job and family services shall review all 38797
rules adopted pursuant to this chapter at least once every seven 38798

years. 38799

(K) Notwithstanding any provision of the Revised Code, the 38800
director of job and family services shall not regulate in any way 38801
under this chapter or rules adopted pursuant to this chapter, 38802
instruction in religious or moral doctrines, beliefs, or values. 38803

Sec. 5104.02. (A) The director of job and family services is 38804
responsible for the licensing of child day-care centers and type A 38805
family day-care homes, and for the enforcement of this chapter and 38806
of rules promulgated pursuant to this chapter. No person, firm, 38807
organization, institution, or agency shall operate, establish, 38808
manage, conduct, or maintain a child day-care center or type A 38809
family day-care home without a license issued under section 38810
5104.03 of the Revised Code. The current license shall be posted 38811
in a conspicuous place in the center or type A home that is 38812
accessible to parents, custodians, or guardians and employees of 38813
the center or type A home at all times when the center or type A 38814
home is in operation. 38815

(B) A person, firm, institution, organization, or agency 38816
operating any of the following programs is exempt from the 38817
requirements of this chapter: 38818

(1) A program of child day-care that operates for two or less 38819
consecutive weeks; 38820

(2) Child day-care in places of worship during religious 38821
activities during which children are cared for while at least one 38822
parent, guardian, or custodian of each child is participating in 38823
such activities and is readily available; 38824

(3) Religious activities which do not provide child day-care; 38825

(4) Supervised training, instruction, or activities of 38826
children in specific areas, including, but not limited to: art; 38827
drama; dance; music; gymnastics, swimming, or another athletic 38828

skill or sport; computers; or an educational subject conducted on 38829
an organized or periodic basis no more than one day a week and for 38830
no more than six hours duration; 38831

(5) Programs in which the director determines that at least 38832
one parent, custodian, or guardian of each child is on the 38833
premises of the facility offering child day-care and is readily 38834
accessible at all times, except that child day-care provided on 38835
the premises at which a parent, custodian, or guardian is employed 38836
more than two and one-half hours a day shall be licensed in 38837
accordance with division (A) of this section; 38838

(6)(a) Programs that provide child day-care funded and 38839
regulated or operated and regulated by state departments other 38840
than the department of job and family services or the state board 38841
of education when the director of job and family services has 38842
determined that the rules governing the program are equivalent to 38843
or exceed the rules promulgated pursuant to this chapter. 38844

Notwithstanding any exemption from regulation under this 38845
chapter, each state department shall submit to the director of job 38846
and family services a copy of the rules that govern programs that 38847
provide child day-care and are regulated or operated and regulated 38848
by the department. Annually, each state department shall submit to 38849
the director a report for each such program it regulates or 38850
operates and regulates that includes the following information: 38851

(i) The site location of the program; 38852

(ii) The maximum number of infants, toddlers, preschool 38853
children, or school children served by the program at one time; 38854

(iii) The number of adults providing child day-care for the 38855
number of infants, toddlers, preschool children, or school 38856
children; 38857

(iv) Any changes in the rules made subsequent to the time 38858
when the rules were initially submitted to the director. 38859

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following

apply:	38890
(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.	38891 38892 38893
(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.	38894 38895 38896
(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.	38897 38898 38899 38900
(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).	38901 38902 38903
Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child day-care in this state. Publicly funded child day-care shall be provided to the following:	38904 38905 38906 38907 38908
(1) Recipients of transitional child day-care as provided under section 5104.34 of the Revised Code;	38909 38910
(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;	38911 38912
(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;	38913 38914 38915 38916 38917
(4) A family receiving publicly funded child day-care on October 1, 1997, until the family's income reaches one hundred	38918 38919

fifty per cent of the federal poverty line; 38920

(5) Subject to available funds, other individuals determined 38921
eligible in accordance with rules adopted under section 5104.38 of 38922
the Revised Code. 38923

The department shall apply to the United States department of 38924
health and human services for authority to operate a coordinated 38925
program for publicly funded child day-care, if the director of job 38926
and family services determines that the application is necessary. 38927
For purposes of this section, the department of job and family 38928
services may enter into agreements with other state agencies that 38929
are involved in regulation or funding of child day-care. The 38930
department shall consider the special needs of migrant workers 38931
when it administers and coordinates publicly funded child day-care 38932
and shall develop appropriate procedures for accommodating the 38933
needs of migrant workers for publicly funded child day-care. 38934

(B) The department of job and family services shall 38935
distribute state and federal funds for publicly funded child 38936
day-care, including appropriations of state funds for publicly 38937
funded child day-care and appropriations of federal funds ~~for~~ 38938
~~publicly funded child day care~~ available under Title XX of the 38939
~~"Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as~~ 38940
~~amended, and~~ the child care block grant act, Title IV-A, and Title 38941
XX. The department may use any state funds appropriated for 38942
publicly funded child day-care as the state share required to 38943
match any federal funds appropriated for publicly funded child 38944
day-care. 38945

(C) The department may use federal funds available under the 38946
child care block grant act to hire staff to prepare any rules 38947
required under this chapter and to administer and coordinate 38948
federal and state funding for publicly funded child day-care. 38949

Not more than five per cent of the aggregate amount of those 38950

federal funds received for a fiscal year may be expended for 38951
administrative costs. The department shall allocate and use at 38952
least four per cent of the federal funds for the following: 38953

(1) Activities designed to provide comprehensive consumer 38954
education to parents and the public; 38955

(2) Activities that increase parental choice; 38956

(3) Activities, including child day-care resource and 38957
referral services, designed to improve the quality, and increase 38958
the supply, of child day-care. 38959

(D) The department shall ensure that any federal funds 38960
received by the state under the child care block grant act will be 38961
used only to supplement, and will not be used to supplant, 38962
federal, state, and local funds available on the effective date of 38963
that act for publicly funded child day-care and related programs. 38964
A county department of job and family services may purchase child 38965
day-care from funds obtained through any other means. 38966

(E) The department shall encourage the development of 38967
suitable child day-care throughout the state, especially in areas 38968
with high concentrations of recipients of public assistance and 38969
families with low incomes. The department shall encourage the 38970
development of suitable child day-care designed to accommodate the 38971
special needs of migrant workers. On request, the department, 38972
through its employees or contracts with state or community child 38973
day-care resource and referral service organizations, shall 38974
provide consultation to groups and individuals interested in 38975
developing child day-care. The department of job and family 38976
services may enter into interagency agreements with the department 38977
of education, the board of regents, the department of development, 38978
and other state agencies and entities whenever the cooperative 38979
efforts of the other state agencies and entities are necessary for 38980
the department of job and family services to fulfill its duties 38981

and responsibilities under this chapter. 38982

The department may develop and maintain a registry of persons 38983
providing child day-care. The director may adopt rules pursuant to 38984
Chapter 119. of the Revised Code establishing procedures and 38985
requirements for the registry's administration. 38986

(F) The director shall adopt rules in accordance with Chapter 38987
119. of the Revised Code establishing a procedure for determining 38988
rates of reimbursement and a procedure for paying providers of 38989
publicly funded child day-care. In establishing rates of 38990
reimbursement pursuant to this division, the director shall use 38991
the information obtained under division (B)(3) of section 5104.04 38992
of the Revised Code and may establish different rates of 38993
reimbursement based on the geographic location of the provider, 38994
type of care provided, age of the child served, special needs of 38995
the child, whether expanded hours of service are provided, whether 38996
weekend service is provided, whether the provider has exceeded the 38997
minimum requirements of state statutes and rules governing child 38998
day-care, and any other factors the director considers 38999
appropriate. The director shall establish an enhanced rate of 39000
reimbursement for providers who provide child day-care for 39001
caretaker parents who work nontraditional hours. For a type B 39002
family day-care home that has received limited certification 39003
pursuant to rules adopted under division (G)(1) of section 39004
5104.011 of the Revised Code, the department shall adopt rules 39005
establishing a reimbursement rate that is the greater of the rate 39006
that was in effect for the home on October 1, 1997, or 39007
seventy-five per cent of the reimbursement rate that applies to a 39008
type B family day-care home certified by the same county 39009
department of job and family services pursuant to section 5104.11 39010
of the Revised Code. 39011

Sec. 5104.32. (A) Except as provided in division (C) of this 39012

section, all purchases of publicly funded child day-care shall be 39013
made under a contract entered into by a licensed child day-care 39014
center, licensed type A family day-care home, certified type B 39015
family day-care home, certified in-home aide, approved child day 39016
camp, licensed preschool program, licensed school child program, 39017
or border state child day-care provider and the county department 39018
of job and family services. A county department of job and family 39019
services may enter into a contract with a provider for publicly 39020
funded child day-care for a specified period of time or upon a 39021
continuous basis for an unspecified period of time. All contracts 39022
for publicly funded child day-care shall be contingent upon the 39023
availability of state and federal funds. The department of job and 39024
family services shall prescribe a standard form to be used for all 39025
contracts for the purchase of publicly funded child day-care, 39026
regardless of the source of public funds used to purchase the 39027
child day-care. To the extent permitted by federal law and 39028
notwithstanding any other provision of the Revised Code that 39029
regulates state or county contracts or contracts involving the 39030
expenditure of state, county, or federal funds, all contracts for 39031
publicly funded child day-care shall be entered into in accordance 39032
with the provisions of this chapter and are exempt from any other 39033
provision of the Revised Code that regulates state or county 39034
contracts or contracts involving the expenditure of state, county, 39035
or federal funds. 39036

(B) Each contract for publicly funded child day-care shall 39037
specify at least the following: 39038

(1) Except as provided in division (B)(2) of this section, 39039
that the provider of publicly funded child day-care agrees to be 39040
paid for rendering services at the lower of the rate customarily 39041
charged by the provider for children enrolled for child day-care 39042
or the rate of reimbursement established pursuant to section 39043
5104.30 of the Revised Code; 39044

(2) If the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, that the provider is to be paid for rendering services to those caretaker parents at the rate of reimbursement established pursuant to section 5104.30 of the Revised Code regardless of whether that rate is higher than the rate the provider customarily charges for children enrolled for child day-care;

(3) That, if a provider provides child day-care to an individual potentially eligible for publicly funded child day-care who is subsequently determined to be eligible, the county department agrees to pay for all child day-care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(4) Whether the county department of job and family services, the provider, or a child day-care resource and referral service organization will make eligibility determinations, whether the provider or a child day-care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child day-care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(5) That the provider, other than a border state child day-care provider or except as provided in division (B) of section 3301.37 of the Revised Code, shall continue to be licensed, approved, or certified pursuant to this chapter ~~or sections 3301.52 to 3301.59 of the Revised Code~~ and shall comply with all standards and other requirements in this chapter ~~and those sections~~ and in rules adopted pursuant to this chapter ~~or those~~

~~sections~~ for maintaining the provider's license, approval, or certification; 39077
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(6) That, in the case of a border state child day-care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval; 39079
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(7) Whether the provider will be paid by the county department of job and family services or the state department of job and family services; 39085
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(8) That the contract is subject to the availability of state and federal funds. 39088
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(C) Unless specifically prohibited by federal law, the county department of job and family services shall give individuals eligible for publicly funded child day-care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child day-care under section 5104.31 of the Revised Code. Providers of publicly funded child day-care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lower of the rate customarily charged by the provider or the rate of reimbursement established pursuant to section 5104.30 of the Revised Code, unless the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, in which case the value of the certificate for payment for the services to those caretaker parents shall be based on the rate of reimbursement established pursuant to that section regardless of whether that rate is higher than the rate customarily charged by 39090
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the provider. The county department may provide the certificates 39109
for payment to the individuals or may contract with child day-care 39110
providers or child day-care resource and referral service 39111
organizations that make determinations of eligibility for publicly 39112
funded child day-care pursuant to contracts entered into under 39113
section 5104.34 of the Revised Code for the providers or resource 39114
and referral service organizations to provide the certificates for 39115
payment to individuals whom they determine are eligible for 39116
publicly funded child day-care. 39117

For each six-month period a provider of publicly funded child 39118
day-care provides publicly funded child day-care to the child of 39119
an individual given certificates of payment, the individual shall 39120
provide the provider certificates for days the provider would have 39121
provided publicly funded child day-care to the child had the child 39122
been present. County departments shall specify the maximum number 39123
of days providers will be provided certificates of payment for 39124
days the provider would have provided publicly funded child 39125
day-care had the child been present. The maximum number of days 39126
shall not exceed ten days in a six-month period during which 39127
publicly funded child day-care is provided to the child regardless 39128
of the number of providers that provide publicly funded child 39129
day-care to the child during that period. 39130

Sec. 5104.42. The director of job and family services shall 39131
adopt rules pursuant to section 111.15 of the Revised Code 39132
establishing a payment procedure for publicly funded child 39133
day-care. The rules may provide that the department of job and 39134
family services will either reimburse county departments of job 39135
and ~~family~~ family services for payments made to providers of 39136
publicly funded child day-care or make direct payments to 39137
providers pursuant to ~~an~~ a fiscal agreement entered into with a 39138
county board of commissioners pursuant to section 5101.21 of the 39139
Revised Code. 39140

Alternately, the director, by rule adopted in accordance with 39141
section 111.15 of the Revised Code, may establish a methodology 39142
for allocating among the county departments the state and federal 39143
funds appropriated for all publicly funded child day-care 39144
services. If the department chooses to allocate funds for publicly 39145
funded child day-care, it may provide the funds to each county 39146
department, up to the limit of the county's allocation, by 39147
advancing the funds or reimbursing county day-care expenditures. 39148
The rules adopted under this section may prescribe procedures for 39149
making the advances or reimbursements. The rules may establish a 39150
method under which the department may determine which county 39151
expenditures for day-care services are allowable for use of and 39152
federal funds. 39153

The rules may establish procedures that a county department 39154
shall follow when the county department determines that its 39155
anticipated future expenditures for publicly funded child day-care 39156
services will exceed the amount of state and federal funds 39157
allocated by the state department. The procedures may include 39158
suspending or limiting enrollment of new participants. 39159

Sec. 5107.02. As used in this chapter: 39160

(A) "Adult" means an individual who is not a minor child. 39161

(B) "Assistance group" means a group of individuals treated 39162
as a unit for purposes of determining eligibility for and the 39163
amount of assistance provided under Ohio works first. 39164

(C) "Custodian" means an individual who has legal custody, as 39165
defined in section 2151.011 of the Revised Code, of a minor child 39166
or comparable status over a minor child created by a court of 39167
competent jurisdiction in another state. 39168

(D) "Guardian" means an individual that is granted authority 39169
by a probate court pursuant to Chapter 2111. of the Revised Code, 39170

or a court of competent jurisdiction in another state, to exercise 39171
parental rights over a minor child to the extent provided in the 39172
court's order and subject to residual parental rights of the minor 39173
child's parents. 39174

(E) "Minor child" means either of the following: 39175

(1) An individual who has not attained age eighteen; 39176

(2) An individual who has not attained age nineteen and is a 39177
full-time student in a secondary school or in the equivalent level 39178
of vocational or technical training. 39179

(F) "Minor head of household" means a minor child who is 39180
either of the following: 39181

(1) ~~A~~ Is married, at least six months pregnant, and a member 39182
of an assistance group that does not include an adult; 39183

(2) ~~A~~ Is married and is a parent of a child included in the 39184
same assistance group that does not include an adult. 39185

(G) "Ohio works first" means the program established by this 39186
chapter known as temporary assistance for needy families in Title 39187
IV-A. 39188

(H) "Payment standard" means the amount specified in rules 39189
adopted under section 5107.05 of the Revised Code that is the 39190
maximum amount of cash assistance an assistance group may receive 39191
under Ohio works first from state and federal funds. 39192

(I) "Specified relative" means the following individuals who 39193
are age eighteen or older: 39194

(1) The following individuals related by blood or adoption: 39195

(a) Grandparents, including grandparents with the prefix 39196
"great," "great-great," or "great-great-great"; 39197

(b) Siblings; 39198

(c) Aunts, uncles, nephews, and nieces, including such 39199

relatives with the prefix "great," "great-great," "grand," or "great-grand";	39200 39201
(d) First cousins and first cousins once removed.	39202
(2) Stepparents and stepsiblings;	39203
(3) Spouses and former spouses of individuals named in division (I)(1) or (2) of this section.	39204 39205
(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.	39206 39207 39208
Sec. 5107.30. (A) As used in this section:	39209
(1) "LEAP program" means the learning, earning, and parenting program.	39210 39211
(2) "Teen" means a participant of Ohio works first who is under age twenty <u>eighteen or is age eighteen and in school</u> and is a natural or adoptive parent or is pregnant.	39212 39213 39214
(3) "School" means an educational program that is designed to lead to the attainment of a high school diploma or the equivalent of a high school diploma.	39215 39216 39217
(B) The director of job and family services may adopt rules under section 5107.05 of the Revised Code, to the extent that such rules are consistent with federal law, to do all of the following:	39218 39219 39220
(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;	39221 39222
(2) Conduct one or more special demonstration programs a <u>program</u> titled the "LEAP program" and establish requirements governing the program. The purpose of the LEAP program is to encourage teens to complete school.	39223 39224 39225 39226
(3) Require every teen who is subject to LEAP program requirements to attend school in accordance with the requirements	39227 39228

governing the program unless the teen shows good cause for not 39229
attending school. The department shall provide, in addition to the 39230
cash assistance payment provided under Ohio works first, an 39231
incentive payment, in an amount determined by the department, to 39232
every teen who is participating in the LEAP program and attends 39233
school in accordance with the requirements governing the program. 39234
The department shall reduce the cash assistance payment, in an 39235
amount determined by the department, under Ohio works first to 39236
every teen participating in the LEAP program who fails or refuses, 39237
without good cause, to ~~attend school in accordance with~~ meet the 39238
requirements governing the program. 39239

(4) Require every teen who is subject to LEAP program 39240
requirements to enter into a written agreement with the county 39241
department of job and family services that provides all of the 39242
following: 39243

(a) The teen, to be eligible to receive the incentive payment 39244
under division (B)(3) of this section, must ~~attend school in~~ 39245
~~accordance with~~ meet the requirements of the LEAP program. 39246

(b) The county department will provide the incentive payment 39247
to the teen if the teen ~~attends school;~~ meets the requirements of 39248
the LEAP program. 39249

(c) The county department will reduce the cash assistance 39250
payment under Ohio works first if the teen fails or refuses 39251
without good cause to attend school in accordance with the 39252
requirements governing the LEAP program. 39253

~~(5) Evaluate the demonstration programs established under 39254
this section. In conducting the evaluations, the department of job 39255
and family services shall select control groups of teens who are 39256
otherwise subject to the LEAP program requirements. 39257~~

(C) A ~~teen~~ minor head of household who is participating in 39258
the LEAP program shall be considered to be participating in a work 39259

activity for the purpose of sections 5107.40 to 5107.69 of the Revised Code. However, the ~~teen~~ minor head of household is not subject to the requirements or sanctions of those sections, ~~unless the teen is over age eighteen and meets the LEAP program requirements by participating regularly in work activities, developmental activities, or alternative work activities under those sections.~~

(D) Subject to the availability of funds, county departments of job and family services shall provide for LEAP participants to receive support services the county department determines to be necessary for LEAP participation. Support services may include publicly funded child day-care under Chapter 5104. of the Revised Code, transportation, and other services.

Sec. 5107.37. ~~An~~ (A) Except as provided in division (B) of this section, an individual who resides in a county home, city infirmary, jail, or other public institution is not eligible to participate in Ohio works first.

(B) Division (A) of this section does not apply to a minor child residing with the minor child's mother who participates in a prison nursery program established under section 5120.65 of the Revised Code.

Sec. 5107.40. As used in sections 5107.40 to 5107.69 of the Revised Code:

(A) "Alternative work activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.64 of the Revised Code.

(B) "Developmental activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section

5107.62 of the Revised Code.	39290
(C) "High school equivalence diploma" means a diploma	39291
attesting to achievement of the equivalent of a high school	39292
education as measured by scores obtained on the tests of general	39293
educational development published by the American council on	39294
education. "High school equivalence diploma" includes a	39295
certificate of high school equivalence issued prior to January 1,	39296
1994, attesting to the achievement of the equivalent of a high	39297
school education as measured by scores obtained on tests of	39298
general educational development.	39299
(D) "Work activity" means the following:	39300
(1) Unsubsidized employment activities established under	39301
section 5107.60 of the Revised Code;	39302
(2) The subsidized employment program established under	39303
section 5107.52 of the Revised Code;	39304
(3) The work experience program established under section	39305
5107.54 of the Revised Code;	39306
(4) On-the-job training activities established under section	39307
5107.60 of the Revised Code;	39308
(5) The job search and readiness program established under	39309
section 5107.50 of the Revised Code;	39310
(6) Community service activities established under section	39311
5107.60 of the Revised Code;	39312
(7) Vocational educational training activities established	39313
under section 5107.60 of the Revised Code;	39314
(8) Jobs skills training activities established under section	39315
5107.60 of the Revised Code that are directly related to	39316
employment;	39317
(9) Education activities established under section 5107.60 of	39318
the Revised Code that are directly related to employment for	39319

participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma; 39320
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(10) Education activities established under section 5107.60 of the Revised Code for participants of Ohio works first who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma; 39322
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(11) Child-care service activities, including training, established under section 5107.60 of the Revised Code to aid another participant of Ohio works first assigned to a community service activity or other work activity; 39328
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(12) The education program established under section 5107.58 of the Revised Code that are operated pursuant to a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code; 39332
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(13) ~~Except as limited~~ To the extent provided by division (C) of section 5107.30 of the Revised Code, the LEAP program established under that section. 39337
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Sec. 5107.60. In accordance with Title IV-A, federal regulations, state law, the Title IV-A state plan prepared under section 5101.80 of the Revised Code, and amendments to the plan, county departments of job and family services shall establish and administer the following work activities, in addition to the work activities established under sections 5107.50, 5107.52, 5107.54, and 5107.58 of the Revised Code, for minor heads of households and adults participating in Ohio works first: 39340
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(A) Unsubsidized employment activities, including activities a county department determines are legitimate entrepreneurial 39348
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activities;	39350
(B) On-the-job training activities, including training to become an employee of a child day-care center or type A family day-care home, authorized provider of a certified type B family day-care home, or in-home aide;	39351 39352 39353 39354
(C) Community service activities including a program under which a participant of Ohio works first who is the parent, guardian, custodian, or specified relative responsible for the care of a minor child enrolled in grade twelve or lower is involved in the minor child's education on a regular basis;	39355 39356 39357 39358 39359
(D) Vocational educational training activities;	39360
(E) Jobs skills training activities that are directly related to employment;	39361 39362
(F) Education activities that are directly related to employment for participants who have not earned a high school diploma or high school equivalence diploma;	39363 39364 39365
(G) Education activities for participants who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma, <u>including LEAP participation by a minor head of household;</u>	39366 39367 39368 39369 39370
(H) Child-care service activities aiding another participant assigned to a community service activity or other work activity. A county department may provide for a participant assigned to this work activity to receive training necessary to provide child-care services.	39371 39372 39373 39374 39375
Sec. 5108.01. As used in this chapter:	39376
(A) "Assistance group" means a group of individuals treated as a unit for purposes of determining eligibility for the prevention, retention, and contingency program <u>"County family</u>	39377 39378 39379

services planning committee" means the county family services 39380
planning committee established under section 329.06 of the Revised 39381
Code or the board created by consolidation under division (C) of 39382
section 6301.06 of the Revised Code. 39383

(B) "Prevention, retention, and contingency program" means 39384
the program established by this chapter and funded in part with 39385
federal funds provided under Title IV-A. 39386

(C) "Title IV-A" means Title IV-A of the "Social Security 39387
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 39388

Sec. 5108.03. Under the prevention, retention, and 39389
contingency program, ~~a~~ each county department of job and family 39390
services shall ~~provide~~ do both of the following in accordance with 39391
the statement of policies the county department develops under 39392
section 5108.04 of the Revised Code: 39393

(A) Provide benefits and services that individuals need to 39394
overcome immediate barriers to achieving or maintaining self 39395
sufficiency and personal responsibility; 39396

(B) Perform related administrative duties. ~~A county~~ 39397
~~department shall provide the benefits and services in accordance~~ 39398
~~with either the model design for the program that the department~~ 39399
~~of job and family services develops under section 5108.05 of the~~ 39400
~~Revised Code or the county department's own policies for the~~ 39401
~~program developed under section 5108.06 of the Revised Code.~~ 39402

Sec. 5108.06 **5108.04.** Each county department of job and 39403
family services shall ~~either~~ adopt ~~the model design for a written~~ 39404
statement of policies governing the prevention, retention, and 39405
contingency program ~~the department of job and family services~~ 39406
~~develops under section 5108.05 of the Revised Code or develop its~~ 39407
~~own policies~~ for the program county. ~~To develop its own policies,~~ 39408
~~a county department shall adopt a written statement of the~~ 39409

~~policies governing the program. The policies may be a modification~~ 39410
~~of the model design, different from the model design, or a~~ 39411
~~combination. The statement of policies shall be adopted not later~~ 39412
~~than October 1, 2003, and shall be updated at least every two~~ 39413
~~years thereafter. A county department may amend its statement of~~ 39414
~~policies to modify, terminate, and establish new policies. The~~ 39415
~~county director of job and family services shall sign and date the~~ 39416
~~statement of policies and any amendment to it. Neither the~~ 39417
~~statement of policies nor any amendment to it may have an~~ 39418
~~effective date that is earlier than the date of the county~~ 39419
~~director's signature.~~ 39420

A ~~Each~~ county department of job and family services shall 39421
~~inform~~ provide the department of job and family services of 39422
~~whether it has adopted the model design or developed its own~~ 39423
~~policies for the prevention, retention, and contingency program.~~ 39424
~~If a county department develops its own policies, it shall provide~~ 39425
~~the department a written copy of the statement of policies and any~~ 39426
~~amendments it adopts to the statement not later than ten calendar~~ 39427
~~days after the statement or amendment's effective date.~~ 39428

Sec. 5108.07 5108.05. ~~The model design for the prevention,~~ 39429
~~retention, and contingency program that the department of job and~~ 39430
~~family services develops under section 5108.05 of the Revised Code~~ 39431
~~and policies for the program that a county department of job and~~ 39432
~~family services may develop under section 5108.06 of the Revised~~ 39433
~~Code shall establish In adopting a statement of policies under~~ 39434
~~section 5108.04 of the Revised Code for the county's prevention,~~ 39435
~~retention, and contingency program, each county department of job~~ 39436
~~and family services shall do all of the following:~~ 39437

~~(A) Establish or specify eligibility requirements for~~ 39438
~~assistance groups that apply for the program under section 5108.10~~ 39439
~~of the Revised Code, benefits all of the following:~~ 39440

(1) Benefits and services to be provided under the program to 39441
assistance groups, administrative that are allowable uses of 39442
federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except 39443
that they may not be "assistance" as defined in 45 C.F.R. 39444
260.31(a) but rather benefits and services that 45 C.F.R. 39445
260.31(b) excludes from the definition of assistance; 39446

(2) Restrictions on the amount, duration, and frequency of 39447
the benefits and services; 39448

(3) Eligibility requirements for the benefits and services; 39449

(4) Fair and equitable procedures for both of the following: 39450

(a) The certification of eligibility for the benefits and 39451
services that do not have a financial need eligibility 39452
requirement; 39453

(b) The determination and verification of eligibility for the 39454
benefits and services that have a financial need eligibility 39455
requirement. 39456

(5) Objective criteria for the delivery of the benefits and 39457
services; 39458

(6) Administrative requirements, and other; 39459

(7) Other matters the department, in the case of the model 39460
design, or a county department, in the case of county policies, 39461
determine determines are necessary. 39462

The model design and a county department's policies may 39463
establish eligibility requirements for, and specify benefits and 39464
services to be provided to, types of groups, such as students in 39465
the same class, that share a common need for the benefits and 39466
services. If the model design or a county department's policies 39467
include such a provision, the model design or county department's 39468
policies shall require that each individual who is to receive the 39469
benefits and services meet the eligibility requirements 39470

~~established for the type of group of which the individual is a member. The model design or county department's policies also shall require that the county department providing the benefits and services certify the group's eligibility, specify the duration that the group is to receive the benefits and services, and maintain the eligibility information for each member of the group receiving the benefits and services.~~

~~The model design and a county department's policies may specify benefits and services that a county department may provide for the general public, including billboards that promote the prevention, and reduction in the incidence, of out of wedlock pregnancies or encourage the formation and maintenance of two parent families.~~

~~The model design and a county department's policies must be consistent with (B) Provide for the statement of policies to be consistent with all of the following:~~

~~(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code;~~

~~(2) The review and analysis of the county family services committee conducted in accordance with division (B)(2) of section 329.06 of the Revised Code;~~

~~(3) Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan. All benefits and services to be provided under the model design or a county department's policies must be allowable uses of federal Title IV A funds as specified in 42 U.S.C.A. 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a). The benefits and services shall be benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.~~

(C) Either provide the public and local government entities at least thirty days to submit comments on, or have the county family services planning committee review, the statement of policies, including the design of the county's prevention, retention, and contingency program, before the county director signs and dates the statement of policies.

Sec. 5108.06. In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, a county department of job and family services may specify both of the following:

(A) Benefits and services to be provided under the program that prevent and reduce the incidence of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families as permitted by 45 C.F.R. 260.20(c) and (d);

(B) How the county department will certify individuals' eligibility for such benefits and services.

Sec. 5108.07. (A) Each statement of policies adopted under section 5108.04 of the Revised Code shall include the board of county commissioners' certification that the county department of job and family services complied with this chapter in adopting the statement of policies.

(B) The board of county commissioners shall revise its certification under division (A) of this section if an amendment to the statement of policies that the board considers to be significant is adopted under section 5108.04 of the Revised Code.

Sec. 5108.09. When a state hearing under division (B) of section 5101.35 of the Revised Code or an administrative appeal under division (C) of that section is held regarding the prevention, retention, and contingency program, the hearing

officer, director of job and family services, or director's 39531
designee shall base the decision in the hearing or appeal on the 39532
~~following:~~ 39533

~~(A) If the county department of job and family services 39534
involved in the hearing or appeal adopted the department of job 39535
and family services' model design for the program developed under 39536
section 5108.05 of the Revised Code, the model design:~~ 39537

~~(B) If the county department developed its own policies for 39538
the program, the county department's department of job and family 39539
services' written statement of policies adopted under section 39540
~~5108.06~~ 5108.04 of the Revised Code and any amendments the county 39541
department adopted to the statement if the county department 39542
provides a copy of the statement of policies and all amendments to 39543
the hearing officer, director, or director's designee at the 39544
hearing or appeal. 39545~~

Sec. 5108.10. ~~An assistance group seeking to participate in 39546
the prevention, retention, and contingency program shall apply to 39547
a county department of job and family services using Eligibility 39548
for a benefit or service under a county's prevention, retention, 39549
and contingency program shall be certified in accordance with the 39550
statement of policies adopted under section 5108.04 of the Revised 39551
Code if the benefit or service does not have a financial need 39552
eligibility requirement. 39553~~

~~Eligibility for a benefit or service shall be determined in 39554
accordance with the statement of policies and based on an 39555
application containing information the county department of job 39556
and family services requires. 39557~~

~~When if the benefit or service has a financial need 39558
eligibility requirement. When a county department receives an 39559
application for participation in the prevention, retention, and 39560
contingency program such benefits and services, it shall promptly 39561~~

~~make an investigation and record of the circumstances of the~~ 39562
~~applicant in order to ascertain~~ follow verification procedures 39563
established by the statement of policies to verify the facts 39564
surrounding the application and to obtain such other information 39565
as may be required. On completion of the ~~investigation~~ 39566
verification procedure, the county department shall determine 39567
whether the applicant is eligible ~~to participate,~~ for the benefits 39568
or services ~~the applicant should receive,~~ and the approximate date 39569
when ~~participation is~~ the benefits or services are to begin. 39570

Sec. 5108.11. (A) To the extent permitted by section 307.982 39571
of the Revised Code, a board of county commissioners may enter 39572
into a written contract with a private or government entity for 39573
the entity to do either or both of the following for the county's 39574
prevention, retention, and contingency program: 39575

(1) Certify eligibility for benefits and services that do not 39576
have a financial need eligibility requirement; 39577

(2) Accept applications and determine and verify eligibility 39578
for benefits and services that have a financial need eligibility 39579
requirement. 39580

(B) If a board of county commissioners enters into a contract 39581
under division (A) of this section with a private or government 39582
entity, the county department of job and family services shall do 39583
all of the following: 39584

(1) Ensure that eligibility for benefits and services is 39585
certified or determined and verified in accordance with the 39586
statement of policies adopted under section 5108.04 of the Revised 39587
Code; 39588

(2) Ensure that the private or government entity maintains 39589
all records that are necessary for audits; 39590

(3) Monitor the private or government entity for compliance 39591

with Title IV-A, this chapter of the Revised Code, and the 39592
statement of policies; 39593

(4) Take actions that are necessary to recover any funds that 39594
are not spent in accordance with Title IV-A or this chapter of the 39595
Revised Code. 39596

Sec. 5108.12. Each county department of job and family 39597
services is responsible for funds expended or claimed under the 39598
county's prevention, retention, and contingency program that the 39599
department of job and family services, auditor of state, United 39600
States department of health and human services, or other 39601
government entity determines is expended or claimed in a manner 39602
that federal or state law or policy does not permit. 39603

Sec. 5111.019. (A) The If sufficient funds are appropriated 39604
by the general assembly, the director of job and family services 39605
~~shall~~ may submit to the United States secretary of health and 39606
human services an amendment to the state medicaid plan to make an 39607
individual who meets all of the following requirements eligible 39608
for medicaid for the amount of time provided by division (B) of 39609
this section: 39610

(1) The individual is the parent of a child under nineteen 39611
years of age and resides with the child; 39612

(2) The individual's family income does not exceed one 39613
hundred per cent of the federal poverty guidelines; 39614

(3) The individual is not otherwise eligible for medicaid; 39615

(4) The individual satisfies all relevant requirements 39616
established by rules adopted under division (D) of section 5111.01 39617
of the Revised Code. 39618

(B) An individual is eligible to receive medicaid under this 39619
section for a period that does not exceed two years beginning on 39620

the date on which eligibility is established. 39621

~~(C) If approved by the United States secretary of health and 39622
human services and the director of job and family services, the 39623
director shall implement the medicaid plan amendment submitted 39624
under this section not sooner than July 1, 2000. If a federal 39625
waiver is necessary for the United States secretary to approve the 39626
amendment, the director of job and family services shall submit a 39627
waiver request to the United States secretary not later than 39628
ninety days after the effective date of this section. 39629~~

Sec. 5111.0112. The director of job and family services shall 39630
examine instituting a copayment program under medicaid. As part of 39631
the examination, the director shall determine which groups of 39632
medicaid recipients may be subjected to a copayment requirement 39633
under federal statutes and regulations ~~and which of those groups 39634
are appropriate for a copayment program designed to reduce 39635
inappropriate and excessive use of medical goods and services. If, 39636
on completion of the examination, the director determines that it 39637
is feasible to institute such a copayment program, the director 39638
may seek approval from the United States secretary of health and 39639
human services to institute the copayment program. If necessary, 39640
the director may seek approval by applying for a waiver of federal 39641
statutes and regulations. If such approval is obtained, the 39642
director shall adopt rules in accordance with Chapter 119. of the 39643
Revised Code governing the copayment program. 39644~~

Sec. 5111.0113. Children who are in the temporary or 39645
permanent custody of a certified public or private nonprofit 39646
agency or institution or in adoptions subsidized under division 39647
(B) of section 5153.163 of the Revised Code are eligible for 39648
medical assistance through the medicaid program established under 39649
section 5111.01 of the Revised Code. 39650

Sec. 5111.02. (A) Under the medical assistance program: 39651

(1) Except as otherwise permitted by federal statute or 39652
regulation and at the department's discretion, reimbursement by 39653
the department of job and family services to a medical provider 39654
for any medical service rendered under the program shall not 39655
exceed the authorized reimbursement level for the same service 39656
under the medicare program established under Title XVIII of the 39657
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 39658
amended. 39659

(2) Reimbursement for freestanding medical laboratory charges 39660
shall not exceed the customary and usual fee for laboratory 39661
profiles. 39662

(3) The department may deduct from payments for services 39663
rendered by a medicaid provider under the medical assistance 39664
program any amounts the provider owes the state as the result of 39665
incorrect medical assistance payments the department has made to 39666
the provider. 39667

(4) The department may conduct final fiscal audits in 39668
accordance with the applicable requirements set forth in federal 39669
laws and regulations and determine any amounts the provider may 39670
owe the state. When conducting final fiscal audits, the department 39671
shall consider generally accepted auditing standards, which 39672
include the use of statistical sampling. 39673

(5) The number of days of inpatient hospital care for which 39674
reimbursement is made on behalf of a recipient of medical 39675
assistance to a hospital that is not paid under a 39676
diagnostic-related-group prospective payment system shall not 39677
exceed thirty days during a period beginning on the day of the 39678
recipient's admission to the hospital and ending sixty days after 39679
the termination of that hospital stay, except that the department 39680

may make exceptions to this limitation. The limitation does not 39681
apply to children participating in the program for medically 39682
handicapped children established under section 3701.023 of the 39683
Revised Code. 39684

(B) The director of job and family services may adopt, amend, 39685
or rescind rules under Chapter 119. of the Revised Code 39686
establishing the amount, duration, and scope of medical services 39687
to be included in the medical assistance program. Such rules shall 39688
establish the conditions under which services are covered and 39689
reimbursed, the method of reimbursement applicable to each covered 39690
service, and the amount of reimbursement or, in lieu of such 39691
amounts, methods by which such amounts are to be determined for 39692
each covered service. ~~Any rules that pertain to nursing facilities 39693
or intermediate care facilities for the mentally retarded shall be 39694
consistent with sections 5111.20 to 5111.33 of the Revised Code.~~ 39695

~~(C) No health insuring corporation that has a contract to 39696
provide health care services to recipients of medical assistance 39697
shall restrict the availability to its enrollees of any 39698
prescription drugs included in the Ohio medicaid drug formulary as 39699
established under rules adopted by the director.~~ 39700

~~(D)~~ The division of any reimbursement between a collaborating 39701
physician or podiatrist and a clinical nurse specialist, certified 39702
nurse-midwife, or certified nurse practitioner for services 39703
performed by the nurse shall be determined and agreed on by the 39704
nurse and collaborating physician or podiatrist. In no case shall 39705
reimbursement exceed the payment that the physician or podiatrist 39706
would have received had the physician or podiatrist provided the 39707
entire service. 39708

Sec. 5111.021. Under the medical assistance program, any 39709
amount determined to be owed the state by a final fiscal audit 39710
conducted pursuant to division (A)(4) of section 5111.02 of the 39711

Revised Code, upon the issuance of an adjudication order pursuant 39712
to Chapter 119. of the Revised Code that contains a finding that 39713
there is a preponderance of the evidence that the provider will 39714
liquidate assets or file bankruptcy in order to prevent payment of 39715
the amount determined to be owed the state, becomes a lien upon 39716
the real and personal property of the provider. Upon failure of 39717
the provider to pay the amount to the state, the director of job 39718
and family services shall file notice of the lien, for which there 39719
shall be no charge, in the office of the county recorder of the 39720
county in which it is ascertained that the provider owns real or 39721
personal property. The director shall notify the provider by mail 39722
of the lien, but absence of proof that the notice was sent does 39723
not affect the validity of the lien. The lien is not valid as 39724
against the claim of any mortgagee, pledgee, purchaser, judgment 39725
creditor, or other lienholder of record at the time the notice is 39726
filed. 39727

If the provider acquires real or personal property after 39728
notice of the lien is filed, the lien shall not be valid as 39729
against the claim of any mortgagee, pledgee, subsequent bona fide 39730
purchaser for value, judgment creditor, or other lienholder of 39731
record to such after-acquired property unless the notice of lien 39732
is refiled after the property is acquired by the provider and 39733
before the competing lien attaches to the after-acquired property 39734
or before the conveyance to the subsequent bona fide purchaser for 39735
value. 39736

When the amount has been paid, the provider may record with 39737
the recorder notice of the payment. For recording such notice of 39738
payment, the recorder shall charge and receive from the provider a 39739
base fee of one dollar for services and a housing trust fund fee 39740
of one dollar pursuant to section 317.36 of the Revised Code. 39741

In the event of a distribution of a provider's assets 39742
pursuant to an order of any court under the law of this state 39743

including any receivership, assignment for benefit of creditors, 39744
adjudicated insolvency, or similar proceedings, amounts then or 39745
thereafter due the state under this chapter have the same priority 39746
as provided by law for the payment of taxes due the state and 39747
shall be paid out of the receivership trust fund or other such 39748
trust fund in the same manner as provided for claims for unpaid 39749
taxes due the state. 39750

If the attorney general finds after investigation that any 39751
amount due the state under this chapter is uncollectable, in whole 39752
or in part, the attorney general shall recommend to the director 39753
the cancellation of all or part of the claim. The director may 39754
thereupon effect the cancellation. 39755

Sec. 5111.022. (A) As used in this section: 39756

(1) "Community mental health facility" means a community 39757
mental health facility that has a quality assurance program 39758
accredited by the joint commission on accreditation of healthcare 39759
organizations or is certified by the department of mental health 39760
or department of job and family services. 39761

(2) "Mental health professional" means a person qualified to 39762
work with mentally ill persons under the standards established by 39763
the director of mental health pursuant to section 5119.611 of the 39764
Revised Code. 39765

(B) The state medicaid plan for providing medical assistance 39766
under Title XIX of the "Social Security Act," 49 Stat. 620, 42 39767
U.S.C.A. 301, as amended, shall include provision of the following 39768
mental health services when provided by community mental health 39769
facilities described in division (B) of this section: 39770

(1) Outpatient mental health services, including, but not 39771
limited to, preventive, diagnostic, therapeutic, rehabilitative, 39772
and palliative interventions rendered to individuals in an 39773

individual or group setting by a mental health professional in 39774
accordance with a plan of treatment appropriately established, 39775
monitored, and reviewed; 39776

(2) Partial-hospitalization mental health services of three 39777
to fourteen hours per service day, rendered by persons directly 39778
supervised by a mental health professional; 39779

(3) Unscheduled, emergency mental health services of a kind 39780
ordinarily provided to persons in crisis when rendered by persons 39781
supervised by a mental health professional; 39782

(4) Subject to receipt of federal approval, assertive 39783
community treatment and intensive home-based mental health 39784
services. 39785

~~(B) Services shall be included in the state plan only when 39786~~
~~provided by community mental health facilities that have quality 39787~~
~~assurance programs accredited by the joint commission on 39788~~
~~accreditation of healthcare organizations or certified by the 39789~~
~~department of mental health or department of job and family 39790~~
~~services.~~ 39791

(C) The comprehensive annual plan shall certify the 39792
availability of sufficient unencumbered community mental health 39793
state subsidy and local funds to match Title XIX federal medicaid 39794
reimbursement funds earned by the community mental health 39795
facilities. ~~Reimbursement for eligible services shall be based on 39796~~
~~the prospective cost of providing the services as developed in 39797~~
~~standards adopted as part of the comprehensive annual plan.~~ 39798

~~(D) As used in this section, "mental health professional" 39799~~
~~means a person qualified to work with mentally ill persons under 39800~~
~~the standards established by the director of mental health 39801~~
~~pursuant to section 5119.611 of the Revised Code.~~ 39802

~~(E) With respect to services established by division (A) of 39803~~
~~this section, the The department of job and family services shall 39804~~

enter into a separate contract with the department of mental 39805
health under section 5111.91 of the Revised Code with regard to 39806
the component of the medicaid program provided for by this 39807
section. ~~The terms of the contract between the department of job~~ 39808
~~and family services and the department of mental health shall~~ 39809
~~specify both of the following:~~ 39810

~~(1) That the department of mental health and boards of~~ 39811
~~alcohol, drug addiction, and mental health services shall provide~~ 39812
~~state and local matching funds for Title XIX of the "Social~~ 39813
~~Security Act," for reimbursement of services established by~~ 39814
~~division (A) of this section;~~ 39815

~~(2) How the community mental health facilities described in~~ 39816
~~division (B) of this section will be paid for providing the~~ 39817
~~services established by division (A) of this section.~~ 39818

(E) Not later than May 1, 2004, the department of job and 39819
family services shall request federal approval to provide 39820
assertive community treatment and intensive home-based mental 39821
health services under medicaid pursuant to this section. 39822

(F) On receipt of federal approval sought under division (F) 39823
of this section, the director of job and family services shall 39824
adopt rules in accordance with Chapter 119. of the Revised Code 39825
establishing statewide access and acuity standards for partial 39826
hospitalization, mental health services and assertive community 39827
treatment and intensive home-based mental health services provided 39828
under medicaid pursuant to this section. The director shall 39829
consult with the department of mental health in adopting the 39830
rules. 39831

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 39832
the Revised Code, the director of job and family services may 39833
modify the manner or establish a new manner in which the following 39834
are paid under medicaid: 39835

(1) Community mental health facilities for providing mental health services included in the state medicaid plan pursuant to section 5111.022 of the Revised Code; 39836
39837
39838

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code. 39839
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39842

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on the effective date of this section and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules. 39843
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Sec. 5111.03. (A) No provider of services or goods 39850
contracting with the department of job and family services 39851
pursuant to the medicaid program shall, by deception, obtain or 39852
attempt to obtain payments under this chapter to which the 39853
provider is not entitled pursuant to the provider agreement, or 39854
the rules of the federal government or the department of job and 39855
family services relating to the program. No provider shall 39856
willfully receive payments to which the provider is not entitled, 39857
or willfully receive payments in a greater amount than that to 39858
which the provider is entitled; nor shall any provider falsify any 39859
report or document required by state or federal law, rule, or 39860
provider agreement relating to medicaid payments. As used in this 39861
section, a provider engages in "deception" when the provider, 39862
acting with actual knowledge of the representation or information 39863
involved, acting in deliberate ignorance of the truth or falsity 39864
of the representation or information involved, or acting in 39865
reckless disregard of the truth or falsity of the representation 39866

or information involved, deceives another or causes another to be 39867
deceived by any false or misleading representation, by withholding 39868
information, by preventing another from acquiring information, or 39869
by any other conduct, act, or omission that creates, confirms, or 39870
perpetuates a false impression in another, including a false 39871
impression as to law, value, state of mind, or other objective or 39872
subjective fact. No proof of specific intent to defraud is 39873
required to show, for purposes of this section, that a provider 39874
has engaged in deception. 39875

(B) Any provider who violates division (A) of this section 39876
shall be liable, in addition to any other penalties provided by 39877
law, for all of the following civil penalties: 39878

(1) Payment of interest on the amount of the excess payments 39879
at the maximum interest rate allowable for real estate mortgages 39880
under section 1343.01 of the Revised Code on the date the payment 39881
was made to the provider for the period from the date upon which 39882
payment was made, to the date upon which repayment is made to the 39883
state; 39884

(2) Payment of an amount equal to three times the amount of 39885
any excess payments; 39886

(3) Payment of a sum of not less than five thousand dollars 39887
and not more than ten thousand dollars for each deceptive claim or 39888
falsification; 39889

(4) All reasonable expenses which the court determines have 39890
been necessarily incurred by the state in the enforcement of this 39891
section. 39892

(C) ~~In~~ As used in this division, "intermediate care facility 39893
for the mentally retarded" and "nursing facility" have the same 39894
meanings given in section 5111.20 of the Revised Code. 39895

In addition to the civil penalties provided in division (B) 39896
of this section, the director of job and family services, upon the 39897

conviction of, or the entry of a judgment in either a criminal or 39898
civil action against, a medicaid provider or its owner, officer, 39899
authorized agent, associate, manager, or employee in an action 39900
brought pursuant to section 109.85 of the Revised Code, shall 39901
terminate the provider agreement between the department and the 39902
provider and stop reimbursement to the provider for services 39903
rendered for a period of up to five years from the date of 39904
conviction or entry of judgment. As used in this chapter, "owner" 39905
means any person having at least five per cent ownership in the 39906
medicaid provider. No such provider, owner, officer, authorized 39907
agent, associate, manager, or employee shall own or provide 39908
services to any other medicaid provider or risk contractor or 39909
arrange for, render, or order services for medicaid recipients 39910
during the period of termination as provided in division (C) of 39911
this section, nor, during the period of termination as provided in 39912
division (C) of this section, shall such provider, owner, officer, 39913
authorized agent, associate, manager, or employee receive 39914
reimbursement in the form of direct payments from the department 39915
or indirect payments of medicaid funds in the form of salary, 39916
shared fees, contracts, kickbacks, or rebates from or through any 39917
participating provider or risk contractor. The provider agreement 39918
shall not be terminated or reimbursement terminated if the 39919
provider or owner can demonstrate that the provider or owner did 39920
not directly or indirectly sanction the action of its authorized 39921
agent, associate, manager, or employee that resulted in the 39922
conviction or entry of a judgment in a criminal or civil action 39923
brought pursuant to section 109.85 of the Revised Code. Nothing in 39924
this division prohibits any owner, officer, authorized agent, 39925
associate, manager, or employee of a medicaid provider from 39926
entering into a medicaid provider agreement if the person can 39927
demonstrate that the person had no knowledge of an action of the 39928
medicaid provider the person was formerly associated with that 39929
resulted in the conviction or entry of a judgment in a criminal or 39930

civil action brought pursuant to section 109.85 of the Revised Code. 39931
39932

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 39933
~~Revised Code~~ Nursing facility or intermediate care facility for 39934
the mentally retarded providers whose agreements are terminated 39935
pursuant to this section may continue to receive reimbursement for 39936
up to thirty days after the effective date of the termination if 39937
the provider makes reasonable efforts to transfer recipients to 39938
another facility or to alternate care and if federal funds are 39939
provided for such reimbursement. 39940

(D) Any provider of services or goods contracting with the 39941
department of job and family services pursuant to Title XIX of the 39942
"Social Security Act," who, without intent, obtains payments under 39943
this chapter in excess of the amount to which the provider is 39944
entitled, thereby becomes liable for payment of interest on the 39945
amount of the excess payments at the maximum real estate mortgage 39946
rate on the date the payment was made to the provider for the 39947
period from the date upon which payment was made to the date upon 39948
which repayment is made to the state. 39949

(E) The attorney general on behalf of the state may commence 39950
proceedings to enforce this section in any court of competent 39951
jurisdiction; and the attorney general may settle or compromise 39952
any case brought under this section with the approval of the 39953
department of job and family services. Notwithstanding any other 39954
provision of law providing a shorter period of limitations, the 39955
attorney general may commence a proceeding to enforce this section 39956
at any time within six years after the conduct in violation of 39957
this section terminates. 39958

(F) The authority, under state and federal law, of the 39959
department of job and family services or a county department of 39960
job and family services to recover excess payments made to a 39961
provider is not limited by the availability of remedies under 39962

sections 5111.11 and 5111.12 of the Revised Code for recovering 39963
benefits paid on behalf of recipients of medical assistance. 39964

The penalties under this chapter apply to any overpayment, 39965
billing, or falsification occurring on and after April 24, 1978. 39966
All moneys collected by the state pursuant to this section shall 39967
be deposited in the state treasury to the credit of the general 39968
revenue fund. 39969

Sec. 5111.06. (A)(1) As used in this section: 39970

(a) "Provider" means any person, institution, or entity that 39971
furnishes medicaid services under a provider agreement with the 39972
department of job and family services pursuant to Title XIX of the 39973
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 39974
amended. 39975

(b) "Party" has the same meaning as in division (G) of 39976
section 119.01 of the Revised Code. 39977

(c) "Adjudication" has the same meaning as in division (D) of 39978
section 119.01 of the Revised Code. 39979

(2) This section does not apply to any action taken by the 39980
department of job and family services under sections 5111.35 to 39981
5111.62 of the Revised Code. 39982

(B) Except as provided in division (D) of this section, the 39983
department shall do either of the following by issuing an order 39984
pursuant to an adjudication conducted in accordance with Chapter 39985
119. of the Revised Code: 39986

(1) Enter into or refuse to enter into a provider agreement 39987
with a provider, or suspend, terminate, renew, or refuse to renew 39988
an existing provider agreement with a provider; 39989

(2) Take any action based upon a final fiscal audit of a 39990
provider. 39991

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(E) The department may withhold payments for services

rendered by a medicaid provider under the medical assistance 40022
program during the pendency of proceedings initiated under 40023
division (B)(1) of this section. If the proceedings are initiated 40024
under division (B)(2) of this section, the department may withhold 40025
payments only to the extent that they equal amounts determined in 40026
a final fiscal audit as being due the state. This division does 40027
not apply if the department fails to comply with section 119.07 of 40028
the Revised Code, requests a continuance of the hearing, or does 40029
not issue a decision within thirty days after the hearing is 40030
completed. This division does not apply to nursing facilities and 40031
intermediate care facilities for the mentally retarded ~~subject to~~ 40032
~~sections as defined in section 5111.20 to 5111.32~~ of the Revised 40033
Code. 40034

Sec. ~~5111.08~~ 5111.071. Commencing in December, 1986, and 40035
every second December thereafter, the director of job and family 40036
services shall establish a dispensing fee, effective the following 40037
January, for licensed pharmacists who are providers under this 40038
chapter. The dispensing fee shall take into consideration the 40039
results of the survey conducted under section 5111.07 of the 40040
Revised Code. 40041

Sec. ~~5111.16~~ 5111.08. In accordance with subsection (g) of 40042
section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 40043
U.S.C.A. 1396r-8(g), as amended, the department of job and family 40044
services shall establish an outpatient drug use review program to 40045
assure that prescriptions obtained by recipients of medical 40046
assistance under this chapter are appropriate, medically 40047
necessary, and unlikely to cause adverse medical results. 40048

Sec. 5111.111. As used in this section, "home and 40049
community-based services" means services provided pursuant to a 40050
waiver under section 1915 of the "Social Security Act," 49 Stat. 40051

620 (1935), 42 U.S.C.A. 1396n, as amended. 40052

The department of job and family services may place a lien 40053
against the property of a medical assistance recipient or 40054
recipient's spouse, other than a recipient or spouse of a 40055
recipient of home and community-based services, that the 40056
department may recover as part of the program instituted under 40057
section 5111.11 of the Revised Code. When medical assistance is 40058
paid on behalf of any person in circumstances under which federal 40059
law and regulations and this section permit the imposition of a 40060
lien, the director of job and family services or a person 40061
designated by the director may sign a certificate to the effect. 40062
The county department of job and family services shall file for 40063
recording and indexing the certificate, or a certified copy, in 40064
the real estate mortgage records in the office of the county 40065
recorder in every county in which real property of the recipient 40066
or spouse is situated. From the time of filing the certificate in 40067
the office of the county recorder, the lien attaches to all real 40068
property of the recipient or spouse described therein for all 40069
amounts of aid which are paid or which thereafter are paid, and 40070
shall remain a lien until satisfied. 40071

Upon filing the certificate in the office of the recorder, 40072
all persons are charged with notice of the lien and the rights of 40073
the department of job and family services thereunder. 40074

The county recorder shall keep a record of every certificate 40075
filed showing its date, the time of filing, the name and residence 40076
of the recipient or spouse, and any release, waivers, or 40077
satisfaction of the lien. 40078

The priority of the lien shall be established in accordance 40079
with state and federal law. 40080

The department may waive the priority of its lien to provide 40081
for the costs of the last illness as determined by the department, 40082

administration, attorney fees, administrator fees, a sum for the 40083
payment of the costs of burial, which shall be computed by 40084
deducting from five hundred dollars whatever amount is available 40085
for the same purpose from all other sources, and a similar sum for 40086
the spouse of the decedent. 40087

Sec. 5111.16. (A) As part of the medicaid program, the 40088
department of job and family services shall establish a care 40089
management system. The department shall submit, if necessary, 40090
applications to the United States department of health and human 40091
services for waivers of federal medicaid requirements that would 40092
otherwise be violated in the implementation of the system. 40093

The department shall implement the care management system in 40094
some or all counties and shall designate the medicaid recipients 40095
who are required or permitted to participate in the system. Not 40096
later than July 1, 2004, the department shall include among the 40097
recipients designated for participation some of those who receive 40098
medicaid on the basis of being aged, blind, or disabled, as 40099
specified in division (A)(2) of section 5111.01 of the Revised 40100
Code. 40101

(B) Under the care management system, the department may do 40102
the following: 40103

(1) Require or permit participants in the system to obtain 40104
health care services from providers designated by the department; 40105

(2) Require or permit participants in the system to obtain 40106
health care services through managed care organizations under 40107
contract with the department pursuant to section 5111.17 of the 40108
Revised Code; 40109

(3) Establish any other requirements or procedures the 40110
department considers necessary for implementation of the system. 40111

(C) The director of job and family services may adopt rules 40112

in accordance with Chapter 119. of the Revised Code to implement 40113
this section. 40114

~~Sec. 5111.17. (A) On receipt of a waiver from the United~~ 40115
~~States department of health and human services of any federal~~ 40116
~~requirement that would otherwise be violated, the The~~ department 40117
of job and family services may establish in some or all counties a 40118
managed care system under which designated recipients of medical 40119
assistance are required to obtain health care services from 40120
providers designated by the department. 40121

~~(B) The department may enter into contracts with managed care~~ 40122
~~organizations to authorize, including health insuring~~ 40123
~~corporations, under which the organizations are authorized to~~ 40124
provide, or arrange for the provision of, health care services to 40125
medical assistance recipients participating in a who are required 40126
or permitted to obtain health care services through managed care 40127
organizations as part of the care management system established 40128
under this section 5111.16 of the Revised Code. 40129

~~(C) For the purpose of determining the amount the department~~ 40130
~~pays hospitals under section 5112.08 of the Revised Code and the~~ 40131
~~amount of disproportionate share hospital payments paid by the~~ 40132
~~medicare program established under Title XVIII of the "Social~~ 40133
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ 40134
each managed care organization under contract with the department 40135
to provide hospital services to participating medical assistance 40136
recipients shall keep detailed records for each hospital with 40137
which it contracts about the cost to the hospital of providing the 40138
care, payments made by the organization to the hospital for the 40139
care, utilization of hospital services by medical assistance 40140
recipients participating in managed care, and other utilization 40141
data required by the department. 40142

~~(D)~~(B) The director of job and family services may adopt 40143

rules in accordance with Chapter 119. of the Revised Code to 40144
implement this section. 40145

Sec. 5111.171. (A) The department of job and family services 40146
may provide financial incentive awards to managed care 40147
organizations ~~that~~ under contract with the department ~~under~~ 40148
pursuant to section 5111.17 of the Revised Code to provide health 40149
~~care services to participating medical assistance recipients and~~ 40150
that meet or exceed performance standards specified in provider 40151
agreements or rules adopted by the department. The department may 40152
specify in a contract with a managed care organization the amounts 40153
of financial incentive awards, methodology for distributing 40154
awards, types of awards, and standards for administration by the 40155
department. 40156

(B) There is hereby created in the state treasury the health 40157
care compliance fund. The fund shall consist of all fines imposed 40158
on and collected from managed care organizations for failure to 40159
~~meet~~ meet performance standards or other requirements specified 40160
in provider agreements or rules adopted by the department. All 40161
investment earnings of the fund shall be credited to the fund. 40162
Moneys credited to the fund shall be used solely for the following 40163
purposes: 40164

(1) To reimburse managed care organizations that have paid 40165
fines for failures to meet performance standards or other 40166
requirements and that have come into compliance by meeting 40167
requirements as specified by the department; 40168

(2) To provide financial incentive awards established 40169
pursuant to division (A) of this section and specified in 40170
contracts between managed care organizations and the department. 40171

Sec. 5111.172. When contracting under section 5111.17 of the 40172
Revised Code with a managed care organization that is a health 40173

insuring corporation, the department of job and family services 40174
may require the health insuring corporation to provide coverage of 40175
prescription drugs for medicaid recipients enrolled in the health 40176
insuring corporation. In providing the required coverage, the 40177
health insuring corporation may, subject to the department's 40178
approval, use strategies for the management of drug utilization. 40179

Sec. 5111.173. The department of job and family services 40180
shall appoint a temporary manager for a managed care organization 40181
under contract with the department pursuant to section 5111.17 of 40182
the Revised Code if the department determines that the managed 40183
care organization has repeatedly failed to meet substantive 40184
requirements specified in section 1903(m) of the "Social Security 40185
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 40186
1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 40187
42 C.F.R. 438 Part I. The appointment of a temporary manager does 40188
not preclude the department from imposing other sanctions 40189
available to the department against the managed care organization. 40190

The managed care organization shall pay all costs of having 40191
the temporary manager perform the temporary manager's duties, 40192
including all costs the temporary manager incurs in performing 40193
those duties. If the temporary manager incurs costs or liabilities 40194
on behalf of the managed care organization, the managed care 40195
organization shall pay those costs and be responsible for those 40196
liabilities. 40197

The appointment of a temporary manager is not subject to 40198
Chapter 119. of the Revised Code, but the managed care 40199
organization may request a reconsideration of the appointment. 40200
Reconsiderations shall be requested and conducted in accordance 40201
with rules the director of job and family services shall adopt in 40202
accordance with Chapter 119. of the Revised Code. 40203

The appointment of a temporary manager does not cause the 40204

managed care organization to lose the right to appeal, in 40205
accordance with Chapter 119. of the Revised Code, any proposed 40206
termination or any decision not to renew the managed care 40207
organization's medicaid provider agreement or the right to 40208
initiate the sale of the managed care organization or its assets. 40209

In addition to the rules required to be adopted under this 40210
section, the director may adopt any other rules necessary to 40211
implement this section. The rules shall be adopted in accordance 40212
with Chapter 119. of the Revised Code. 40213

Sec. 5111.174. The department of job and family services may 40214
disenroll some or all medicaid recipients enrolled in a managed 40215
care organization under contract with the department pursuant to 40216
section 5111.17 of the Revised Code if the department proposes to 40217
terminate or not to renew the contract and determines that the 40218
recipients' access to medically necessary services is jeopardized 40219
by the proposal to terminate or not to renew the contract. The 40220
disenrollment is not subject to Chapter 119. of the Revised Code, 40221
but the managed care organization may request a reconsideration of 40222
the disenrollment. Reconsiderations shall be requested and 40223
conducted in accordance with rules the director of job and family 40224
services shall adopt in accordance with Chapter 119. of the 40225
Revised Code. The request for, or conduct of, a reconsideration 40226
regarding a proposed disenrollment shall not delay the 40227
disenrollment. 40228

In addition to the rules required to be adopted under this 40229
section, the director may adopt any other rules necessary to 40230
implement this section. The rules shall be adopted in accordance 40231
with Chapter 119. of the Revised Code. 40232

Sec. 5111.175. In the case of a managed care organization 40233
under contract with the department of job and family services 40234

pursuant to section 5111.17 of the Revised Code authorizing the 40235
organization to provide, or arrange for the provision of, hospital 40236
services to medicaid recipients, both of the following apply: 40237

(A) If a hospital provides services to a medicaid recipient 40238
who is enrolled in the managed care organization but the hospital 40239
is not under contract with the organization, the organization 40240
shall reimburse the hospital for the services at a rate that is 40241
the lesser of ninety-five per cent of the rate the hospital is 40242
reimbursed by the department for medicaid recipients who are not 40243
enrolled in a managed care organization or the amount the hospital 40244
charges the organization for the services. As a condition of 40245
participation in the medicaid program, the hospital shall not 40246
refuse to provide services to medicaid recipients who are enrolled 40247
in a managed care organization and shall accept the reimbursement 40248
rate established under this division as payment in full for 40249
services provided to those medicaid recipients. This division does 40250
not restrict the managed care organization's ability to enter into 40251
a contract with a hospital under which the hospital is reimbursed 40252
at a rate different from the rate established under this division. 40253

(B) For the purpose of determining the amount the department 40254
pays hospitals under section 5112.08 of the Revised Code and the 40255
amount of disproportionate share hospital payments paid by the 40256
medicare program established under Title XVIII of the "Social 40257
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, 40258
the managed care organization shall keep detailed records for each 40259
hospital with which it contracts about the cost to the hospital of 40260
providing the care, payments made by the organization to the 40261
hospital for the care, utilization of hospital services by 40262
medicaid recipients enrolled in the organization, and other 40263
utilization data required by the department. 40264

Sec. 5111.176. Not later than October 1, 2003, the director 40265

of job and family services shall establish a task force to assist 40266
in resolving issues that arise as a result of the reimbursement 40267
rates established by division (A) of section 5111.175 of the 40268
Revised Code. The members of the task force shall be appointed by 40269
the director and shall include the following: 40270

(A) Representatives of hospitals that provide services to 40271
medicaid recipients; 40272

(B) A representative of each managed care organization under 40273
contract with the department of job and family services pursuant 40274
to section 5111.17 of the Revised Code. 40275

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 40276
of the Revised Code: 40277

~~(A) "Allowable costs" are those costs determined by the~~ 40278
~~department of job and family services to be reasonable and do not~~ 40279
~~include fines paid under sections 5111.35 to 5111.61 and section~~ 40280
~~5111.99 of the Revised Code.~~ 40281

~~(B) "Capital costs" means costs of ownership and nonextensive~~ 40282
~~renovation.~~ 40283

~~(1) "Cost of ownership" means the actual expense incurred for~~ 40284
~~all of the following:~~ 40285

~~(a) Depreciation and interest on any capital assets that cost~~ 40286
~~five hundred dollars or more per item, including the following:~~ 40287

~~(i) Buildings;~~ 40288

~~(ii) Building improvements that are not approved as~~ 40289
~~nonextensive renovations under section 5111.25 or 5111.251 of the~~ 40290
~~Revised Code;~~ 40291

~~(iii) Equipment;~~ 40292

~~(iv) Extensive renovations;~~ 40293

~~(v) Transportation equipment.~~ 40294

(b) Amortization and interest on land improvements and	40295
leasehold improvements;	40296
(c) Amortization of financing costs;	40297
(d) Except as provided in division (I) of this section, lease	40298
and rent of land, building, and equipment.	40299
The costs of capital assets of less than five hundred dollars	40300
per item may be considered costs of ownership in accordance with a	40301
provider's practice.	40302
(2) "Costs of nonextensive renovation" means the actual	40303
expense incurred for depreciation or amortization and interest on	40304
renovations that are not extensive renovations.	40305
(C) "Capital lease" and "operating lease" shall be construed	40306
in accordance with generally accepted accounting principles.	40307
(D) "Case mix score" means the measure determined under	40308
section 5111.231 of the Revised Code of the relative direct care	40309
resources needed to provide care and habilitation to a resident of	40310
a nursing facility or intermediate care facility for the mentally	40311
retarded.	40312
(E) "Date of licensure," for a facility originally licensed	40313
as a nursing home under Chapter 3721. of the Revised Code, means	40314
the date specific beds were originally licensed as nursing home	40315
beds under that chapter, regardless of whether they were	40316
subsequently licensed as residential facility beds under section	40317
5123.19 of the Revised Code. For a facility originally licensed as	40318
a residential facility under section 5123.19 of the Revised Code,	40319
"date of licensure" means the date specific beds were originally	40320
licensed as residential facility beds under that section.	40321
(1) If nursing home beds licensed under Chapter 3721. of the	40322
Revised Code or residential facility beds licensed under section	40323
5123.19 of the Revised Code were not required by law to be	40324

~~licensed when they were originally used to provide nursing home or 40325
residential facility services, "date of licensure" means the date 40326
the beds first were used to provide nursing home or residential 40327
facility services, regardless of the date the present provider 40328
obtained licensure. 40329~~

~~(2) If a facility adds nursing home beds or residential 40330
facility beds or extensively renovates all or part of the facility 40331
after its original date of licensure, it will have a different 40332
date of licensure for the additional beds or extensively renovated 40333
portion of the facility, unless the beds are added in a space that 40334
was constructed at the same time as the previously licensed beds 40335
but was not licensed under Chapter 3721. or section 5123.19 of the 40336
Revised Code at that time. 40337~~

~~(F) "Desk reviewed" means that costs as reported on a cost 40338
report submitted under section 5111.26 of the Revised Code have 40339
been subjected to a desk review under division (A) of section 40340
5111.27 of the Revised Code and preliminarily determined to be 40341
allowable costs. 40342~~

~~(G) "Direct care costs" means all of the following: 40343~~

~~(1)(a) Costs for registered nurses, licensed practical 40344
nurses, and nurse aides employed by the facility; 40345~~

~~(b) Costs for direct care staff, administrative nursing 40346
staff, medical directors, social services staff, activities staff, 40347
psychologists and psychology assistants, social workers and 40348
counselors, habilitation staff, qualified mental retardation 40349
professionals, program directors, respiratory therapists, 40350
habilitation supervisors, and except as provided in division 40351
(G)(2) of this section, other persons holding degrees qualifying 40352
them to provide therapy; 40353~~

~~(c) Costs of purchased nursing services; 40354~~

~~(d) Costs of quality assurance; 40355~~

(e) Costs of training and staff development, employee	40356
benefits, payroll taxes, and workers' compensation premiums or	40357
costs for self insurance claims and related costs as specified in	40358
rules adopted by the director of job and family services in	40359
accordance with Chapter 119. of the Revised Code, for personnel	40360
listed in divisions (G)(1)(a), (b), and (d) of this section;	40361
(f) Costs of consulting and management fees related to direct	40362
care;	40363
(g) Allocated direct care home office costs.	40364
(2) In addition to the costs specified in division (G)(1) of	40365
this section, for intermediate care facilities for the mentally	40366
retarded only, direct care costs include both of the following:	40367
(a) Costs for physical therapists and physical therapy	40368
assistants, occupational therapists and occupational therapy	40369
assistants, speech therapists, and audiologists;	40370
(b) Costs of training and staff development, employee	40371
benefits, payroll taxes, and workers' compensation premiums or	40372
costs for self insurance claims and related costs as specified in	40373
rules adopted by the director of job and family services in	40374
accordance with Chapter 119. of the Revised Code, for personnel	40375
listed in division (G)(2)(a) of this section.	40376
(3) Costs of other direct care resources that are specified	40377
as direct care costs in rules adopted by the director of job and	40378
family services in accordance with Chapter 119. of the Revised	40379
Code.	40380
(H) <u>"Change of operator" means an entering operator becoming</u>	40381
<u>the operator of a nursing facility or intermediate care facility</u>	40382
<u>for the mentally retarded in the place of the exiting operator.</u>	40383
(1) <u>Actions that constitute a change of operator include, but</u>	40384
<u>are not limited to, the following:</u>	40385

<u>(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;</u>	40386
	40387
	40388
<u>(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;</u>	40389
	40390
	40391
	40392
	40393
<u>(c) A lease of the facility to the entering operator or the exiting operator's termination of the lease;</u>	40394
	40395
<u>(d) If the exiting operator is a partnership, dissolution of the partnership;</u>	40396
	40397
<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	40398
	40399
<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	40400
	40401
<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	40402
	40403
<u>(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation with another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.</u>	40404
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	40406
	40407
<u>(2) The following, alone, do not constitute a change of operator:</u>	40408
	40409
<u>(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;</u>	40410
	40411
	40412
	40413
<u>(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing</u>	40414
	40415

facility or intermediate care facility for the mentally retarded 40416
if an entering operator does not become the operator in place of 40417
an exiting operator; 40418

(c) If the operator is a corporation, a change of one or more 40419
members of the corporation's governing body or transfer of 40420
ownership of one or more shares of the corporation's stock, if the 40421
same corporation continues to be the operator. 40422

(B) "Effective date of a change of operator" means the day 40423
the entering operator becomes the operator of the nursing facility 40424
or intermediate care facility for the mentally retarded. 40425

(C) "Effective date of a facility closure" means the last day 40426
that the last of the residents of the nursing facility or 40427
intermediate care facility for the mentally retarded resides in 40428
the facility. 40429

(D) "Effective date of a voluntary termination" means the day 40430
the intermediate care facility for the mentally retarded ceases to 40431
accept medicaid patients. 40432

(E) "Effective date of a voluntary withdrawal of 40433
participation" means the day the nursing facility ceases to accept 40434
new medicaid patients other than the individuals who reside in the 40435
nursing facility on the day before the effective date of the 40436
voluntary withdrawal of participation. 40437

(F) "Entering operator" means the person or government entity 40438
that will become the operator of a nursing facility or 40439
intermediate care facility for the mentally retarded when a change 40440
of operator occurs. 40441

(G) "Exiting operator" means any of the following: 40442

(1) An operator that will cease to be the operator of a 40443
nursing facility or intermediate care facility for the mentally 40444
retarded on the effective date of a change of operator; 40445

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure; 40446
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(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination; 40449
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(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation. 40452
40453

(H) "Facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following: 40454
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(1) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility; 40460
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(2) The facility's residents relocating to another of the operator's facilities; 40463
40464

(3) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities; 40465
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(4) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code; 40470
40471

(5) Any action the department of mental retardation and developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code. 40472
40473
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(I) "Fiscal year" means the fiscal year of this state, as 40475

specified in section 9.34 of the Revised Code. 40476

~~(I) "Indirect care costs" means all reasonable costs other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in this division. Notwithstanding division (B)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.~~

~~(J) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered~~

~~inpatient days proportionate to the percentage of the facility's~~ 40508
~~per resident per day rate paid for those days.~~ 40509

~~(K)~~(J) "Intermediate care facility for the mentally retarded" 40510
means an intermediate care facility for the mentally retarded 40511
certified as in compliance with applicable standards for the 40512
medical assistance program by the director of health in accordance 40513
with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 40514
42 U.S.C. 1396, as amended. 40515

~~(L) "Maintenance and repair expenses" means, except as~~ 40516
~~provided in division (X)(2) of this section, expenditures that are~~ 40517
~~necessary and proper to maintain an asset in a normally efficient~~ 40518
~~working condition and that do not extend the useful life of the~~ 40519
~~asset two years or more. "Maintenance and repair expenses"~~ 40520
~~includes but is not limited to the cost of ordinary repairs such~~ 40521
~~as painting and wallpapering.~~ 40522

~~(M)~~(K) "Nursing facility" means a facility, or a distinct 40523
part of a facility, that is certified as a nursing facility by the 40524
director of health in accordance with Title XIX of the "Social 40525
Security Act," and is not an intermediate care facility for the 40526
mentally retarded. "Nursing facility" includes a facility, or a 40527
distinct part of a facility, that is certified as a nursing 40528
facility by the director of health in accordance with Title XIX of 40529
the "Social Security Act," and is certified as a skilled nursing 40530
facility by the director in accordance with Title XVIII of the 40531
"Social Security Act." 40532

~~(N) "Other protected costs" means costs for medical supplies;~~ 40533
~~real estate, franchise, and property taxes; natural gas, fuel oil,~~ 40534
~~water, electricity, sewage, and refuse and hazardous medical waste~~ 40535
~~collection; allocated other protected home office costs; and any~~ 40536
~~additional costs defined as other protected costs in rules adopted~~ 40537
~~by the director of job and family services in accordance with~~ 40538
~~Chapter 119. of the Revised Code.~~ 40539

~~(O)(L)~~ "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded. 40540
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(M)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded: 40544
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(a) The land on which the facility is located; 40549

(b) The structure in which the facility is located; 40550

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located; 40551
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(d) Any lease or sublease of the land or structure on or in which the facility is located. 40554
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(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary. 40556
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~~(P) "Patient" includes "resident."~~ 40562

~~(Q) Except as provided in divisions (Q)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.~~ 40563
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~~(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.24 or 5111.241 of the~~ 40568
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~~Revised Code, "per diem" means a facility's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty five per cent.~~

~~(2) When calculating capital costs for the purpose of establishing rates under section 5111.25 or 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety five per cent.~~

~~(R)(N) "Provider" means a person or government entity that operates a nursing facility or intermediate care facility for the mentally retarded under an operator that has entered into a provider agreement.~~

~~(S)(O) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medical assistance program.~~

~~(T) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.~~

~~(U) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to~~

~~provider and from time to time for the same provider.~~ 40601

~~(V) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.~~ 40602
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~~(1) An individual who is a relative of an owner is a related party.~~ 40606
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~~(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.~~ 40608
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~~(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.~~ 40617
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~~(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:~~ 40620
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~~(a) The supplier is a separate bona fide organization.~~ 40623

~~(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.~~ 40624
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~~(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic~~ 40628
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~~element of patient care ordinarily furnished directly to patients
by the facilities.~~ 40631
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~~(d) The charge to the provider is in line with the charge for
the goods or services in the open market and no more than the
charge made under comparable circumstances to others by the
supplier.~~ 40633
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~~(W) "Relative of owner" means an individual who is related to
an owner of a nursing facility or intermediate care facility for
the mentally retarded by one of the following relationships:~~ 40637
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~~(1) Spouse;~~ 40640

~~(2) Natural parent, child, or sibling;~~ 40641

~~(3) Adopted parent, child, or sibling;~~ 40642

~~(4) Step parent, step child, step brother, or step sister;~~ 40643

~~(5) Father in law, mother in law, son in law,
daughter in law, brother in law, or sister in law;~~ 40644
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~~(6) Grandparent or grandchild;~~ 40646

~~(7) Foster caregiver, foster child, foster brother, or foster
sister.~~ 40647
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~~(X) "Renovation" and "extensive renovation" mean:~~ 40649

~~(1) Any betterment, improvement, or restoration of a nursing
facility or intermediate care facility for the mentally retarded
started before July 1, 1993, that meets the definition of a
renovation or extensive renovation established in rules adopted by
the director of job and family services in effect on December 22,
1992.~~ 40650
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~~(2) In the case of betterments, improvements, and
restorations of nursing facilities and intermediate care
facilities for the mentally retarded started on or after July 1,
1993:~~ 40656
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~~(a) "Renovation" means the betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.~~

~~(b) "Extensive renovation" means a renovation that costs more than sixty five per cent and no more than eighty five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.~~

~~For the purposes of division (X)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~

~~The department of job and family services may treat a renovation that costs more than eighty five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.~~

(P) "Voluntary termination" means an operator's voluntary

election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

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(O) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by nursing facilities.

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Sec. 5111.204. (A) As used in this section and in section 5111.205 of the Revised Code, "representative" means a person acting on behalf of an applicant for or recipient of medical assistance. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient.

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(B) The department of job and family services may require an applicant for or recipient of medical assistance who applies or intends to apply for admission to a nursing facility to undergo an assessment to determine whether the applicant or recipient needs the level of care provided by a nursing facility. To the maximum extent possible, the assessment shall be based on information from the resident assessment ~~instrument~~ medium or media specified in rules adopted by the director of job and family services under ~~division (A) of~~ section 5111.231 of the Revised Code. The assessment shall also be based on criteria and procedures established in rules adopted under division (H) of this section and information provided by the person being assessed or the person's representative. The department of job and family services, or if the assessment is performed by another agency designated under section 5101.754 of the Revised Code, the agency, shall, not later than the time the assessment is required to be performed under division (C) of this section, give written notice

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of its conclusions and the basis for them to the person assessed 40722
and, if the department of job and family services or designated 40723
entity has been informed that the person has a representative, to 40724
the representative. 40725

(C) The department of job and family services or designated 40726
agency, whichever performs the assessment, shall perform a 40727
complete assessment, or, if circumstances provided by rules 40728
adopted under division (H) of this section exist, a partial 40729
assessment, as follows: 40730

(1) In the case of a person applying or intending to apply to 40731
a nursing facility while hospitalized, not later than one of the 40732
following: 40733

(a) One working day after the person or the person's 40734
representative submits an application for admission to the nursing 40735
facility or notifies the department of the person's intention to 40736
apply; 40737

(b) A later date requested by the person or the person's 40738
representative. 40739

(2) In the case of an emergency as determined in accordance 40740
with rules adopted under division (H) of this section, not later 40741
than one calendar day after the person or the person's 40742
representative submits the application or notifies the department 40743
of the person's intention to apply. 40744

(3) In all other cases, not later than one of the following: 40745

(a) Five calendar days after the person or the person's 40746
representative submits the application or notifies the department 40747
of the person's intention to apply; 40748

(b) A later date requested by the person or the person's 40749
representative. 40750

(D) If the department of job and family services or 40751

designated agency conducts a partial assessment under division (C) 40752
of this section, it shall complete the rest of the assessment not 40753
later than one hundred eighty days after the date the person is 40754
admitted to the nursing facility unless the department or 40755
designated agency determines the person should be exempt from the 40756
assessment. 40757

(E) A person is not required to be assessed under this 40758
section if the circumstances specified by rule adopted under 40759
division (H) of this section exist or the department of job and 40760
family services or designated agency determines after a partial 40761
assessment that the person should be exempt from the assessment. 40762

(F) A person assessed under this section or the person's 40763
representative may appeal the conclusions reached by the 40764
department of job and family services or designated agency on the 40765
basis of the assessment. The appeal shall be made in accordance 40766
with section 5101.35 of the Revised Code. The department of job 40767
and family services or designated agency, whichever performs the 40768
assessment, shall provide to the person or the person's 40769
representative and the nursing facility written notice of the 40770
person's right to appeal. The notice shall include an explanation 40771
of the procedure for filing an appeal. 40772

(G) A nursing facility that admits or retains a person 40773
determined pursuant to an assessment required under division (B) 40774
or (C) of this section not to need the level of care provided by 40775
the nursing facility shall not be reimbursed under the medical 40776
assistance program for the person's care. 40777

(H) The director of job and family services shall adopt rules 40778
in accordance with Chapter 119. of the Revised Code to implement 40779
and administer this section. The rules shall include all of the 40780
following: 40781

(1) Criteria and procedures to be used in determining whether 40782

admission to a nursing facility is appropriate for the person 40783
being assessed. The criteria shall include consideration of 40784
whether the person is in need of any of the following: 40785

(a) Nursing or rehabilitation services; 40786

(b) Assistance with two or more of the activities of daily 40787
living; 40788

(c) Continuous supervision to prevent harm to the person as a 40789
result of cognitive impairment. 40790

(2) Information the person being assessed or the person's 40791
representative must provide to the department or designated agency 40792
for purposes of the assessment; 40793

(3) Circumstances under which the department of job and 40794
family services or designated agency may perform a partial 40795
assessment under division (C) of this section; 40796

(4) Circumstances under which a person is not required to be 40797
assessed. 40798

Sec. 5111.206. (A) As used in this section, "nursing 40799
facility" has the same meaning as in section 5111.20 of the 40800
Revised Code. 40801

(B) To the extent funds are available, the director of job 40802
and family services may establish the Ohio access success project 40803
to help medicaid recipients make the transition from residing in a 40804
nursing facility to residing in a community setting. The program 40805
may be established as a separate non-medicaid program or 40806
integrated into a new or existing program of Medicaid home and 40807
community-based services program based on a waiver approved by the 40808
federal centers for medicare and medicaid services. The department 40809
may limit the number of program participants. 40810

To be eligible for benefits under the project, a medicaid 40811
recipient must satisfy all of the following requirements: 40812

- (1) Be a recipient of medicaid-funded nursing facility care, 40813
at the time of applying for the benefits; 40814
- (2) Have resided continuously in a nursing facility since 40815
January 1, 2002; 40816
- (3) Need the level of care provided by nursing facilities; 40817
- (4) For participation in a non-medicaid program, receive 40818
services to remain in the community with a projected cost not 40819
exceeding eighty per cent of the average monthly medicaid cost of 40820
a medicaid recipient in a nursing facility; 40821
- (5) For participation in a program established as part of a 40822
home and community-based services program that is based on a 40823
waiver, meet waiver enrollment criteria. 40824
- (C) If the director establishes the Ohio access success 40825
project, the benefits provided under the project may include 40826
payment of all of the following: 40827
- (1) The first month's rent in a community setting; 40828
- (2) Rental deposits; 40829
- (3) Utility deposits; 40830
- (4) Moving expenses; 40831
- (5) Other expenses not covered by the medicaid program that 40832
facilitate a medicaid recipient's move from a nursing facility to 40833
a community setting. 40834
- (D) If the project is established as a non-medicaid program, 40835
no participant may receive more than two thousand dollars worth of 40836
benefits under the project. 40837
- (E) The director may submit a request to the United States 40838
secretary of health and human services pursuant to section 1915 of 40839
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 40840
as amended, to create a medicaid home and community-based services 40841

waiver programs to serve individuals who meet the criteria for 40842
participation in the Ohio access success project. The director may 40843
adopt rules under Chapter 119. of the Revised Code for the 40844
administration and operation of the program. 40845

~~Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011,~~ 40846
~~5111.012, and 5111.02 of the Revised Code, the department of job~~ 40847
~~and family services shall pay, as provided in sections 5111.20 to~~ 40848
~~5111.32 of the Revised Code, the reasonable costs of services~~ 40849
~~provided to an eligible medicaid recipient by an eligible nursing~~ 40850
~~facility or intermediate care facility for the mentally retarded.~~ 40851

In order to be eligible for medical assistance payments, an 40852
operator of a nursing facility or intermediate care facility for 40853
the mentally retarded shall do all of the following: 40854

(1) Enter into a provider agreement with the department of 40855
job and family services as provided in section 5111.22, 5111.251, 40856
or 5111.252 of the Revised Code; 40857

(2) Apply for and maintain a valid license to operate if so 40858
required by law; 40859

(3) Comply with all applicable state and federal laws and 40860
rules. 40861

(B) ~~A~~ An operator of a nursing facility that elects to obtain 40862
and maintain eligibility for payments under the medicare medicaid 40863
program established by Title XVIII of the "Social Security Act," 40864
~~49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended may shall~~ qualify 40865
all or part of the facility of the facility's medicaid-certified 40866
beds in the medicare program established by Title XVIII of the 40867
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The 40868
director of job and family services may adopt rules in accordance 40869
with Chapter 119. of the Revised Code to establish the time frame 40870
in which a nursing facility must comply with this requirement. 40871

Sec. 5111.211. (A) The department of mental retardation and developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case: 40872
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(1) The services are provided on or after July 1, 2003; 40878

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after January 1, 2003; 40879
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(3) The facility, or a portion of the facility, is licensed by the director of mental retardation and developmental disabilities as a residential facility under section 5123.19 of the Revised Code; 40882
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(4) There is a valid provider agreement for the facility. 40886

(B) Each month, the department of job and family services shall invoice the department of mental retardation and developmental disabilities by interagency transfer voucher for the claims for which the department of mental retardation and developmental disabilities is responsible pursuant to this section. 40887
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Sec. 5111.22. A provider agreement between the department of job and family services and an operator of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions: 40893
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(A) The department agrees to+ 40897

~~(1)~~ Make make payments to the nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program as 40898
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provided in ~~sections 5111.20 to 5111.32~~ rules adopted under 40901
section 5111.02 of the Revised Code. No payment shall be made for 40902
the day a recipient is discharged from the facility. 40903

~~(2) Provide copies of rules governing the facility's 40904
participation as a provider in the medical assistance program. 40905
Whenever the director of job and family services files a proposed 40906
rule or proposed rule in revised form under division (D) of 40907
section 111.15 or division (B) of section 119.03 of the Revised 40908
Code, the department shall provide the facility with one copy of 40909
such rule. In the case of a rescission or proposed rescission of a 40910
rule, the department may provide the rule number and title instead 40911
of the rules rescinded or proposed to be rescinded. 40912~~

(B) The ~~provider~~ operator agrees to: 40913

(1) Maintain eligibility as provided in section 5111.21 of 40914
the Revised Code; 40915

(2) Keep records relating to a cost reporting period for the 40916
greater of seven years after the cost report is filed or, if the 40917
department issues ~~an~~ a final fiscal audit report in accordance 40918
with ~~division (B) of~~ rules adopted under section ~~5111.27~~ 5111.32 40919
of the Revised Code, six years after all appeal rights relating to 40920
the final fiscal audit report are exhausted; 40921

(3) File reports as required by the department; 40922

(4) Open all records relating to the costs of its services 40923
for inspection and audit by the department; 40924

(5) Open its premises for inspection by the department, the 40925
department of health, and any other state or local authority 40926
having authority to inspect; 40927

(6) Supply to the department such information as it requires 40928
concerning the facility's services to patients who are or are 40929
eligible to be medicaid recipients; 40930

(7) Comply with section ~~5111.31~~ 5111.222 of the Revised Code. 40931

The provider agreement may contain other provisions that are 40932
consistent with law and considered necessary by the department. 40933

A provider agreement shall be effective for no longer than 40934
twelve months, except that if federal statute or regulations 40935
authorize a longer term, it may be effective for a longer term so 40936
authorized. A provider agreement may be renewed only if the 40937
facility is certified by the department of health for 40938
participation in the medicaid program. 40939

The department of job and family services, in accordance with 40940
rules adopted by the director pursuant to Chapter 119. of the 40941
Revised Code, may elect not to enter into, not to renew, or to 40942
terminate a provider agreement when the department determines that 40943
such an agreement would not be in the best interests of the 40944
recipients or of the state. 40945

Sec. 5111.221. An operator of a nursing facility or 40946
intermediate care facility for the mentally retarded may enter 40947
into provider agreements for more than one nursing facility or 40948
intermediate care facility for the mentally retarded. 40949

Sec. ~~5111.31~~ 5111.222. (A) Every provider agreement with an 40950
operator of a nursing facility or intermediate care facility for 40951
the mentally retarded shall: 40952

(1) Prohibit the facility from failing or refusing to retain 40953
as a patient any person because the person is, becomes, or may, as 40954
a patient in the facility, become a recipient of assistance under 40955
the medical assistance program. For the purposes of this division, 40956
a recipient of medical assistance who is a patient in a facility 40957
shall be considered a patient in the facility during any hospital 40958
stays totaling less than twenty-five days during any twelve-month 40959
period. Recipients who have been identified by the department of 40960

job and family services or its designee as requiring the level of 40961
care of an intermediate care facility for the mentally retarded 40962
shall not be subject to a maximum period of absences during which 40963
they are considered patients if prior authorization of the 40964
department for visits with relatives and friends and participation 40965
in therapeutic programs is obtained under rules adopted under 40966
section 5111.02 of the Revised Code. 40967

(2) Include any part of the facility that meets standards for 40968
certification of compliance with federal and state laws and rules 40969
for participation in the medical assistance program, except that 40970
nursing facilities that, during the period beginning July 1, 1987, 40971
and ending July 1, 1993, added beds licensed as nursing home beds 40972
under Chapter 3721. of the Revised Code are not required to 40973
include those beds under a provider agreement unless otherwise 40974
required by federal law. Once added to the provider agreement, 40975
however, those nursing home beds may not be removed unless the 40976
facility withdraws from the medical assistance program in its 40977
entirety. 40978

(3) Prohibit the facility from discriminating against any 40979
patient on the basis of race, color, sex, creed, or national 40980
origin. 40981

(4) Except as otherwise prohibited under section 5111.55 of 40982
the Revised Code, prohibit the facility from failing or refusing 40983
to accept a patient because the patient is, becomes, or may, as a 40984
patient in the facility, become a recipient of assistance under 40985
the medical assistance program if less than eighty per cent of the 40986
patients in the facility are recipients of medical assistance. 40987

(B) Nothing in this section shall bar any religious or 40988
denominational nursing facility or intermediate care facility for 40989
the mentally retarded that is operated, supervised, or controlled 40990
by a religious organization from giving preference to persons of 40991
the same religion or denomination. Nothing in this section shall 40992

bar any facility from giving preference to persons with whom it 40993
has contracted to provide continuing care. 40994

(C) Nothing in this section shall bar any county home 40995
organized under Chapter 5155. of the Revised Code from admitting 40996
residents exclusively from the county in which the county home is 40997
located. 40998

(D) No operator of a nursing facility or intermediate care 40999
facility for the mentally retarded with which a provider agreement 41000
is in effect shall violate the provider contract obligations 41001
imposed under this section. 41002

(E) Nothing in divisions (A) and (B) of this section shall 41003
bar any nursing facility or intermediate care facility for the 41004
mentally retarded from retaining patients who have resided in the 41005
facility for not less than one year as private pay patients and 41006
who subsequently become recipients of assistance under the 41007
medicaid program, but refusing to accept as a patient any person 41008
who is or may, as a patient in the facility, become a recipient of 41009
assistance under the medicaid program, if all of the following 41010
apply: 41011

(1) The facility does not refuse to retain any patient who 41012
has resided in the facility for not less than one year as a 41013
private pay patient because the patient becomes a recipient of 41014
assistance under the medicaid program, except as necessary to 41015
comply with division (E)(2) of this section; 41016

(2) The number of medicaid recipients retained under this 41017
division does not at any time exceed ten per cent of all the 41018
patients in the facility; 41019

(3) On July 1, 1980, all the patients in the facility were 41020
private pay patients. 41021

Sec. ~~5111.32~~ 5111.223. Any patient has a cause of action 41022

against a nursing facility or intermediate care facility for the 41023
mentally retarded for breach of the provider agreement obligations 41024
or other duties imposed by section ~~5111.31~~ 5111.222 of the Revised 41025
Code. The action may be commenced by the patient, or on ~~his~~ the 41026
patient's behalf by ~~his~~ the patient's sponsor or a residents' 41027
rights advocate, as either is defined under section 3721.10 of the 41028
Revised Code, by the filing of a civil action in the court of 41029
common pleas of the county in which the facility is located, or in 41030
the court of common pleas of Franklin county. 41031

If the court finds that a breach of the provider agreement 41032
obligations imposed by section ~~5111.31~~ 5111.222 of the Revised 41033
Code has occurred, the court may enjoin the facility from engaging 41034
in the practice, order such affirmative relief as may be 41035
necessary, and award to the patient and a person or public agency 41036
that brings an action on behalf of a patient actual damages, 41037
costs, and reasonable attorney's fees. 41038

Sec. ~~5111.30~~ 5111.224. The department of job and family 41039
services shall terminate the provider agreement with an operator 41040
of a nursing facility or intermediate care facility for the 41041
mentally retarded that does not comply with the requirements of 41042
section 3721.071 of the Revised Code for the installation of fire 41043
extinguishing and fire alarm systems. 41044

Sec. ~~5111.26~~ 5111.23. (A)(1)(a) ~~Except as provided in~~ 41045
~~division (A)(1)(b) of this section, each~~ Each nursing facility and 41046
intermediate care facility for the mentally retarded participating 41047
in the medicaid program shall file with the department of job and 41048
family services an annual cost report prepared in accordance with 41049
guidelines established by the department. The report shall cover a 41050
calendar year or the portion of a calendar year during which the 41051
facility participated in the ~~medical assistance~~ medicaid program. 41052
All facilities shall file the reports within ninety days after the 41053

end of the calendar year. The department, for good cause, may 41054
grant a fourteen-day extension of the time for filing cost reports 41055
upon written request from a facility. The director of job and 41056
family services shall prescribe, in rules adopted in accordance 41057
with Chapter 119. of the Revised Code, the cost reporting form and 41058
a uniform chart of accounts for the purpose of cost reporting, and 41059
shall distribute cost reporting forms or computer software for 41060
electronic submission of the cost report to each nursing facility 41061
and intermediate care facility for the mentally retarded at least 41062
sixty days before the facility's reporting date. 41063

~~(b) A facility for which rates are established under section 41064
5111.255 of the Revised Code shall submit a cost report no later 41065
than ninety days after the end of the facility's first three full 41066
calendar months of operation. A facility that opens after the 41067
first day of October in any calendar year is not required to file 41068
a cost report for that calendar year. 41069~~

(2) If a nursing facility or intermediate care facility for 41070
the mentally retarded required to submit cost reports does not 41071
file the reports within the required time periods or within 41072
fourteen days thereafter if an extension is granted under division 41073
(A)(1)(~~a~~) of this section, or files an incomplete or inadequate 41074
report, the department shall provide immediate written notice to 41075
the facility that its provider agreement will be terminated in 41076
thirty days unless the facility submits a complete and adequate 41077
cost report within thirty days. During the thirty-day termination 41078
period or any additional time allowed for an appeal of the 41079
proposed termination of a provider agreement, the facility shall 41080
be paid its then current per resident per day rate, minus two 41081
dollars. On July 1, 1994, the department shall adjust the 41082
two-dollar reduction to reflect the rate of inflation during the 41083
preceding twelve months, as shown in the consumer price index for 41084
all items for all urban consumers for the north central region, 41085

published by the United States bureau of labor statistics. On July 41086
1, 1995, and the first day of July of each year thereafter, the 41087
department shall adjust the amount of the reduction in effect 41088
during the previous twelve months to reflect the rate of inflation 41089
during the preceding twelve months, as shown in the same index. 41090

(B) No nursing facility or intermediate care facility for the 41091
mentally retarded shall report fines paid under sections 5111.35 41092
to 5111.62 or section 5111.99 of the Revised Code in any cost 41093
report filed under this section. 41094

(C) The department shall develop an addendum to the cost 41095
report form that a nursing facility or intermediate care facility 41096
for the mentally retarded may use to set forth costs that the 41097
facility believes may be disputed by the department. Any costs 41098
reported by the facility on the addendum may be considered by the 41099
department in setting the facility's rate. ~~If the department does~~ 41100
~~not consider the costs listed on the addendum in setting the~~ 41101
~~facility's rate, the facility may seek reconsideration of that~~ 41102
~~determination under section 5111.29 of the Revised Code. If the~~ 41103
~~department subsequently includes the costs listed in the addendum~~ 41104
~~in the facility's rate, the department shall pay the facility~~ 41105
~~interest at a reasonable rate established in rules adopted in~~ 41106
~~accordance with Chapter 119. of the Revised Code for the time that~~ 41107
~~the rate paid excluded the costs.~~ 41108

Sec. 5111.231. ~~(A)(1) The department of job and family 41109
services shall determine case mix scores for nursing facilities 41110
using data for each resident, regardless of payment source, from a 41111
resident assessment instrument specified in rules adopted in 41112
accordance with Chapter 119. of the Revised Code pursuant to 41113
section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 41114
(1935), 42 U.S.C.A. 1396r(e)(5), as amended, and the case mix 41115
values established by the United States department of health and 41116~~

~~human services. Except as modified in rules adopted under division 41117
(A)(1)(c) of this section, the department also shall use the 41118
grouper methodology used on June 30, 1999, by the United States 41119
department of health and human services for prospective payment of 41120
skilled nursing facilities under the medicare program established 41121
by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 41122
42 U.S.C.A. 301, as amended. The director of job and family 41123
services may adopt rules in accordance with Chapter 119. of the 41124
Revised Code that do any of the following: 41125~~

~~(a) Adjust the case mix values to reflect changes in relative 41126
wage differentials that are specific to this state; 41127~~

~~(b) Express all of the case mix values in numeric terms that 41128
are different from the terms specified by the United States 41129
department of health and human services but that do not alter the 41130
relationship of the case mix values to one another; 41131~~

~~(c) Modify the grouper methodology as follows: 41132~~

~~(i) Establish a different hierarchy for assigning residents 41133
to case mix categories under the methodology; 41134~~

~~(ii) Prohibit the use of the index maximizer element of the 41135
methodology; 41136~~

~~(iii) Incorporate changes to the methodology the United 41137
States department of health and human services makes after June 41138
30, 1999; 41139~~

~~(iv) Make other changes the nursing facility reimbursement 41140
study council established by section 5111.34 of the Revised Code 41141
approves. 41142~~

~~(2) The department shall determine case mix scores for 41143
intermediate care facilities for the mentally retarded using data 41144
for each resident, regardless of payment source, from a resident 41145
assessment instrument and grouper methodology prescribed in rules 41146~~

~~adopted in accordance with Chapter 119. of the Revised Code and
expressed in case mix values established by the department in
those rules.~~ 41147
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~~(B) Not later than fifteen days after the end of each
calendar quarter, each nursing facility and intermediate care
facility for the mentally retarded shall submit to the department
the complete assessment data, information from the instrument
medium or media specified in rules adopted under ~~division (A) of~~
this section, for each resident, regardless of payment source, who
was in the facility or on hospital or therapeutic leave from the
facility on the last day of the quarter. Nursing facilities shall
submit the assessment information to the department of health and,
if required by rules adopted under this section, the department of
job and family services. Intermediate care facilities for the
mentally retarded shall submit the assessment information to the
department of job and family services.~~ 41150
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~~Except as provided in ~~division (C) of this section, the~~
~~department, after the end of each calendar year and pursuant to~~
~~procedures specified in rules adopted in accordance with Chapter~~
~~119. of the Revised Code, shall calculate an annual average~~
~~case mix score for each nursing facility and intermediate care~~
~~facility for the mentally retarded using the facility's quarterly~~
~~case mix scores for that calendar year.~~ 41163
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~~(C)(1) If a facility does not timely submit information for a
calendar quarter necessary to calculate its case mix score, or
submits incomplete or inaccurate information for a calendar
quarter, the department may assign the facility a quarterly
average case mix score that is five per cent less than the
facility's quarterly average case mix score for the preceding
calendar quarter. If the facility was subject to an exception
review under ~~division (C) of section 5111.27 of the Revised Code~~
for the preceding calendar quarter, the department may assign a~~ 41170
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~~quarterly average case mix score that is five per cent less than 41179
the score determined by the exception review. If the facility was 41180
assigned a quarterly average case mix score for the preceding 41181
quarter, the department may assign a quarterly average case mix 41182
score that is five per cent less than that score assigned for the 41183
preceding quarter. 41184~~

~~The department may use a quarterly average case mix score 41185
assigned under division (C)(1) of this section, instead of a 41186
quarterly average case mix score calculated based on the 41187
facility's submitted information, to calculate the facility's rate 41188
for direct care costs being established under section 5111.23 of 41189
the Revised Code for one or more months, as specified in rules 41190
adopted under division (D) of this section, of the quarter for 41191
which the rate established under section 5111.23 of the Revised 41192
Code will be paid. 41193~~

~~Before taking action under division (C)(1) of this section, 41194
the department shall permit the facility a reasonable period of 41195
time, specified in rules adopted under division (D) of this 41196
section, to correct the information. In the case of an 41197
intermediate care facility for the mentally retarded, the 41198
department of job and family services shall not assign a quarterly 41199
average case-mix score due to late submission of corrections to 41200
the assessment information unless the facility fails to submit 41201
corrected information prior to the eighty-first day after the end 41202
of the calendar quarter to which the information pertains. In the 41203
case of a nursing facility, the department shall not assign a 41204
quarterly average case-mix score due to late submission of 41205
corrections to the assessment information unless the facility 41206
fails to submit corrected information prior to the earlier of the 41207
~~eighty-first~~ forty-sixth day after the end of the ~~ealendar~~ calendar ~~quarter~~ 41208
day the department provides the facility a preliminary facility 41209
score calculation to which the information pertains or the 41210~~

deadline for submission of such corrections established by 41211
regulations adopted by the United States department of health and 41212
human services under Titles XVIII and XIX of the Social Security 41213
Act. The department may provide nursing facilities preliminary 41214
facility score calculations electronically. 41215

~~(2) If a facility is paid a rate calculated using a quarterly 41216
average case mix score assigned under division (C)(1) of this 41217
section for more than six months in a calendar year, the 41218
department may assign the facility a cost per case mix unit that 41219
is five per cent less than the facility's actual or assigned cost 41220
per case mix unit for the preceding calendar year. The department 41221
may use the assigned cost per case mix unit, instead of 41222
calculating the facility's actual cost per case mix unit in 41223
accordance with section 5111.23 of the Revised Code, to establish 41224
the facility's rate for direct care costs for the following fiscal 41225
year.~~ 41226

~~(3) The department shall take action under ~~division (C)(1) or 41227
(2)~~ of this section only in accordance with rules adopted under 41228
~~division (D)~~ of this section. The department shall not take an 41229
action that affects rates for prior payment periods except in 41230
accordance with ~~sections 5111.27 and~~ section 5111.28 of the 41231
Revised Code and rules adopted under section 5111.32 of the 41232
Revised Code. 41233~~

~~(D) The director ~~may~~ shall adopt rules in accordance with 41234
Chapter 119. of the Revised Code that do any of the following: 41235~~

~~(1)(A) Specify the medium or media through which the 41236
completed assessment information shall be submitted; 41237~~

~~(2)(B) Specify whether nursing facilities must submit the 41238
assessment information required by this section to the department; 41239~~

(C) Establish procedures under which the department will 41240
review assessment information for accuracy and notify the facility 41241

of any information that requires correction; 41242

~~(3)(D) Establish procedures for facilities to correct 41243
assessment information. The procedures may prohibit an 41244
intermediate care facility for the mentally retarded from 41245
submitting corrected assessment information, for the purpose of 41246
calculating its annual average case mix score, more than two 41247
calendar quarters after the end of the quarter to which the 41248
information pertains or, if the information pertains to the 41249
quarter ending the thirty first day of December, after the 41250
thirty first day of the following March. The procedures may limit 41251
the content of corrections by nursing facilities in the manner 41252
required by regulations adopted by the United States department of 41253
health and human services under Titles XVIII and XIX of the Social 41254
Security Act and prohibit a nursing facility from submitting 41255
corrected assessment information, for the purpose of calculating 41256
its annual average case mix score, more than the earlier of the 41257
following: 41258~~

~~(a) Two calendar quarters after the end of the quarter to 41259
which the information pertains or, if the information pertains to 41260
the quarter ending the thirty first day of December, after the 41261
thirty first day of the following March; 41262~~

~~(b) The deadline for submission of such corrections 41263
established by regulations adopted by the United States department 41264
of health and human services under Titles XVIII and XIX of the 41265
Social Security Act. 41266~~

~~(4) Specify when and how the department will assign case mix 41267
scores or costs per case mix unit under division (C) of this 41268
section if information necessary to calculate the facility's 41269
average annual or quarterly case mix score is not provided or 41270
corrected in accordance with the procedures established by the 41271
rules. Notwithstanding any other provision of sections 5111.20 to 41272
5111.32 of the Revised Code, the rules also may provide for 41273~~

~~exclusion of case mix scores assigned under division (C) of this section from calculation of the facility's annual average case mix score and the maximum cost per case mix unit for the facility's peer group this section.~~

(E) Direct the actions the department may take under this section.

Sec. 5111.24. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall include all of the following:

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the facility closure, voluntary termination, or voluntary withdrawal of participation;

(C) The exiting operator's medicaid provider agreement number;

(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation;

(E) The signature of the exiting operator's or owner's representative.

Sec. 5111.241. An operator shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965),

42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility 41303
undergoes a voluntary withdrawal of participation. 41304

Sec. 5111.25. (A) An exiting operator or owner and entering 41305
operator shall provide the department of job and family services 41306
written notice of a change of operator if the nursing facility or 41307
intermediate care facility for the mentally retarded participates 41308
in the medicaid program and the entering operator seeks to 41309
continue the facility's participation. The written notice shall be 41310
provided to the department not later than forty-five days before 41311
the effective date of the change of operator if the change of 41312
operator does not entail the relocation of residents. The written 41313
notice shall be provided to the department not later than ninety 41314
days before the effective date of the change of operator if the 41315
change of operator entails the relocation of residents. The 41316
written notice shall include all of the following: 41317

(1) The name of the exiting operator and, if any, the exiting 41318
operator's authorized agent; 41319

(2) The name of the nursing facility or intermediate care 41320
facility for the mentally retarded that is the subject of the 41321
change of operator; 41322

(3) The exiting operator's medicaid provider agreement 41323
number; 41324

(4) The name of the entering operator; 41325

(5) The effective date of the change of operator; 41326

(6) The manner in which the entering operator becomes the 41327
facility's operator, including through sale, lease, merger, or 41328
other action; 41329

(7) If the manner in which the entering operator becomes the 41330
facility's operator involves more than one step, a description of 41331
each step; 41332

(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator; 41333
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(9) The signature of the exiting operator's or owner's representative. 41336
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(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following: 41338
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(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator; 41342
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(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator. 41348
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Sec. 5111.251. The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met: 41354
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(A) The department receives a properly completed written notice required by section 5111.25 of the Revised Code on or before the date required by that section. 41358
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(B) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger 41361
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agreements and supporting documents, and sales contracts and 41363
supporting documents relating to the change of operator not later 41364
than ten days after the effective date of the change of operator. 41365

(C) The entering operator is eligible for medicaid payments 41366
as provided in section 5111.21 of the Revised Code. 41367

Sec. 5111.252. (A) The department of job and family services 41368
may enter into a provider agreement with an entering operator that 41369
goes into effect at 12:01 a.m. on the date determined under 41370
division (B) of this section if all of the following are the case: 41371

(1) The department receives a properly completed written 41372
notice required by section 5111.25 of the Revised Code. 41373

(2) The entering operator furnishes to the department copies 41374
of all the fully executed leases, management agreements, merger 41375
agreements and supporting documents, and sales contracts and 41376
supporting documents relating to change of operator. 41377

(3) The requirement of division (A)(1) of this section is met 41378
after the time required by section 5111.25 of the Revised Code, 41379
the requirement of division (A)(2) of this section is met more 41380
than ten days after the effective date of the change of operator, 41381
or both. 41382

(4) The entering operator is eligible for medicaid payments 41383
as provided in section 5111.21 of the Revised Code. 41384

(B) The department shall determine the date a provider 41385
agreement entered into under this section is to go into effect as 41386
follows: 41387

(1) The effective date shall give the department sufficient 41388
time to process the change of operator, assure no duplicate 41389
payments are made, make the withholding required by section 41390
5111.261 of the Revised Code, and withhold the final payment to 41391
the exiting operator until the following: 41392

(a) Ninety days after the exiting operator submits to the department a properly completed cost report under section 5111.263 of the Revised Code; 41393
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(b) One hundred eighty days after the department waives the cost report requirement of section 5111.263 of the Revised Code. 41396
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(2) The effective date shall be not earlier than the later of the effective date of the change of operator or the date that the exiting operator or owner and entering operator comply with section 5111.25 of the Revised Code. 41398
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(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section: 41402
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(a) Forty-five days if the change of operator does not entail the relocation of residents; 41405
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(b) Ninety days if the change of operator entails the relocation of residents. 41407
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Sec. 5111.253. A provider agreement that the department of job and family services enters into with an entering operator under section 5111.251 or 5111.252 of the Revised Code shall satisfy all of the following requirements: 41409
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(A) Comply with all applicable federal statutes and regulations; 41413
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(B) Comply with section 5111.22 of the Revised Code and all other applicable state statutes and rules; 41415
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(C) Include all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following: 41417
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(1) Any plan of correction; 41420

(2) Compliance with health and safety standards; 41421

<u>(3) Compliance with the ownership and financial interest</u>	41422
<u>disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	41423
<u>(4) Compliance with the civil rights requirements of 45</u>	41424
<u>C.F.R. parts 80, 84, and 90;</u>	41425
<u>(5) Compliance with additional requirements imposed by the</u>	41426
<u>department;</u>	41427
<u>(6) Any sanctions relating to remedies for violation of the</u>	41428
<u>provider agreement, including deficiencies, compliance periods,</u>	41429
<u>accountability periods, monetary penalties, notification for</u>	41430
<u>correction of contract violations, and history of deficiencies.</u>	41431
<u>(D) Require the entering operator to assume the exiting</u>	41432
<u>operator's remaining debt to the department and United States</u>	41433
<u>centers for medicare and medicaid services that the department is</u>	41434
<u>unable to collect from the exiting operator;</u>	41435
<u>(E) Have a different provider agreement number than the</u>	41436
<u>exiting operator's provider agreement.</u>	41437
<u>Sec. 5111.254. In the case of a change of operator, the</u>	41438
<u>exiting operator shall be considered to be the operator of the</u>	41439
<u>nursing facility or intermediate care facility for the mentally</u>	41440
<u>retarded for purposes of the medicaid program, including medicaid</u>	41441
<u>payments, until the effective date of the entering operator's</u>	41442
<u>provider agreement if the provider agreement is entered into under</u>	41443
<u>section 5111.251 or 5111.252 of the Revised Code.</u>	41444
<u>Sec. 5111.255. The department of job and family services may</u>	41445
<u>enter into a provider agreement as provided in section 5111.22 of</u>	41446
<u>the Revised Code, rather than section 5111.251 or 5111.252 of the</u>	41447
<u>Revised Code, with an entering operator if the entering operator</u>	41448
<u>does not agree to a provider agreement that satisfies the</u>	41449
<u>requirements of division (C) or (D) of section 5111.253 of the</u>	41450

Revised Code. The department may not enter into the provider agreement unless the department of health certifies the nursing facility or intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. The effective date of the provider agreement shall not precede any of the following: 41451
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(A) The date that the department of health certifies the facility; 41457
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(B) The effective date of the change of operator; 41459

(C) The date the requirement of section 5111.25 of the Revised Code is satisfied. 41460
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Sec. 5111.256. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code governing adjustments to the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5111.251, section 5111.252, or, pursuant to section 5111.255, section 5111.22 of the Revised Code. 41462
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Sec. 5111.257. Neither of the following shall affect the department of job and family services' determination of whether or when a change of operator occurs or the effective date of an entering operator's provider agreement under section 5111.251, section 5111.252, or, pursuant to section 5111.255, section 5111.22 of the Revised Code: 41472
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(A) The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code; 41478
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(B) The department of mental retardation and developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code. 41481
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Sec. 5111.26. (A) On receipt of a written notice under section 5111.24 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation or a written notice under section 5111.25 of the Revised Code of a change of operator, the department of job and family services shall determine the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program. In determining the exiting operator's other actual and potential debts to the department under the medicaid program, the department shall include all of the following that the department determines is applicable: 41485
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(1) Refunds due the department under section 5111.27 of the Revised Code; 41499
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(2) Interest owed to the department and United States centers for medicare and medicaid services; 41501
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(3) Final civil monetary and other penalties for which all right of appeal has been exhausted; 41503
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(4) Third-party liabilities; 41505

(5) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program. 41506
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(B) If the department is unable to determine the amount of 41511
the overpayments and other debts for any period before the 41512
effective date of the entering operator's provider agreement or 41513
the effective date of the facility closure, voluntary termination, 41514
or voluntary withdrawal of participation, the department shall 41515
make a reasonable estimate of the overpayments and other debts for 41516
the period. The department shall make the estimate using 41517
information available to the department, including prior 41518
determinations of overpayments and other debts. 41519

Sec. 5111.261. (A) The department of job and family services 41520
shall withhold the greater of the following from payment due an 41521
exiting operator under the medicaid program: 41522

(1) The total amount of any overpayments made under the 41523
medicaid program to the exiting operator, including overpayments 41524
the exiting operator disputes, and other actual and potential 41525
debts, including any unpaid penalties, the exiting operator owes 41526
or may owe to the department and United States centers for 41527
medicare and medicaid services under the medicaid program; 41528

(2) An amount equal to the average amount of monthly payments 41529
to the exiting operator under the medicaid program for the 41530
twelve-month period immediately preceding the month that includes 41531
the last day the exiting operator's provider agreement is in 41532
effect or, in the case of a voluntary withdrawal of participation, 41533
the effective date of the voluntary withdrawal of participation. 41534

(B) The department may transfer the amount withheld under 41535
division (A) of this section to an escrow account with a bank, 41536
trust company, or savings and loan association. 41537

(C) If payment due an exiting operator under the medicaid 41538
program is less than the amount the department is required to 41539
withhold under division (A) of this section, the department shall 41540

require that the exiting operator provide the difference in the 41541
form of a security. 41542

(D) The department shall release to the exiting operator the 41543
actual amount withheld under division (A) of this section if the 41544
department allows the exiting operator to provide the department a 41545
security in the amount the department is required to withhold 41546
under division (A) of this section, less any of that amount 41547
provided to the department in the form of a security under 41548
division (C) of this section. 41549

(E) Security provided to the department under division (C) or 41550
(D) of this section shall be in either or both of the following 41551
forms: 41552

(1) In the case of a change of operator, the entering 41553
operator's nontransferable, unconditional, written agreement to 41554
pay the department any debt the exiting operator owes the 41555
department under the medicaid program; 41556

(2) In the case of a change of operator, facility closure, 41557
voluntary termination, or voluntary withdrawal of participation, a 41558
form of collateral or security acceptable to the department that 41559
satisfies both of the following conditions: 41560

(a) Is at least equal to the amount the department is 41561
required to withhold under division (A) of this section, less any 41562
amounts the department has received through actual withholding or 41563
one or more other forms of security under this division; 41564

(b) Is payable to the department if the exiting operator 41565
fails to pay any debt owed the department under the medicaid 41566
program within fifteen days of receiving the department's written 41567
demand for payment of the debt. 41568

Sec. 5111.262. An entering operator that provides the 41569
department of job and family services a security in the form 41570

provided by division (E)(1) of section 5111.261 of the Revised Code shall also provide the department a list of the entering operator's assets and liabilities. The department shall determine whether the assets are sufficient for the purpose of the security. 41571
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Sec. 5111.263. (A) Except as provided in division (B) of this section, an exiting operator shall file with the department of job and family services a cost report not later than ninety days after the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall cover the period that begins with the day after the last day covered by the operator's most recent previous cost report required by section 5111.23 of the Revised Code and ends on the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall include, as applicable, all of the following: 41575
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(1) The sale price of the nursing facility or intermediate care facility for the mentally retarded; 41589
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(2) A final depreciation schedule that shows which assets are transferred to the buyer and which assets are not transferred to the buyer; 41591
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(3) Any other information the department requires. 41594

(B) The department, at its sole discretion, may waive the requirement that an exiting operator file a cost report in accordance with division (A) of this section. 41595
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Sec. 5111.264. If an exiting operator required by section 5111.263 of the Revised Code to file a cost report with the department of job and family services fails to file the cost 41598
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report in accordance with that section, all payments under the 41601
medicaid program for the period the cost report is required to 41602
cover are deemed overpayments until the date the department 41603
receives the properly completed cost report. The department may 41604
impose on the exiting operator a penalty of one hundred dollars 41605
for each calendar day the properly completed cost report is late. 41606

Sec. 5111.265. The department of job and family services may 41607
not provide an exiting operator final payment under the medicaid 41608
program until the department receives all properly completed cost 41609
reports the exiting operator is required to file under sections 41610
5111.23 and 5111.263 of the Revised Code. 41611

Sec. 5111.266. The department of job and family services 41612
shall determine the actual amount of debt an exiting operator owes 41613
the department under the medicaid program by completing all final 41614
fiscal audits not already completed and performing all other 41615
appropriate actions the department determines to be necessary. The 41616
department shall issue a report on this matter not later than 41617
ninety days after the date the exiting operator files the properly 41618
completed cost report required by section 5111.263 of the Revised 41619
Code with the department or, if the department waives the cost 41620
report requirement for the exiting operator, one hundred eighty 41621
days after the date the department waives the cost report 41622
requirement. The report shall include the department's findings 41623
and the amount of debt the department determines the exiting 41624
operator owes the department and United States centers for 41625
medicare and medicaid services under the medicaid program. Only 41626
the parts of the report that are subject to an adjudication as 41627
specified in section 5111.31 of the Revised Code are subject to an 41628
adjudication conducted in accordance with Chapter 119. of the 41629
Revised Code. 41630

Sec. 5111.267. The department of job and family services 41631
shall release the actual amount withheld under division (A) of 41632
section 5111.261 of the Revised Code, and any security provided to 41633
the department under that section, less any amount the exiting 41634
operator owes the department and United States centers for 41635
medicare and medicaid services under the medicaid program, as 41636
follows: 41637

(A) Ninety-one days after the date the exiting operator files 41638
a properly completed cost report required by section 5111.263 of 41639
the Revised Code unless the department issues the report required 41640
by section 5111.266 of the Revised Code not later than ninety days 41641
after the date the exiting operator files the properly completed 41642
cost report; 41643

(B) Not later than fifteen days after the exiting operator 41644
agrees to a final fiscal audit resulting from the report required 41645
by section 5111.266 of the Revised Code if the department issues 41646
the report not later than ninety days after the date the exiting 41647
operator files a properly completed cost report required by 41648
section 5111.263 of the Revised Code; 41649

(C) One hundred eighty-one days after the date the department 41650
waives the cost report requirement of section 5111.263 of the 41651
Revised Code unless the department issues the report required by 41652
section 5111.266 of the Revised Code not later than one hundred 41653
eighty days after the date the department waives the cost report 41654
requirement; 41655

(D) Not later than fifteen days after the exiting operator 41656
agrees to a final fiscal audit resulting from the report required 41657
by section 5111.266 of the Revised Code if the department issues 41658
the report not later than one hundred eighty days after the date 41659
the department waives the cost report requirement of section 41660
5111.263 of the Revised Code. 41661

Sec. 5111.268. If the actual amount the department of job and family services withholds from an exiting operator under division (A) of section 5111.261 of the Revised Code, and any security provided to the department under that section, is inadequate to pay the exiting operator's debt to the department and United States centers for medicare and medicaid services under the medicaid program or the department is required to release the withholdings and security under section 5111.267 of the Revised Code before the department is paid the exiting operator's debt, the department shall collect the debt as follows:

(A) From the exiting operator;

(B) From the entering operator if the department is unable to collect the entire debt from the exiting operator and the entering operator entered into a provider agreement under section 5111.251 or 5111.252 of the Revised Code. The department may collect the remaining debt by withholding the amount due from payments to the entering operator under the medicaid program. The department may enter into an agreement with the entering operator under which the entering operator pays the remaining debt, with applicable interest, in installments from withholdings from the entering operator's payments under the medicaid program.

Sec. 5111.269. The department of job and family services, at its sole discretion, may release the amount withheld under division (A) of section 5111.261 of the Revised Code, and any security provided to the department under that section, if the exiting operator submits to the department written notice of a postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation

are postponed for at least thirty days but less than ninety days 41692
after the date originally proposed for the change of operator, 41693
facility closure, voluntary termination, or voluntary withdrawal 41694
of participation as reported in the written notice required by 41695
section 5111.24 or 5111.25 of the Revised Code. The department 41696
shall release the amount withheld and security if the exiting 41697
operator submits to the department written notice of a 41698
cancellation or postponement of a change of operator, facility 41699
closure, voluntary termination, or voluntary withdrawal of 41700
participation and the transactions leading to the change of 41701
operator, facility closure, voluntary termination, or voluntary 41702
withdrawal of participation are canceled, or postponed for more 41703
than ninety days after the date originally proposed for the change 41704
of operator, facility closure, voluntary termination, or voluntary 41705
withdrawal of participation as reported in the written notice 41706
required by section 5111.24 or 5111.25 of the Revised Code. 41707

After the department receives a written notice regarding a 41708
cancellation or postponement of a facility closure, voluntary 41709
termination, or voluntary withdrawal of participation, the exiting 41710
operator or owner shall provide new written notice to the 41711
department under section 5111.24 of the Revised Code regarding any 41712
transactions leading to a facility closure, voluntary termination, 41713
or voluntary withdrawal of participation at a future time. After 41714
the department receives a written notice regarding a cancellation 41715
or postponement of a change of operator, the exiting operator or 41716
owner and entering operator shall provide new written notice to 41717
the department under section 5111.25 of the Revised Code regarding 41718
any transactions leading to a change of operator at a future time. 41719

Sec. 5111.2610. The director of job and family services may 41720
adopt rules in accordance with Chapter 119. of the Revised Code to 41721
implement sections 5111.24 to 5111.269 of the Revised Code, 41722
including rules applicable to an exiting operator that provides 41723

written notification under section 5111.24 of the Revised Code of 41724
a voluntary withdrawal of participation. Rules adopted under this 41725
section shall comply with section 1919(c)(2)(F) of the "Social 41726
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 41727
regarding restrictions on transfers or discharges of nursing 41728
facility residents in the case of a voluntary withdrawal of 41729
participation. The rules may prescribe a medicaid reimbursement 41730
methodology and other procedures that are applicable after the 41731
effective date of a voluntary withdrawal of participation that 41732
differ from the reimbursement methodology and other procedures 41733
that would otherwise apply. 41734

~~Sec. 5111.25 5111.27. (A) The department of job and family~~ 41735
~~services shall pay each eligible nursing facility a per resident~~ 41736
~~per day rate for its reasonable capital costs established~~ 41737
~~prospectively each fiscal year for each facility. Except as~~ 41738
~~otherwise provided in sections 5111.20 to 5111.32 of the Revised~~ 41739
~~Code, the rate shall be based on the facility's capital costs for~~ 41740
~~the calendar year preceding the fiscal year in which the rate will~~ 41741
~~be paid. The rate shall equal the sum of divisions (A)(1) to (3)~~ 41742
~~of this section:~~ 41743

~~(1) The lesser of the following:~~ 41744

~~(a) Eighty eight and sixty five one hundredths per cent of~~ 41745
~~the facility's desk reviewed, actual, allowable, per diem cost of~~ 41746
~~ownership and eighty five per cent of the facility's actual,~~ 41747
~~allowable, per diem cost of nonextensive renovation determined~~ 41748
~~under division (F) of this section:~~ 41749

~~(b) Eighty eight and sixty five one hundredths per cent of~~ 41750
~~the following limitation:~~ 41751

~~(i) For the fiscal year beginning July 1, 1993, sixteen~~ 41752
~~dollars per resident day:~~ 41753

~~(ii) For the fiscal year beginning July 1, 1994, sixteen dollars per resident day, adjusted to reflect the rate of inflation for the twelve month period beginning July 1, 1992, and ending June 30, 1993, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics;~~

~~(iii) For subsequent fiscal years, the limitation in effect during the previous fiscal year, adjusted to reflect the rate of inflation for the twelve month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics.~~

~~(2) Any efficiency incentive determined under division (D) of this section;~~

~~(3) Any amounts for return on equity determined under division (H) of this section.~~

~~Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules adopted under this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in cost of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.32 of the~~

~~Revised Code is used to reimburse the government agency. 41785~~

~~(B) The capital cost basis of nursing facility assets shall 41786
be determined in the following manner: 41787~~

~~(1) For purposes of calculating the rate to be paid for the 41788
fiscal year beginning July 1, 1993, for facilities with dates of 41789
licensure on or before June 30, 1993, the capital cost basis shall 41790
be equal to the following: 41791~~

~~(a) For facilities that have not had a change of ownership 41792
during the period beginning January 1, 1993, and ending June 30, 41793
1993, the desk reviewed, actual, allowable capital cost basis that 41794
is listed on the facility's cost report for the cost reporting 41795
period ending December 31, 1992, plus the actual, allowable 41796
capital cost basis of any assets constructed or acquired after 41797
December 31, 1992, but before July 1, 1993, if the aggregate 41798
capital costs of those assets would increase the facility's rate 41799
for capital costs by twenty or more cents per resident per day. 41800~~

~~(b) For facilities that have a date of licensure or had a 41801
change of ownership during the period beginning January 1, 1993, 41802
and ending June 30, 1993, the actual, allowable capital cost basis 41803
of the person or government entity that owns the facility on June 41804
30, 1993. 41805~~

~~Capital cost basis shall be calculated as provided in 41806
division (B)(1) of this section subject to approval by the United 41807
States health care financing administration of any necessary 41808
amendment to the state plan for providing medical assistance. 41809~~

~~The department shall include the actual, allowable capital 41810
cost basis of assets constructed or acquired during the period 41811
beginning January 1, 1993, and ending June 30, 1993, in the 41812
calculation for the facility's rate effective July 1, 1993, if the 41813
aggregate capital costs of the assets would increase the 41814
facility's rate by twenty or more cents per resident per day and 41815~~

~~the facility provides the department with sufficient documentation 41816
of the costs before June 1, 1993. If the facility provides the 41817
documentation after that date, the department shall adjust the 41818
facility's rate to reflect the costs of the assets one month after 41819
the first day of the month after the department receives the 41820
documentation. 41821~~

~~(2) Except as provided in division (B)(4) of this section, 41822
for purposes of calculating the rates to be paid for fiscal years 41823
beginning after June 30, 1994, for facilities with dates of 41824
licensure on or before June 30, 1993, the capital cost basis of 41825
each asset shall be equal to the desk reviewed, actual, allowable, 41826
capital cost basis that is listed on the facility's cost report 41827
for the calendar year preceding the fiscal year during which the 41828
rate will be paid. 41829~~

~~(3) For facilities with dates of licensure after June 30, 41830
1993, the capital cost basis shall be determined in accordance 41831
with the principles of the medicare program established under 41832
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 41833
U.S.C.A. 301, as amended, except as otherwise provided in sections 41834
5111.20 to 5111.32 of the Revised Code. 41835~~

~~(4) Except as provided in division (B)(5) of this section, if 41836
a provider transfers an interest in a facility to another provider 41837
after June 30, 1993, there shall be no increase in the capital 41838
cost basis of the asset if the providers are related parties. If 41839
the providers are not related parties or if they are related 41840
parties and division (B)(5) of this section requires the 41841
adjustment of the capital cost basis under this division, the 41842
basis of the asset shall be adjusted by the lesser of the 41843
following: 41844~~

~~(a) One half of the change in construction costs during the 41845
time that the transferor held the asset, as calculated by the 41846
department of job and family services using the "Dodge building 41847~~

~~cost indexes, northeastern and north central states," published by Marshall and Swift;~~ 41848
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~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.~~ 41850
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~~(5) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (B)(4) of this section for a transfer to a provider that is not a related party if all of the following conditions are met:~~ 41854
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~~(a) The related party is a relative of owner;~~ 41859

~~(b) Except as provided in division (B)(5)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;~~ 41860
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~~(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules the department shall adopt in accordance with Chapter 119. of the Revised Code no later than December 31, 2000. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:~~ 41863
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~~(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.~~ 41869
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~~(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the~~ 41875
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~~department shall treat the facility as if the transfer never
occurred when the department calculates its reimbursement rates
for capital costs.~~

~~(iii) The transfer satisfies any other criteria specified in
the rules.~~

~~(d) Except in the case of hardship caused by a catastrophic
event, as determined by the department, or in the case of a
provider making the transfer who is at least sixty five years of
age, not less than twenty years have elapsed since, for the same
facility, the capital cost basis was adjusted most recently under
division (B)(5) of this section or actual, allowable cost of
ownership was determined most recently under division (C)(9) of
this section.~~

~~(C) As used in this division, "lease expense" means lease
payments in the case of an operating lease and depreciation
expense and interest expense in the case of a capital lease. As
used in this division, "new lease" means a lease, to a different
lessee, of a nursing facility that previously was operated under a
lease.~~

~~(1) Subject to the limitation specified in division (A)(1) of
this section, for a lease of a facility that was effective on May
27, 1992, the entire lease expense is an actual, allowable cost of
ownership during the term of the existing lease. The entire lease
expense also is an actual, allowable cost of ownership if a lease
in existence on May 27, 1992, is renewed under either of the
following circumstances:~~

~~(a) The renewal is pursuant to a renewal option that was in
existence on May 27, 1992;~~

~~(b) The renewal is for the same lease payment amount and
between the same parties as the lease in existence on May 27,
1992.~~

~~(2) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts:~~

~~(a) One half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.~~

~~(3) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable cost of ownership shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the sum of the following:~~

~~(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;~~

~~(b) The greater of the lessor's actual annual amortization of~~

~~financing costs and interest expense at the inception of the lease 41941
or the imputed interest expense calculated at the inception of the 41942
lease using seventy per cent of the lessor's historical capital 41943
asset cost basis. 41944~~

~~(4) Subject to the limitation specified in division (A)(1) of 41945
this section, for a lease of a facility with a date of licensure 41946
on or after May 27, 1992, that was not initially operated under a 41947
lease and has been in existence for ten years, actual, allowable 41948
cost of ownership shall include the lesser of the annual lease 41949
expense or the annual depreciation expense and imputed interest 41950
expense that would be calculated at the inception of the lease 41951
using the entire historical capital asset cost basis of the 41952
lessor, adjusted by the lesser of the following: 41953~~

~~(a) One half of the change in construction costs during the 41954
time the lessor held each asset until the beginning of the lease, 41955
as calculated by the department using the "Dodge building cost 41956
indexes, northeastern and north central states," published by 41957
Marshall and Swift; 41958~~

~~(b) One half of the change in the consumer price index for 41959
all items for all urban consumers, as published by the United 41960
States bureau of labor statistics, during the time the lessor held 41961
each asset until the beginning of the lease. 41962~~

~~(5) Subject to the limitation specified in division (A)(1) of 41963
this section, for a new lease of a facility that was operated 41964
under a lease on May 27, 1992, actual, allowable cost of ownership 41965
shall include the lesser of the annual new lease expense or the 41966
annual old lease payment. If the old lease was in effect for ten 41967
years or longer, the old lease payment from the beginning of the 41968
old lease shall be adjusted by the lesser of the following: 41969~~

~~(a) One half of the change in construction costs from the 41970
beginning of the old lease to the beginning of the new lease, as 41971~~

~~calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~ 41972
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~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.~~ 41975
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~~(6) Subject to the limitation specified in division (A)(1) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (C)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be adjusted by the lesser of the following for purposes of calculating the annual amount under division (C)(2), (3), (4), or (6) of this section:~~ 41979
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~~(a) One half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~ 41990
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~~(b) One half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.~~ 41995
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~~In the case of a lease under division (C)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the~~ 41999
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~~annual amount. 42003~~

~~(7) For any revision of a lease described in division (C)(1), 42004~~
~~(2), (3), (4), (5), or (6) of this section, or for any subsequent 42005~~
~~lease of a facility operated under such a lease, other than 42006~~
~~execution of a new lease, the portion of actual, allowable cost of 42007~~
~~ownership attributable to the lease shall be the same as before 42008~~
~~the revision or subsequent lease. 42009~~

~~(8) Except as provided in division (C)(9) of this section, if 42010~~
~~a provider leases an interest in a facility to another provider 42011~~
~~who is a related party, the related party's actual, allowable cost 42012~~
~~of ownership shall include the lesser of the annual lease expense 42013~~
~~or the reasonable cost to the lessor. 42014~~

~~(9) If a provider leases an interest in a facility to another 42015~~
~~provider who is a related party, regardless of the date of the 42016~~
~~lease, the related party's actual, allowable cost of ownership 42017~~
~~shall include the annual lease expense, subject to the limitations 42018~~
~~specified in divisions (C)(1) to (7) of this section, if all of 42019~~
~~the following conditions are met: 42020~~

~~(a) The related party is a relative of owner; 42021~~

~~(b) If the lessor retains an ownership interest, it is, 42022~~
~~except as provided in division (C)(9)(c)(ii) of this section, in 42023~~
~~only the real property and any improvements on the real property; 42024~~

~~(c) The department of job and family services determines that 42025~~
~~the lease is an arm's length transaction pursuant to rules the 42026~~
~~department shall adopt in accordance with Chapter 119. of the 42027~~
~~Revised Code no later than December 31, 2000. The rules shall 42028~~
~~provide that a lease is an arm's length transaction if all of the 42029~~
~~following apply: 42030~~

~~(i) Once the lease goes into effect, the lessor has no direct 42031~~
~~or indirect interest in the lessee or, except as provided in 42032~~
~~division (C)(9)(b) of this section, the facility itself, including 42033~~

~~interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.~~ 42034
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~~(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.~~ 42036
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~~(iii) The lease satisfies any other criteria specified in the rules.~~ 42042
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~~(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (B)(5) of this section or actual, allowable cost of ownership was determined most recently under division (C)(9) of this section.~~ 42044
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~~(10) This division does not apply to leases of specific items of equipment.~~ 42051
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~~(D)(1) Subject to division (D)(2) of this section, the department shall pay each nursing facility an efficiency incentive that is equal to fifty per cent of the difference between the following:~~ 42053
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~~(a) Eighty eight and sixty five one hundredths per cent of the facility's desk reviewed, actual, allowable, per diem cost of ownership;~~ 42057
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~~(b) The applicable amount specified in division (E) of this section.~~ 42060
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~~(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following:~~ 42062
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~~(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;~~ 42064
42065

~~(b) Three dollars per resident per day, adjusted annually for rates paid beginning July 1, 1994, for the inflation rate for the twelve month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~ 42066
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~~(3) For purposes of calculating the efficiency incentive, depreciation for costs that are paid or reimbursed by any government agency shall be considered as costs of ownership, and renovation costs that are paid under division (F) of this section shall not be considered costs of ownership.~~ 42075
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~~(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:~~ 42080
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~~(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty four cents per patient day;~~ 42082
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~~(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968;~~ 42084
42085

~~(a) Five dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;~~ 42086
42087
42088

~~(b) Four dollars and twenty four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.~~ 42089
42090
42091

~~(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976;~~ 42092
42093

(a) Six dollars and twenty four cents per patient day if the	42094
cost of construction was five thousand one hundred fifty dollars	42095
or more per bed;	42096
(b) Five dollars and twenty four cents per patient day if the	42097
cost of construction was less than five thousand one hundred fifty	42098
dollars per bed, but exceeded three thousand five hundred dollars	42099
per bed;	42100
(c) Four dollars and twenty four cents per patient day if the	42101
cost of construction was three thousand five hundred dollars or	42102
less per bed.	42103
(4) For facilities with dates of licensure after December 31,	42104
1975, but prior to January 1, 1979:	42105
(a) Seven dollars and twenty four cents per patient day if	42106
the cost of construction was six thousand eight hundred dollars or	42107
more per bed;	42108
(b) Six dollars and twenty four cents per patient day if the	42109
cost of construction was less than six thousand eight hundred	42110
dollars per bed but exceeded five thousand one hundred fifty	42111
dollars per bed;	42112
(c) Five dollars and twenty four cents per patient day if the	42113
cost of construction was five thousand one hundred fifty dollars	42114
or less per bed, but exceeded three thousand five hundred dollars	42115
per bed;	42116
(d) Four dollars and twenty four cents per patient day if the	42117
cost of construction was three thousand five hundred dollars or	42118
less per bed.	42119
(5) For facilities with dates of licensure after December 31,	42120
1978, but prior to January 1, 1981:	42121
(a) Seven dollars and seventy four cents per patient day if	42122
the cost of construction was seven thousand six hundred	42123

~~twenty five dollars or more per bed;~~ 42124

~~(b) Seven dollars and twenty four cents per patient day if
the cost of construction was less than seven thousand six hundred
twenty five dollars per bed but exceeded six thousand eight
hundred dollars per bed;~~ 42125
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~~(c) Six dollars and twenty four cents per patient day if the
cost of construction was six thousand eight hundred dollars or
less per bed but exceeded five thousand one hundred fifty dollars
per bed;~~ 42129
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42132

~~(d) Five dollars and twenty four cents per patient day if the
cost of construction was five thousand one hundred fifty dollars
or less but exceeded three thousand five hundred dollars per bed;~~ 42133
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~~(e) Four dollars and twenty four cents per patient day if the
cost of construction was three thousand five hundred dollars or
less per bed.~~ 42136
42137
42138

~~(6) For facilities with dates of licensure in 1981 or any
year thereafter prior to December 22, 1992, the following amount:~~ 42139
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~~(a) For facilities with construction costs less than seven
thousand six hundred twenty five dollars per bed, the applicable
amounts for the construction costs specified in divisions
(E)(5)(b) to (c) of this section;~~ 42141
42142
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42144

~~(b) For facilities with construction costs of seven thousand
six hundred twenty five dollars or more per bed, six dollars per
patient day, provided that for 1981 and annually thereafter prior
to December 22, 1992, department shall do both of the following to
the six dollar amount:~~ 42145
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42147
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~~(i) Adjust the amount for fluctuations in construction costs
calculated by the department using the "Dodge building cost
indexes, northeastern and north central states," published by
Marshall and Swift, using 1980 as the base year;~~ 42150
42151
42152
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~~(ii) Increase the amount, as adjusted for inflation under
division (E)(6)(b)(i) of this section, by one dollar and
seventy four cents.~~

~~(7) For facilities with dates of licensure on or after
January 1, 1992, seven dollars and ninety seven cents, adjusted
for fluctuations in construction costs between 1991 and 1993 as
calculated by the department using the "Dodge building cost
indexes, northeastern and north central states," published by
Marshall and Swift, and then increased by one dollar and
seventy four cents.~~

~~For the fiscal year that begins July 1, 1994, each of the
amounts listed in divisions (E)(1) to (7) of this section shall be
increased by twenty five cents. For the fiscal year that begins
July 1, 1995, each of those amounts shall be increased by an
additional twenty five cents. For subsequent fiscal years, each of
those amounts, as increased for the prior fiscal year, shall be
adjusted to reflect the rate of inflation for the twelve month
period beginning on the first day of July of the calendar year
preceding the calendar year that precedes the fiscal year and
ending on the following thirtieth day of June, using the consumer
price index for shelter costs for all urban consumers for the
north central region, as published by the United States bureau of
labor statistics.~~

~~If the amount established for a nursing facility under this
division is less than the amount that applied to the facility
under division (B) of former section 5111.25 of the Revised Code,
as the former section existed immediately prior to December 22,
1992, the amount used to calculate the efficiency incentive for
the facility under division (D)(2) of this section shall be the
amount that was calculated under division (B) of the former
section.~~

~~(F) Beginning July 1, 1993, regardless of the facility's date of licensure or the date of the nonextensive renovations, the rate for the costs of nonextensive renovations for nursing facilities shall be eighty five per cent of the desk reviewed, actual, allowable, per diem, nonextensive renovation costs. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.~~

~~(1) For a nonextensive renovation made after July 1, 1993, to qualify for payment under this division, both of the following conditions must be met:~~

~~(a) At least five years have elapsed since the date of licensure of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.~~

~~(b) The provider has obtained prior approval from the department of job and family services, and if required the director of health has granted a certificate of need for the renovation under section 3702.52 of the Revised Code. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall~~

~~increase the scope of a project after it is approved by the 42217
department of job and family services unless the increase in scope 42218
is approved by the department. 42219~~

~~(2) The payment provided for in this division is the only 42220
payment that shall be made for the costs of a nonextensive 42221
renovation. Nonextensive renovation costs shall not be included in 42222
costs of ownership, and a nonextensive renovation shall not affect 42223
the date of licensure for purposes of calculating the efficiency 42224
incentive under divisions (D) and (E) of this section. 42225~~

~~(G) The owner of a nursing facility operating under a 42226
provider agreement shall provide written notice to the department 42227
of job and family services at least forty five days prior to 42228
entering into any contract of sale for the facility or voluntarily 42229
terminating participation in the medical assistance program. After 42230
the date on which a transaction of sale of a nursing facility or 42231
intermediate care facility for the mentally retarded is closed, 42232
the owner shall refund to the department of job and family 42233
services the amount of excess depreciation paid to the facility by 42234
the department for each year the owner has operated the facility 42235
under a provider agreement and prorated according to the number of 42236
medicaid patient days for which the facility has received payment. 42237
If a nursing facility is sold after five or fewer years of 42238
operation under a provider agreement, the refund to the department 42239
shall be equal to the excess depreciation paid to the facility. If 42240
a nursing facility is sold after more than five years but less 42241
than ten years of operation under a provider agreement, the refund 42242
to the department shall equal the excess depreciation paid to the 42243
facility multiplied by twenty per cent, multiplied by the 42244
difference between ten and the number of years that the facility 42245
was operated under a provider agreement. If a nursing facility is 42246
sold after ten or more years of operation under a provider 42247
agreement, the owner shall not refund any excess depreciation to 42248~~

~~the department. The owner of a nursing facility that is sold or 42249
that voluntarily terminates participation in the medical 42250
assistance program also shall refund any other amount that the 42251
department properly finds to be due after ~~the~~ a final fiscal audit 42252
~~conducted under this division~~ the department shall conduct. For 42253
~~the purposes of this division, "depreciation paid to the facility"~~ 42254
~~means the amount paid to the nursing facility for cost of~~ 42255
~~ownership pursuant to this section less any amount paid for~~ 42256
~~interest costs, amortization of financing costs, and lease~~ 42257
~~expenses. For the purposes of this division, "excess depreciation"~~ 42258
~~is the nursing facility's depreciated basis, which is the owner's~~ 42259
~~cost less accumulated depreciation, subtracted from the purchase~~ 42260
~~price net of selling costs but not exceeding the amount of~~ 42261
~~depreciation paid to the facility.~~ 42262~~

~~A cost report shall be filed with the department within 42263
ninety days after the date on which the transaction of sale is 42264
closed or participation is voluntarily terminated. The report 42265
shall show the accumulated depreciation, the sales price, and 42266
other information required by the department. The department shall 42267
provide for a bank, trust company, or savings and loan association 42268
to hold in escrow the amount of the last two monthly payments to a 42269
nursing facility made pursuant to division (A)(1) of section 42270
5111.22 of the Revised Code before a sale or termination of 42271
participation or, if the owner fails, within the time required by 42272
this division, to notify the department before entering into a 42273
contract of sale for the facility, the amount of the first two 42274
monthly payments made to the facility after the department learns 42275
of the contract, regardless of whether a new owner is in 42276
possession of the facility. If the amount the owner will be 42277
required to refund under this section is likely to be less than 42278
the amount of the two monthly payments otherwise put into escrow 42279
under this division, the department shall take one of the 42280
following actions instead of withholding the amount of the two 42281~~

monthly payments: 42282

~~(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;~~ 42283
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~~(2) In the case of all other owners, withhold the amount of the last monthly payment to the nursing facility or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first monthly payment made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility.~~ 42287
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~~The department shall, within ninety days following the filing of the cost report, audit the cost report and issue an audit report to the owner. The department also may audit any other cost report that the facility has filed during the previous three years. In the audit report, the department shall state its findings and the amount of any money owed to the department by the nursing facility. The findings shall be subject to adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.~~ 42294
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~~If a nursing facility is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination. After written notice is received from a nursing facility that a sale or termination will not take place, the facility shall provide notice to the department at least forty five days prior to entering into any contract of sale or terminating participation at any future time.~~

~~(H) The department shall pay each eligible proprietary nursing facility a return on the facility's net equity computed at the rate of one and one half times the average interest rate on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period, except that no facility's return on net equity shall exceed fifty cents per patient day.~~

~~When calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety five per cent.~~

~~(I) If a nursing facility would receive a lower rate for capital costs for assets in the facility's possession on July 1, 1993, under this section than it would receive under former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the facility shall receive for those assets the rate it would have received under the former section for each fiscal year beginning on or after July 1, 1993, until the rate it would receive under this section exceeds the rate it would have received under the former section. Any facility that receives a rate calculated under the former section 5111.25~~

~~of the Revised Code for assets in the facility's possession on 42346
July 1, 1993, also shall receive a rate calculated under this 42347
section for costs of any assets it constructs or acquires after 42348
July 1, 1993. 42349~~

Sec. 5111.28. (A) ~~If a provider properly amends its cost 42350
report under section 5111.27 of the Revised Code and the amended 42351
report shows that the provider received a lower rate under the 42352
original cost report than it was entitled to receive, the 42353
department shall adjust the provider's rate prospectively to 42354
reflect the corrected information. The department shall pay the 42355
adjusted rate beginning two months after the first day of the 42356
month after the provider files the amended cost report. If the 42357
department finds, from an exception review of resident assessment 42358
information conducted after the effective date of the rate for 42359
direct care costs that is based on the assessment information, 42360
that inaccurate assessment information resulted in the provider 42361
receiving a lower rate than it was entitled to receive, the 42362
department prospectively shall adjust the provider's rate 42363
accordingly and shall make payments using the adjusted rate for 42364
the remainder of the calendar quarter for which the assessment 42365
information is used to determine the rate, beginning one month 42366
after the first day of the month after the exception review is 42367
completed. 42368~~

~~(B) If the a provider properly amends its cost report 42369
pursuant to rules adopted under section 5111.27 5111.32 of the 42370
Revised Code, the department of job and family services makes a 42371
finding based on an audit administrative review or final fiscal 42372
audit conducted pursuant to rules adopted under that section, or 42373
the department makes a finding based on an exception review of 42374
resident assessment information conducted pursuant to rules 42375
adopted under that section after the effective date of the rate 42376
for direct care costs that is based on the assessment information, 42377~~

any of which results in a determination that the provider has 42378
received a higher rate for services provided in a fiscal year 42379
specified in division (F) of this section than it was entitled to 42380
receive, the department shall recalculate the provider's rate 42381
using the revised information. The department shall apply the 42382
recalculated rate to the periods when the provider received the 42383
incorrect rate to determine the amount of the overpayment. The 42384
provider shall refund the amount of the overpayment. 42385

In addition to requiring a refund under this division, the 42386
department may charge the provider interest at the applicable rate 42387
specified in this division from the time the overpayment was made. 42388

(1) If the overpayment resulted from costs reported for 42389
calendar year 1993, the interest shall be no greater than one and 42390
one-half times the average bank prime rate. 42391

(2) If the overpayment resulted from costs reported for 42392
subsequent calendar years: 42393

(a) The interest shall be no greater than two times the 42394
average bank prime rate if the overpayment was equal to or less 42395
than one per cent of the total medicaid payments to the provider 42396
for the fiscal year for which the incorrect information was used 42397
to establish a rate. 42398

(b) The interest shall be no greater than two and one-half 42399
times the current average bank prime rate if the overpayment was 42400
greater than one per cent of the total medicaid payments to the 42401
provider for the fiscal year for which the incorrect information 42402
was used to establish a rate. 42403

~~(C)~~(B) The department also may impose the following 42404
penalties: 42405

(1) If a provider does not furnish invoices or other 42406
documentation that the department requests during ~~an~~ a final 42407
fiscal audit regarding a service provided in a fiscal year 42408

specified in division (F) of this section within sixty days after 42409
the request, no more than the greater of one thousand dollars per 42410
audit or twenty-five per cent of the cumulative amount by which 42411
the costs for which documentation was not furnished increased the 42412
total medicaid payments to the provider during the fiscal year for 42413
which the costs were used to establish a rate; 42414

(2) If an ~~owner~~ exiting operator fails to provide a properly 42415
completed notice of ~~sale of the facility or facility closure,~~ 42416
voluntary termination, voluntary withdrawal of participation ~~in~~ 42417
~~the medical assistance program, or change of operator,~~ as required 42418
by section 5111.24 or 5111.25 ~~or 5111.251~~ of the Revised Code, no 42419
more than the current average bank prime rate plus four per cent 42420
of ~~the last~~ an amount equal to two times the average amount of 42421
monthly payments to the exiting operator under the medicaid 42422
program for the twelve-month period immediately preceding the 42423
month that includes the last day the exiting operator's provider 42424
agreement is in effect or, in the case of a voluntary withdrawal 42425
of participation, the effective date of the voluntary withdrawal 42426
of participation. 42427

~~(D)~~(C) If the provider continues to participate in the 42428
~~medical assistance~~ medicaid program, the department shall deduct 42429
any amount that the provider is required to refund under this 42430
section, and the amount of any interest charged or penalty imposed 42431
under this section, from the next available payment from the 42432
department to the provider. The department and the provider may 42433
enter into an agreement under which the amount, together with 42434
interest, is deducted in installments from payments from the 42435
department to the provider. If the provider does not continue to 42436
participate in the medicaid program, the department shall collect 42437
any amount that the provider owes to the department under this 42438
section from the withholding, security, or both that the 42439
department makes or requires under section 5111.261 of the Revised 42440

Code. 42441

~~(E)~~(D) The department shall transmit refunds and penalties to 42442
the treasurer of state for deposit in the general revenue fund. 42443

~~(F)~~(E) For the purpose of this section, the department shall 42444
determine the average bank prime rate using statistical release 42445
H.15, "selected interest rates," a weekly publication of the 42446
federal reserve board, or any successor publication. If 42447
statistical release H.15, or its successor, ceases to contain the 42448
bank prime rate information or ceases to be published, the 42449
department shall request a written statement of the average bank 42450
prime rate from the federal reserve bank of Cleveland or the 42451
federal reserve board. 42452

(F) For the purpose of divisions (A) and (B)(1) of this 42453
section, the applicable fiscal years are the fiscal years 42454
preceding fiscal year 2006 and, to the extent provided for in 42455
rules the director of job and family services may adopt in 42456
accordance with Chapter 119. of the Revised Code, fiscal year 2006 42457
and thereafter. 42458

Sec. ~~5111.33~~ 5111.29. Reimbursement to nursing facilities and 42459
intermediate care facilities for the mentally retarded under 42460
~~sections 5111.20 to 5111.32~~ rules adopted under section 5111.02 of 42461
the Revised Code shall include payments to facilities, at a rate 42462
equal to the percentage of the per resident per day rates that the 42463
department of job and family services has established for the 42464
facility under ~~sections 5111.23 to 5111.29 of the Revised Code~~ 42465
those rules for the fiscal year for which the cost of services is 42466
reimbursed, to reserve a bed for a recipient during a temporary 42467
absence under conditions prescribed by the department, to include 42468
hospitalization for an acute condition, visits with relatives and 42469
friends, and participation in therapeutic programs outside the 42470
facility, when the resident's plan of care provides for such 42471

absence and federal participation in the payments is available. 42472
The maximum period during which payments may be made to reserve a 42473
bed shall not exceed the maximum period specified under federal 42474
regulations, and shall not be more than thirty days during any 42475
calendar year for hospital stays, visits with relatives and 42476
friends, and participation in therapeutic programs. Recipients who 42477
have been identified by the department as requiring the level of 42478
care of an intermediate care facility for the mentally retarded 42479
shall not be subject to a maximum period during which payments may 42480
be made to reserve a bed if prior authorization of the department 42481
is obtained for hospital stays, visits with relatives and friends, 42482
and participation in therapeutic programs. The director of job and 42483
family services shall adopt rules under division (B) of section 42484
5111.02 of the Revised Code establishing conditions under which 42485
prior authorization may be obtained. 42486

Sec. ~~5111.263~~ 5111.30. (A) As used in this section, "covered 42487
therapy services" means physical therapy, occupational therapy, 42488
audiology, and speech therapy services that are provided by 42489
appropriately licensed therapists or therapy assistants and that 42490
are covered for nursing facility residents either by the medicare 42491
program established under Title XVIII of the "Social Security 42492
Act," ~~49 79~~ Stat. ~~620 286~~ (1935 1965), 42 U.S.C.A. ~~301 1395~~, as 42493
amended, or the ~~medical assistance~~ medicaid program as specified 42494
in rules adopted by the director of job and family services in 42495
accordance with Chapter 119. of the Revised Code. 42496

(B) ~~Except as provided in division (C) of this section, the~~ 42497
The costs of therapy are not allowable costs for nursing 42498
facilities for the purpose of determining rates under ~~sections~~ 42499
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 42500
~~5111.255, and 5111.257 of the Revised Code~~ the medicaid program. 42501

(C) The department of job and family services shall process 42502

no claims for payment under the ~~medical assistance~~ medicaid 42503
program for covered therapy services rendered to a resident of a 42504
nursing facility other than such claims submitted, in accordance 42505
with this section, by a nursing facility that has a valid provider 42506
agreement with the department. 42507

(D) Nursing facilities that have entered into a provider 42508
agreement may bill the department of job and family services for 42509
covered therapy services it provides to residents of any nursing 42510
facility who are recipients of the ~~medical assistance~~ medicaid 42511
program and not eligible for the medicare program. 42512

(E) The department shall not process any claim for a covered 42513
therapy service provided to a nursing facility resident who is 42514
eligible for the medicare program unless the claim is for a 42515
copayment or deductible or the conditions in division (E)(1) or 42516
(2) of this section apply: 42517

(1) The covered therapy service provided is, under the 42518
federal statutes, regulations, or policies governing the medicare 42519
program, not covered by the medicare program and the service is, 42520
under the provisions of this chapter or the rules adopted under 42521
this chapter, covered by the ~~medical assistance~~ medicaid program. 42522

(2) All of the following apply: 42523

(a) The individual or entity who provided the covered therapy 42524
service was eligible to bill the medicare program for the service. 42525

(b) A complete, accurate, and timely claim was submitted to 42526
the medicare program and the program denied payment for the 42527
service as not medically necessary for the resident. For the 42528
purposes of division (E)(2)(b) of this section, a claim is not 42529
considered to have been denied by the medicare program until 42530
either a denial has been issued following a medicare fair hearing 42531
or six months have elapsed since the request for a fair hearing 42532
was filed. 42533

(c) The facility is required to provide or arrange for the 42534
provision of the service by a licensed therapist or therapy 42535
assistant to be in compliance with federal or state nursing 42536
facility certification requirements for the ~~medical assistance~~ 42537
medicaid program. 42538

(d) The claim for payment for the services under the ~~medical~~ 42539
~~assistance~~ medicaid program is accompanied by documentation that 42540
divisions (E)(2)(b) and (c) of this section apply to the service. 42541

(F) The reimbursement allowed by the department for covered 42542
therapy services provided to nursing facility residents and billed 42543
under division (D) or (E) of this section shall be fifteen per 42544
cent less than the fees it pays for the same services rendered to 42545
hospital outpatients. The director may adopt rules in accordance 42546
with Chapter 119. of the Revised Code establishing comparable fees 42547
for covered therapy services that are not included in its schedule 42548
of fees paid for services rendered to hospital outpatients. 42549

~~(G) A nursing facility's reasonable costs for rehabilitative,~~ 42550
~~restorative, or maintenance therapy services rendered to facility~~ 42551
~~residents by nurses or nurse aides, and the facility's overhead~~ 42552
~~costs to support provision of therapy services provided to nursing~~ 42553
~~facility residents, are allowable costs for the purposes of~~ 42554
~~establishing rates under sections 5111.23, 5111.231, 5111.235,~~ 42555
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257 of~~ 42556
~~the Revised Code.~~ 42557

Sec. 5111.29 5111.31. ~~(A) The director of job and family~~ 42558
~~services shall adopt rules in accordance with Chapter 119. of the~~ 42559
~~Revised Code that establish a process under which a nursing~~ 42560
~~facility or intermediate care facility for the mentally retarded,~~ 42561
~~or a group or association of facilities, may seek reconsideration~~ 42562
~~of rates established under sections 5111.23 to 5111.28 of the~~ 42563
~~Revised Code, including a rate for direct care costs recalculated~~ 42564

~~before the effective date of the rate as a result of an exception 42565
review of resident assessment information conducted under section 42566
5111.27 of the Revised Code. 42567~~

~~(1) Except as provided in divisions (A)(2) to (4) of this 42568
section, the only issue that a facility, group, or association may 42569
raise in the rate reconsideration shall be whether the rate was 42570
calculated in accordance with sections 5111.23 to 5111.28 of the 42571
Revised Code and the rules adopted under those sections. The rules 42572
shall permit a facility, group, or association to submit written 42573
arguments or other materials that support its position. The rules 42574
shall specify time frames within which the facility, group, or 42575
association and the department must act. If the department 42576
determines, as a result of the rate reconsideration, that the rate 42577
established for one or more facilities is less than the rate to 42578
which it is entitled, the department shall increase the rate. If 42579
the department has paid the incorrect rate for a period of time, 42580
the department shall pay the facility the difference between the 42581
amount it was paid for that period and the amount it should have 42582
been paid. 42583~~

~~(2) The rules shall provide that during a fiscal year, the 42584
department, by means of the rate reconsideration process, may 42585
increase a facility's rate as calculated under sections 5111.23 to 42586
5111.28 of the Revised Code if the facility demonstrates that its 42587
actual, allowable costs have increased because of extreme 42588
circumstances. A facility may qualify for a rate increase only if 42589
its per diem, actual, allowable costs have increased to a level 42590
that exceeds its total rate, including any efficiency incentive 42591
and return on equity payment. The rules shall specify the 42592
circumstances that would justify a rate increase under division 42593
(A)(2) of this section. In the case of nursing facilities, the 42594
rules shall provide that the extreme circumstances include 42595
increased security costs for an inner city nursing facility and an 42596~~

~~increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program but do not include a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. In the case of intermediate care facilities for the mentally retarded, the rules shall provide that the extreme circumstances include, but are not limited to, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections 5111.23 to 5111.28 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.~~

~~(3) The rules shall provide that the department, through the rate reconsideration process, may increase a facility's rate as calculated under sections 5111.23 to 5111.28 of the Revised Code if the department, in its sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.~~

~~(4) The rules shall provide that when beds certified for the medical assistance program are added to an existing facility, replaced at the same site, or subject to a change of ownership or lease, the department, through the rate reconsideration process, shall increase the facility's rate for capital costs proportionately, as limited by any applicable limitation under~~

~~section 5111.25 or 5111.251 of the Revised Code, to account for 42629
the costs of the beds that are added, replaced, or subject to a 42630
change of ownership or lease. The department shall make this 42631
increase one month after the first day of the month after the 42632
department receives sufficient documentation of the costs. Any 42633
rate increase granted under division (A)(4) of this section after 42634
June 30, 1993, shall remain in effect until the effective date of 42635
a rate calculated under section 5111.25 or 5111.251 of the Revised 42636
Code that includes costs incurred for a full calendar year for the 42637
bed addition, bed replacement, or change of ownership or lease. 42638
The facility shall report double accumulated depreciation in an 42639
amount equal to the depreciation included in the rate adjustment 42640
on its cost report for the first year of operation. During the 42641
term of any loan used to finance a project for which a rate 42642
adjustment is granted under division (A)(4) of this section, if 42643
the facility is operated by the same provider, the facility shall 42644
subtract from the interest costs it reports on its cost report an 42645
amount equal to the difference between the following: 42646~~

~~(a) The actual, allowable interest costs for the loan during 42647
the calendar year for which the costs are being reported; 42648~~

~~(b) The actual, allowable interest costs attributable to the 42649
loan that were used to calculate the rates paid to the facility 42650
during the same calendar year. 42651~~

~~(5) The department's decision at the conclusion of the 42652
reconsideration process shall not be subject to any administrative 42653
proceedings under Chapter 119. or any other provision of the 42654
Revised Code. 42655~~

~~(B) Any audit disallowance All of the following are subject 42656
to an adjudication conducted in accordance with Chapter 119. of 42657
the Revised Code: 42658~~

~~(A) Any adverse finding that the department of job and family 42659~~

services makes ~~as the result of an~~ pursuant to a final fiscal 42660
audit conducted pursuant to rules adopted under section ~~5111.27~~ 42661
5111.32 of the Revised Code, ~~and any;~~ 42662

(B) Any adverse finding that results from an exception review 42663
of resident assessment information conducted pursuant to rules 42664
adopted under ~~that~~ section 5111.32 of the Revised Code after the 42665
effective date of the facility's rate that is based on the 42666
assessment information, ~~and any;~~ 42667

(C) Any penalty the department imposes under ~~division (C) of~~ 42668
section 5111.264 or 5111.28 of the Revised Code ~~shall be subject~~ 42669
~~to an adjudication conducted in accordance with Chapter 119. of~~ 42670
~~the Revised Code.~~ 42671

Sec. 5111.32. The director of job and family services shall 42672
adopt rules in accordance with Chapter 119. of the Revised Code 42673
regarding all of the following: 42674

(A) Administrative reviews; 42675

(B) Final fiscal audits; 42676

(C) Exception reviews; 42677

(D) The collection of overpayments identified in findings 42678
made pursuant to an administrative review, final fiscal audit, or 42679
exception review; 42680

(E) Cost reports. 42681

Sec. 5111.34. (A) There is hereby created the nursing 42682
facility reimbursement study council consisting of the following 42683
~~seventeen~~ eighteen members: 42684

(1) The director of job and family services; 42685

(2) The deputy director of the office of Ohio health plans of 42686
the department of job and family services; 42687

(3) An employee of the governor's office;	42688
(4) The director of health;	42689
(5) The director of aging;	42690
(6) Three members of the house of representatives, not more than two of whom are members of the same political party, appointed by the speaker of the house of representatives;	42691 42692 42693
(7) Three members of the senate, not more than two of whom are members of the same political party, appointed by the president of the senate;	42694 42695 42696
(8) <u>One representative of medicaid recipients residing in nursing facilities, appointed by the governor;</u>	42697 42698
(9) Two representatives of each of the following organizations, appointed by their respective governing bodies:	42699 42700
(a) The Ohio academy of nursing homes;	42701
(b) The association of Ohio philanthropic homes and housing for the aging;	42702 42703
(c) The Ohio health care association.	42704
Initial appointments of members described in divisions (A)(6), (7), and (8) (9) of this section shall be made no later than ninety days after June 6, 2001, except that the initial appointments of the two additional members described in divisions (A)(6) and (7) of this section added by <u>Am. Sub. H.B. 405 of the 124th general assembly shall be made not later than ninety days after the effective date of this amendment March 14, 2002. Initial appointment of the member described in division (A)(8) of this section shall be made not later than ninety days after the effective date of this amendment.</u> Vacancies in any of those appointments shall be filled in the same manner as original appointments. The members described in divisions (A)(6), (7), and (8) , <u>and (9)</u> of this section shall serve at the pleasure of the	42705 42706 42707 42708 42709 42710 42711 42712 42713 42714 42715 42716 42717

official or governing body appointing the member. The members 42718
described in divisions (A)(1), (2), (3), (4), and (5) of this 42719
section shall serve for as long as they hold the position that 42720
qualifies them for membership on the council. The speaker of the 42721
house of representatives and the president of the senate jointly 42722
shall appoint the chairperson of the council. Members of the 42723
council shall serve without compensation. 42724

(B) The council shall ~~review, on an ongoing basis, the system~~ 42725
~~established by sections 5111.20 to 5111.32 of the Revised Code~~ 42726
advise the department of job and family services in the 42727
development of a new method for reimbursing nursing facilities 42728
under the medical assistance program to be implemented beginning 42729
fiscal year 2006. ~~The council shall recommend any changes it~~ 42730
~~determines are necessary. The council periodically shall report~~ 42731
~~its activities, findings, and recommendations to the governor, the~~ 42732
~~speaker of the house of representatives, and the president of the~~ 42733
~~senate.~~ 42734

Sec. 5111.85. (A) As used in this section, "medicaid waiver 42735
component" means a component of the medicaid program authorized by 42736
a waiver granted by the United States department of health and 42737
human services under section 1115 or 1915 of the "Social Security 42738
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 42739
waiver component" does not include a ~~managed~~ care management 42740
system established under section ~~5111.17~~ 5111.16 of the Revised 42741
Code. 42742

(B) The director of job and family services may adopt rules 42743
under Chapter 119. of the Revised Code governing medicaid waiver 42744
components that establish all of the following: 42745

(1) Eligibility requirements for the medicaid waiver 42746
components; 42747

(2) The type, amount, duration, and scope of services the 42748

medicaid waiver components provide;	42749
(3) The conditions under which the medicaid waiver components cover services;	42750 42751
(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	42752 42753
(5) The manner in which the medicaid waiver components pay for services;	42754 42755
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	42756 42757
(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.	42758 42759 42760 42761 42762 42763
(8) Other policies necessary for the efficient administration of the medicaid waiver components.	42764 42765
(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.	42766 42767 42768 42769
(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on	42770 42771 42772 42773 42774 42775 42776 42777 42778

the violator in accordance with rules adopted under division (B) 42779
of this section. 42780

Sec. 5111.87. As used in this section and section 5111.871 of 42781
the Revised Code, "intermediate care facility for the mentally 42782
retarded" has the same meaning as in section 5111.20 of the 42783
Revised Code. 42784

The director of job and family services may apply to the 42785
United States secretary of health and human services for one or 42786
more medicaid waivers under which home and community-based 42787
services are provided to individuals with mental retardation or 42788
other developmental disability as an alternative to placement in 42789
an intermediate care facility for the mentally retarded. ~~Before~~ 42790
~~the director applies~~ The director of mental retardation and 42791
developmental disabilities may request that the director of job 42792
and family services apply for one or more medicaid waivers under 42793
this section. 42794

Before applying for a waiver under this section, the director 42795
of job and family services shall seek, accept, and consider public 42796
comments. 42797

Sec. 5111.872. When the department of mental retardation and 42798
developmental disabilities allocates enrollment numbers to a 42799
county board of mental retardation and developmental disabilities 42800
for home and community-based services provided under the component 42801
of the medicaid program that the department administers under 42802
section 5111.871 of the Revised Code, the department shall 42803
consider all of the following: 42804

(A) The number of individuals with mental retardation or 42805
other developmental disability who are on a waiting list the 42806
county board establishes under division (C) of section 5126.042 of 42807
the Revised Code for those services and are given priority on the 42808

waiting list pursuant to division (D) or (E) of that section; 42809

(B) The implementation component required by division (A)(4) 42810
of section 5126.054 of the Revised Code of the county board's plan 42811
approved under section 5123.046 of the Revised Code; 42812

(C) Anything else the department considers necessary to 42813
enable county boards to provide those services to individuals in 42814
accordance with the priority requirements of ~~division~~ divisions 42815
(D) and (E) of section 5126.042 of the Revised Code. 42816

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.882 of 42817
the Revised Code, "intermediate care facility for the mentally 42818
retarded" has the same meaning as in section 5111.20 of the 42819
Revised Code. 42820

(B) Not later than January 1, 2005, the director of job and 42821
family services shall submit both of the following to the United 42822
States secretary of health and human services: 42823

(1) An application for a waiver under which individuals with 42824
mental retardation or a developmental disability who would qualify 42825
for the intermediate care facility for the mentally retarded 42826
service if that service continued to be available under Ohio's 42827
medicaid program receive instead home and community-based 42828
services; 42829

(2) An amendment to the state medicaid plan to terminate the 42830
intermediate care facility for the mentally retarded service under 42831
the medicaid program on the date the waiver requested under 42832
division (B)(1) of this section begins to be implemented. 42833

Sec. 5111.881. If the United States secretary of health and 42834
human services approves the waiver requested under division (B)(1) 42835
of section 5111.88 of the Revised Code and the amendment to the 42836
state medicaid plan submitted under division (B)(2) of that 42837
section is approved, the intermediate care facility for the 42838

mentally retarded service shall cease to be a covered service 42839
under the medicaid program on the date the waiver begins to be 42840
implemented. 42841

Sec. 5111.882. If the United States secretary of health and 42842
human services approves the waiver requested under division (B)(1) 42843
of section 5111.88 of the Revised Code, the department of job and 42844
family services shall enter into a contract with the department of 42845
mental retardation and developmental disabilities under section 42846
5111.91 of the Revised Code that assigns the day-to-day 42847
administration of the waiver to the department of mental 42848
retardation and developmental disabilities. 42849

Sec. 5111.911. Any contract the department of job and family 42850
services enters into with the department of mental health or 42851
department of alcohol and drug addiction services under section 42852
5111.91 of the Revised Code is subject to the approval of the 42853
director of budget and management and shall require or specify all 42854
of the following: 42855

(A) In the case of a contract with the department of mental 42856
health, that section 5111.912 of the Revised Code be complied 42857
with; 42858

(B) In the case of a contract with the department of alcohol 42859
and drug addiction services, that section 5111.913 of the Revised 42860
Code be complied with; 42861

(C) How providers will be paid for providing the services; 42862

(D) The department of mental health's or department of 42863
alcohol and drug addiction services' responsibilities for 42864
reimbursing providers, including program oversight and quality 42865
assurance. 42866

Sec. 5111.912. If the department of job and family services 42867

enters into a contract with the department of mental health under 42868
section 5111.91 of the Revised Code, the department of mental 42869
health and boards of alcohol, drug addiction, and mental health 42870
services shall pay the nonfederal share of any medicaid payment to 42871
a provider for services under the component, or aspect of the 42872
component, the department of mental health administers. 42873

Sec. 5111.913. If the department of job and family services 42874
enters into a contract with the department of alcohol and drug 42875
addiction services under section 5111.91 of the Revised Code, the 42876
department of alcohol and drug addiction services and boards of 42877
alcohol, drug addiction, and mental health services shall pay the 42878
nonfederal share of any medicaid payment to a provider for 42879
services under the component, or aspect of the component, the 42880
department of alcohol and drug addiction services administers. 42881

Sec. 5111.94. (A) As used in this section, "vendor offset" 42882
means a reduction of a medicaid payment to a medicaid provider to 42883
correct a previous, incorrect medicaid payment to that provider. 42884

(B) There is hereby created in the state treasury the health 42885
care services administration fund. Except as provided in division 42886
(C) of this section, all the following shall be deposited into the 42887
fund: 42888

(1) Amounts deposited into the fund pursuant to sections 42889
5111.92 and 5111.93 of the Revised Code; 42890

(2) The amount of the state share of all money the department 42891
of job and family services, in fiscal year 2003 and each fiscal 42892
year thereafter, recovers pursuant to a tort action under the 42893
department's right of recovery under section 5101.58 of the 42894
Revised Code that exceeds the state share of all money the 42895
department, in fiscal year 2002, recovers pursuant to a tort 42896
action under that right of recovery; 42897

(3) Subject to division (D) of this section, the amount of 42898
the state share of all money the department of job and family 42899
services, in fiscal year 2003 and each fiscal year thereafter, 42900
recovers through audits of medicaid providers that exceeds the 42901
state share of all money the department, in fiscal year 2002, 42902
recovers through such audits; 42903

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments 42904
on hospitals under section 5112.06 of the Revised Code and 42905
intergovernmental transfers by governmental hospitals under 42906
section 5112.07 of the Revised Code that are deposited into the 42907
fund in accordance with the law. 42908

(C) No funds shall be deposited into the health care services 42909
administration fund in violation of federal statutes or 42910
regulations. 42911

(D) In determining under division (B)(3) of this section the 42912
amount of money the department, in a fiscal year, recovers through 42913
audits of medicaid providers, the amount recovered in the form of 42914
vendor offset shall be excluded. 42915

(E) The director of job and family services shall use funds 42916
available in the health care services administration fund to pay 42917
for costs associated with the administration of the medicaid 42918
program. 42919

Sec. 5111.95. (A) As used in this section: 42920

(1) "Applicant" means a person who is under final 42921
consideration for employment or, after the effective date of this 42922
section, an existing employee with a waiver agency in a full-time, 42923
part-time, or temporary position that involves providing home and 42924
community-based waiver services to a person with disabilities. 42925
"Applicant" also means an existing employee with a waiver agency 42926
in a full-time, part-time, or temporary position that involves 42927

providing home and community-based waiver services to a person 42928
with disabilities after the effective date of this section. 42929

(2) "Criminal records check" has the same meaning as in 42930
section 109.572 of the Revised Code. 42931

(3) "Waiver agency" means a person or government entity that 42932
is not certified under the medicare program and is accredited by 42933
the community health accreditation program or the joint commission 42934
on accreditation of health care organizations or a company that 42935
provides home and community-based waiver services to persons with 42936
disabilities through any department of job and family services 42937
administered home and community-based waiver services. 42938

(4) "Home and community-based waiver services" means services 42939
furnished under the provision of 42 C.F.R. 441, subpart G, that 42940
permit individuals to live in a home setting rather than a nursing 42941
facility or hospital. Home and community-based waiver services are 42942
approved by the county medical services section of the department 42943
of job and family services for specific populations and are not 42944
otherwise available under the medicaid state plan. 42945

(B)(1) The chief administrator of a waiver agency shall 42946
request that the superintendent of the bureau of criminal 42947
identification and investigation conduct a criminal records check 42948
with respect to each applicant. If an applicant for whom a 42949
criminal records check request is required under this division 42950
does not present proof of having been a resident of this state for 42951
the five-year period immediately prior to the date the criminal 42952
records check is requested or provide evidence that within that 42953
five-year period the superintendent has requested information 42954
about the applicant from the federal bureau of investigation in a 42955
criminal records check, the chief administrator shall request that 42956
the superintendent obtain information from the federal bureau of 42957
investigation as part of the criminal records check of the 42958
applicant. Even if an applicant for whom a criminal records check 42959

request is required under this division presents proof of having 42960
been a resident of this state for the five-year period, the chief 42961
administrator may request that the superintendent include 42962
information from the federal bureau of investigation in the 42963
criminal records check. 42964

(2) A person required by division (B)(1) of this section to 42965
request a criminal records check shall do both of the following: 42966

(a) Provide to each applicant for whom a criminal records 42967
check request is required under division (B)(1) of this section a 42968
copy of the form prescribed pursuant to division (C)(1) of section 42969
109.572 of the Revised Code and a standard fingerprint impression 42970
sheet prescribed pursuant to division (C)(2) of that section, and 42971
obtain the completed form and impression sheet from the applicant; 42972

(b) Forward the completed form and impression sheet to the 42973
superintendent of the bureau of criminal identification and 42974
investigation. 42975

(3) An applicant provided the form and fingerprint impression 42976
sheet under division (B)(2)(a) of this section who fails to 42977
complete the form or provide fingerprint impressions shall not be 42978
employed in any position in a waiver agency for which a criminal 42979
records check is required by this section. 42980

(C)(1) Except as provided in rules adopted by the department 42981
of job and family services in accordance with division (F) of this 42982
section and subject to division (C)(2) of this section, no waiver 42983
agency shall employ a person in a position that involves providing 42984
home and community-based waiver services to persons with 42985
disabilities if the person has been convicted of or pleaded guilty 42986
to any of the following: 42987

(a) A violation of section 2903.01, 2903.02, 2903.03, 42988
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 42989
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 42990

2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 42991
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 42992
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 42993
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 42994
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 42995
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 42996
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 42997
Revised Code, felonious sexual penetration in violation of former 42998
section 2907.12 of the Revised Code, a violation of section 42999
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 43000
violation of section 2919.23 of the Revised Code that would have 43001
been a violation of section 2905.04 of the Revised Code as it 43002
existed prior to July 1, 1996, had the violation been committed 43003
prior to that date; 43004

(b) An existing or former law of this state, any other state, 43005
or the United States that is substantially equivalent to any of 43006
the offenses listed in division (C)(1)(a) of this section. 43007

(2)(a) A waiver agency may employ conditionally an applicant 43008
for whom a criminal records check request is required under 43009
division (B) of this section prior to obtaining the results of a 43010
criminal records check regarding the individual, provided that the 43011
agency shall request a criminal records check regarding the 43012
individual in accordance with division (B)(1) of this section not 43013
later than five business days after the individual begins 43014
conditional employment. 43015

(b) A waiver agency that employs an individual conditionally 43016
under authority of division (C)(2)(a) of this section shall 43017
terminate the individual's employment if the results of the 43018
criminal records check request under division (B) of this section, 43019
other than the results of any request for information from the 43020
federal bureau of investigation, are not obtained within the 43021
period ending sixty days after the date the request is made. 43022

Regardless of when the results of the criminal records check are 43023
obtained, if the results indicate that the individual has been 43024
convicted of or pleaded guilty to any of the offenses listed or 43025
described in division (C)(1) of this section, the agency shall 43026
terminate the individual's employment unless the agency chooses to 43027
employ the individual pursuant to division (F) of this section. 43028
Termination of employment under this division shall be considered 43029
just cause for discharge for purposes of division (D)(2) of 43030
section 4141.29 of the Revised Code if the individual makes any 43031
attempt to deceive the agency about the individual's criminal 43032
record. 43033

(D)(1) Each waiver agency shall pay to the bureau of criminal 43034
identification and investigation the fee prescribed pursuant to 43035
division (C)(3) of section 109.572 of the Revised Code for each 43036
criminal records check conducted pursuant to a request made under 43037
division (B) of this section. 43038

(2) A waiver agency may charge an applicant a fee not 43039
exceeding the amount the agency pays under division (D)(1) of this 43040
section. An agency may collect a fee only if the agency notifies 43041
the person at the time of initial application for employment of 43042
the amount of the fee and that, unless the fee is paid, the person 43043
will not be considered for employment. 43044

(E) The report of any criminal records check conducted 43045
pursuant to a request made under this section is not a public 43046
record for the purposes of section 149.43 of the Revised Code and 43047
shall not be made available to any person other than the 43048
following: 43049

(1) The individual who is the subject of the criminal records 43050
check or the individual's representative; 43051

(2) The chief administrator of the agency requesting the 43052
criminal records check or the administrator's representative; 43053

(3) A court, hearing officer, or other necessary individual 43054
involved in a case dealing with a denial of employment of the 43055
applicant or dealing with employment or unemployment benefits of 43056
the applicant. 43057

(F) The department shall adopt rules in accordance with 43058
Chapter 119. of the Revised Code to implement this section. The 43059
rules shall specify circumstances under which a waiver agency may 43060
employ a person who has been convicted of or pleaded guilty to an 43061
offense listed or described in division (C)(1) of this section but 43062
meets personal character standards set by the department. 43063

(G) The chief administrator of a waiver agency shall inform 43064
each person, at the time of initial application for a position 43065
that involves providing home and community-based waiver services 43066
to a person with a disability, that the person is required to 43067
provide a set of fingerprint impressions and that a criminal 43068
records check is required to be conducted if the person comes 43069
under final consideration for employment. 43070

(H)(1) A person who, on the effective date of this section, 43071
is an employee of a waiver agency in a full-time, part-time, or 43072
temporary position that involves providing home and 43073
community-based waiver services to a person with disabilities 43074
shall comply with this section within sixty days after the 43075
effective date of this section unless division (H)(2) of this 43076
section applies. 43077

(2) This section shall not apply to a person to whom both of 43078
the following apply: 43079

(a) On the effective date of this section, the person is an 43080
employee of a waiver agency in a full-time, part-time, or 43081
temporary position that involves providing home and 43082
community-based waiver services to a person with disabilities. 43083

(b) The person previously had been the subject of a criminal 43084

background check relating to that position; 43085

(c) The person has been continuously employed in that 43086
position since that criminal background check had been conducted. 43087

Sec. 5111.96. (A) As used in this section: 43088

(1) "Anniversary date" means the later of the effective date 43089
of the provider agreement relating to the independent provider or 43090
sixty days after the effective date of this section. 43091

(2) "Criminal records check" has the same meaning as in 43092
section 109.572 of the Revised Code. 43093

(3) "The department" means the department of job and family 43094
services or its designee. 43095

(4) "Independent provider" means a person who is submitting 43096
an application for a provider agreement or who has a provider 43097
agreement as an independent provider in a department of job and 43098
family services administered home and community-based services 43099
program providing home and community-based waiver services to 43100
consumers with disabilities. 43101

(5) "Home and community-based waiver services" has the same 43102
meaning as in section 5111.95 of the Revised Code. 43103

(B)(1) The department shall inform each independent provider, 43104
at the time of initial application for a provider agreement that 43105
involves providing home and community-based waiver services to 43106
consumers with disabilities, that the independent provider is 43107
required to provide a set of fingerprint impressions and that a 43108
criminal records check is required to be conducted if the person 43109
is to become an independent provider in a department administered 43110
home and community-based services program. 43111

(2) Beginning on the effective date of this section, the 43112
department shall inform each enrolled medicaid independent 43113
provider on or before time of the anniversary date of the provider 43114

agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted. 43115
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(C)(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a criminal records check is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the department shall request the independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the independent provider. Even if an independent provider for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the department may request that the independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check. 43119
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(2) The department shall do both of the following: 43139

(a) Provide information to each independent provider for whom a criminal records check request is required under division (C)(1) of this section about requesting a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet and fee from the independent provider; 43140
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(b) Forward the completed form, impression sheet, and fee to the superintendent of the bureau of criminal identification and investigation. 43147
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(3) An independent provider given information about obtaining the form and fingerprint impression sheet under division (C)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be approved as an independent provider. 43150
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(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of or pleaded guilty to any of the following: 43155
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(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 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, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 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; 43161
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(2) 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 (D)(1) of this section. 43178
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(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section. 43181
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(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 43186
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(1) The person who is the subject of the criminal records check or the person's representative; 43192
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(2) The administrator at the department who is requesting the criminal records check or the administrator's representative; 43194
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(3) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check. 43196
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(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may issue a provider agreement to an independent provider who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department. 43199
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Sec. 5111.97. (A) The director of job and family services may submit a request to the United States secretary of health and 43206
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human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two medicaid home and community-based services programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section. In the request, the director may specify the following:

(1) That one of the replacement programs will provide home and community-based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program;

(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program;

(3) That there will be a maximum number of individuals who may be enrolled in the replacement programs in addition to the number of individuals to be transferred from the Ohio home care program;

(4) That there will be a maximum amount the department may expend each year for each individual enrolled in the replacement programs;

(5) That there will be a maximum aggregate amount the department may expend each year for all individuals enrolled in the replacement programs;

(6) Any other requirement the director selects for the replacement programs.

(B) If the secretary grants the medicaid waivers requested, the director may create and implement the replacement programs in accordance with the provisions of the waivers granted. The

department of job and family services shall administer the 43239
replacement programs. 43240

As the replacement programs are implemented, the director 43241
shall reduce the maximum number of individuals who may be enrolled 43242
in the Ohio home care program by the number of individuals who are 43243
transferred to the replacement programs. When all individuals who 43244
are eligible to be transferred to the replacement programs have 43245
been transferred, the director may submit to the secretary an 43246
amendment to the state medicaid plan to provide for the 43247
elimination of the Ohio home care program. 43248

Sec. 5111.98. (A) As used in sections 5111.98 to 5111.982 of 43249
the Revised Code: 43250

(1) "Personal care services," "residential care facility," 43251
and "skilled nursing care" have the same meanings as in section 43252
3721.01 of the Revised Code. 43253

(2) "Nursing facility" has the same meaning as in section 43254
5111.20 of the Revised Code. 43255

(B) The director of job and family services may apply to the 43256
United States secretary of health and human services for a waiver 43257
pursuant to section 1915 of the "Social Security Act," 49 Stat. 43258
620 (1935), 42 U.S.C. 1396n, as amended, to provide personal care 43259
services to individuals in residential care facilities. 43260

Sec. 5111.981. If a waiver submitted under section 5111.97 of 43261
the Revised Code is approved, the department of job and family 43262
services may establish the personal care services program. The 43263
department may enter into an interagency agreement with the 43264
department of aging under section 5111.91 of the Revised Code for 43265
administration of the personal care services program by the 43266
department of aging. 43267

Under the program, personal care services may be provided to 43268

any medicaid recipient who qualifies for skilled nursing care and 43269
is one of the following: 43270

(A) A resident of a nursing facility who desires to move to a 43271
residential care facility; 43272

(B) A participant in the PASSPORT program created under 43273
section 173.40 of the Revised Code who seeks to enter a nursing 43274
facility; 43275

(C) A resident of a residential care facility who seeks to 43276
enter a nursing facility. 43277

Sec. 5111.982. If the personal care services program is 43278
established under section 5111.97 of the Revised Code, the 43279
department of job and family services shall adopt rules governing 43280
the program. If the department, pursuant to section 5111.971 of 43281
the Revised Code, enters into an interagency agreement with the 43282
department of aging under section 5111.91 of the Revised Code, the 43283
department shall consult with the department of aging before 43284
adopting the rules. 43285

Sec. 5111.99. (A) Whoever violates division (B) of section 43286
5111.26 5111.23 or division (D) of section ~~5111.31~~ 5111.222 of the 43287
Revised Code shall be fined not less than five hundred dollars nor 43288
more than one thousand dollars for the first offense and not less 43289
than one thousand dollars nor more than five thousand dollars for 43290
each subsequent offense. Fines paid under this section shall be 43291
deposited in the state treasury to the credit of the general 43292
revenue fund. 43293

(B) Whoever violates division (D) of section 5111.61 of the 43294
Revised Code is guilty of registering a false complaint, a 43295
misdemeanor of the first degree. 43296

Sec. 5112.03. (A) The director of job and family services 43297

shall adopt, and may amend and rescind, rules in accordance with 43298
Chapter 119. of the Revised Code for the purpose of administering 43299
sections 5112.01 to 5112.21 of the Revised Code, including rules 43300
that do all of the following: 43301

(1) Define as a "disproportionate share hospital" any 43302
hospital included under subsection (b) of section 1923 of the 43303
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 43304
1396r-4(b), as amended, and any other hospital the director 43305
determines appropriate; 43306

(2) Prescribe the form for submission of cost reports under 43307
section 5112.04 of the Revised Code; 43308

(3) Establish, in accordance with division (A) of section 43309
5112.06 of the Revised Code, the assessment rate or rates to be 43310
applied to hospitals under that section; 43311

(4) Establish schedules for hospitals to pay installments on 43312
their assessments under section 5112.06 of the Revised Code and 43313
for governmental hospitals to pay installments on their 43314
intergovernmental transfers under section 5112.07 of the Revised 43315
Code; 43316

(5) Establish procedures to notify hospitals of adjustments 43317
made under division (B)(2)(b) of section 5112.06 of the Revised 43318
Code in the amount of installments on their assessment; 43319

(6) Establish procedures to notify hospitals of adjustments 43320
made under division (D) of section 5112.09 of the Revised Code in 43321
the total amount of their assessment and to adjust for the 43322
remainder of the program year the amount of the installments on 43323
the assessments; 43324

(7) Establish, in accordance with section 5112.08 of the 43325
Revised Code, the methodology for paying hospitals under that 43326
section. 43327

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Recipients of the medical assistance program;

(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;

~~(3)~~ Recipients of ~~disability assistance~~ medical assistance provided under Chapter 5115. of the Revised Code;

~~(3)~~(4) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(4)~~(5) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

~~(5)~~(6) Recipients of Title V of the "Social Security Act";

~~(6)~~(7) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount

of indigent care provided by each hospital or group of hospitals. 43357
The amount to be allocated shall be based on any combination of 43358
the following indicators of indigent care that the director 43359
considers appropriate: 43360

(1) Total costs, volume, or proportion of services to 43361
recipients of the medical assistance program, including recipients 43362
enrolled in health insuring corporations; 43363

(2) Total costs, volume, or proportion of services to 43364
low-income patients in addition to recipients of the medical 43365
assistance program, which may include recipients of Title V of the 43366
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 43367
amended, and disability recipients of financial or medical 43368
assistance established provided under Chapter 5115. of the Revised 43369
Code; 43370

(3) The amount of uncompensated care provided by the hospital 43371
or group of hospitals; 43372

(4) Other factors that the director considers to be 43373
appropriate indicators of indigent care. 43374

(C) The department shall distribute funds to each hospital or 43375
group of hospitals in a manner that first may provide for an 43376
additional distribution to individual hospitals that provide a 43377
high proportion of indigent care in relation to the total care 43378
provided by the hospital or in relation to other hospitals. The 43379
department shall establish a formula to distribute the remainder 43380
of the funds. The formula shall be consistent with section 1923 of 43381
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 43382
be based on any combination of the indicators of indigent care 43383
listed in division (B) of this section that the director considers 43384
appropriate. 43385

(D) The department shall distribute funds to each hospital in 43386
installments not later than ten working days after the deadline 43387

established in rules for each hospital to pay an installment on 43388
its assessment under section 5112.06 of the Revised Code. In the 43389
case of a governmental hospital that makes intergovernmental 43390
transfers, the department shall pay an installment under this 43391
section not later than ten working days after the earlier of that 43392
deadline or the deadline established in rules for the governmental 43393
hospital to pay an installment on its intergovernmental transfer. 43394
If the amount in the hospital care assurance program fund and the 43395
hospital care assurance match fund created under section 5112.18 43396
of the Revised Code is insufficient to make the total 43397
distributions for which hospitals are eligible to receive in any 43398
period, the department shall reduce the amount of each 43399
distribution by the percentage by which the amount is 43400
insufficient. The department shall distribute to hospitals any 43401
amounts not distributed in the period in which they are due as 43402
soon as moneys are available in the funds. 43403

Sec. 5112.17. (A) As used in this section: 43404

(1) "Federal poverty guideline" means the official poverty 43405
guideline as revised annually by the United States secretary of 43406
health and human services in accordance with section 673 of the 43407
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 43408
U.S.C.A. 9902, as amended, for a family size equal to the size of 43409
the family of the person whose income is being determined. 43410

(2) "Third-party payer" means any private or public entity or 43411
program that may be liable by law or contract to make payment to 43412
or on behalf of an individual for health care services. 43413
"Third-party payer" does not include a hospital. 43414

(B) Each hospital that receives funds distributed under 43415
sections 5112.01 to 5112.21 of the Revised Code shall provide, 43416
without charge to the individual, basic, medically necessary 43417
hospital-level services to individuals who are residents of this 43418

state, are not recipients of the medical assistance program, and 43419
whose income is at or below the federal poverty guideline. 43420
Recipients of disability financial assistance and recipients of 43421
disability medical assistance provided under Chapter 5115. of the 43422
Revised Code qualify for services under this section. The director 43423
of job and family services shall adopt rules under section 5112.03 43424
of the Revised Code specifying the hospital services to be 43425
provided under this section. 43426

(C) Nothing in this section shall be construed to prevent a 43427
hospital from requiring an individual to apply for eligibility 43428
under the medical assistance program before the hospital processes 43429
an application under this section. Hospitals may bill any 43430
third-party payer for services rendered under this section. 43431
Hospitals may bill the medical assistance program, in accordance 43432
with Chapter 5111. of the Revised Code and the rules adopted under 43433
that chapter, for services rendered under this section if the 43434
individual becomes a recipient of the program. Hospitals may bill 43435
individuals for services under this section if all of the 43436
following apply: 43437

(1) The hospital has an established post-billing procedure 43438
for determining the individual's income and canceling the charges 43439
if the individual is found to qualify for services under this 43440
section. 43441

(2) The initial bill, and at least the first follow-up bill, 43442
is accompanied by a written statement that does all of the 43443
following: 43444

(a) Explains that individuals with income at or below the 43445
federal poverty guideline are eligible for services without 43446
charge; 43447

(b) Specifies the federal poverty guideline for individuals 43448
and families of various sizes at the time the bill is sent; 43449

(c) Describes the procedure required by division (C)(1) of this section. 43450
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(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code. 43452
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Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered. 43454
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(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section. 43459
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(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law. 43463
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Sec. 5112.31. The department of job and family services shall: 43472
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(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to nine dollars and ~~twenty-four~~ sixty-three cents multiplied by the product of the following: 43474
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(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, the department shall take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.99. (A) The director of job and family services shall impose a penalty ~~of one hundred dollars~~ for each day that a hospital fails to report the information required under section 5112.04 of the Revised Code on or before the dates specified in that section. The amount of the penalty shall be established by the director in rules adopted under section 5112.03 of the Revised Code.

(B) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments and transfers, the director shall impose a penalty of ten per cent of the amount due, ~~not to exceed twenty thousand~~

~~dollars,~~ on any hospital that fails to pay assessments or make 43510
intergovernmental transfers by the dates required by rules adopted 43511
under section 5112.03 of the Revised Code. 43512

(C) The director shall waive the penalties provided for in 43513
divisions (A) and (B) of this section for good cause shown by the 43514
hospital. 43515

(D) All penalties imposed under this section shall be 43516
deposited into the ~~general revenue~~ health care administration fund 43517
created by section 5111.94 of the Revised Code. 43518

Sec. 5115.01. (A) ~~There is hereby established~~ The director of 43519
job and family services shall establish the disability financial 43520
assistance program. ~~Except as provided in division (D) of this~~ 43521
~~section, a disability assistance recipient shall receive financial~~ 43522
~~assistance. Except as provided in section 5115.11 of the Revised~~ 43523
~~Code, a disability assistance recipient also shall receive~~ 43524
~~disability assistance medical assistance.~~ 43525

~~Except as provided by division (B) of this section, a person~~ 43526
~~who meets all of the following requirements is~~ (B) Subject to all 43527
other eligibility requirements established by this chapter and the 43528
rules adopted under it for the disability financial assistance 43529
program, a person may be eligible for disability financial 43530
assistance only if one of the following applies: 43531

(1) The person is ~~ineligible to participate in the Ohio works~~ 43532
~~first program established under Chapter 5107. of the Revised Code~~ 43533
~~and to receive supplemental security income provided pursuant to~~ 43534
~~Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42~~ 43535
~~U.S.C.A. 1383, as amended;~~ 43536

~~(2) The person is at least one of the following:~~ 43537

~~(a) Under age eighteen;~~ 43538

~~(b) Age sixty or older;~~ 43539

~~(c) Pregnant;~~ 43540

~~(d) Unable unable to do any substantial or gainful activity 43541
by reason of a medically determinable physical or mental 43542
impairment that can be expected to result in death or has lasted 43543
or can be expected to last for not less than nine months;~~ 43544

~~(e) A resident of a residential treatment center certified as 43545
an alcohol or drug addiction program by the department of alcohol 43546
and drug addiction services under section 3793.06 of the Revised 43547
Code.~~ 43548

~~(f) Medication dependent as determined by a physician, as 43549
defined in section 4730.01 of the Revised Code, who has certified 43550
to the county department of job and family services that the 43551
person is receiving ongoing treatment for a chronic medical 43552
condition requiring continuous prescription medication for an 43553
indefinite, long term period of time and for whom the loss of the 43554
medication would result in a significant risk of medical emergency 43555
and loss of employability lasting at least nine months.~~ 43556

~~(3) The (2) On the day before the effective date of this 43557
amendment, the person meets the eligibility requirements 43558
established in rules adopted under section 5115.05 of the Revised 43559
Code was sixty years of age or older and one of the following is 43560
the case: 43561~~

~~(a) The person was receiving or was scheduled to begin 43562
receiving financial assistance under this chapter on the basis of 43563
being sixty years of age or older; 43564~~

~~(b) An eligibility determination was pending regarding the 43565
person's application to receive financial assistance under this 43566
chapter on the basis of being sixty years of age or older and, on 43567
or after the effective date of this amendment, the person receives 43568
a determination of eligibility based on that application. 43569~~

~~(B)(1) A person is ineligible for disability assistance if 43570
the person is ineligible to participate in the Ohio works first 43571
program because of any of the following: 43572~~

~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code; 43573~~

~~(b) The time limit established by section 5107.18 of the 43574
Revised Code; 43575~~

~~(c) Failure to comply with an application or verification 43576
procedure; 43577~~

~~(d) The fraud control program established pursuant to 45 43578
C.F.R. 235.112, as in effect July 1, 1996. 43579~~

~~(2) A person under age eighteen is ineligible for disability 43580
assistance pursuant to division (B)(1)(a) of this section only if 43581
the person caused the assistance group to be ineligible to 43582
participate in the Ohio works first program or resides with a 43583
person age eighteen or older who was a member of the same 43584
ineligible assistance group. A person age eighteen or older is 43585
ineligible for disability assistance pursuant to division 43586
(B)(1)(a) of this section regardless of whether the person caused 43587
the assistance group to be ineligible to participate in the Ohio 43588
works first program. 43589~~

~~(C) The county department of job and family services that 43590
serves the county in which a person receiving disability 43591
assistance pursuant to division (A)(2)(c) of this section 43592
participates in an alcohol or drug addiction program shall 43593
designate a representative payee for purposes of receiving and 43594
distributing financial assistance provided under the disability 43595
assistance program to the person. 43596~~

~~(D) A person eligible for disability assistance pursuant to 43597
division (A)(2)(f) of this section shall not receive financial 43598
assistance. 43599~~

~~(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code defining terms and establishing standards for determining whether a person meets a condition of disability assistance eligibility pursuant to this section.~~

Sec. 5115.04 5115.02. (A) An individual is not eligible for disability financial assistance under this chapter if ~~either~~ any of the following apply:

~~(A)(1) The individual is eligible to participate in the Ohio works first program established under Chapter 5107. of the Revised Code; eligible to receive supplemental security income provided pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1383, as amended; or eligible to participate in or receive assistance through another state or federal program that provides financial assistance similar to disability financial assistance, as determined by the director of job and family services;~~

(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:

(a) The time limit established by section 5107.18 of the Revised Code;

(b) Failure to comply with an application or verification procedure;

(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;

(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;

(e) The minor parent provisions of section 5107.24 of the Revised Code;

(f) The provisions of section 5107.26 of the Revised Code 43630
regarding termination of employment without just cause. 43631

(5) The individual, or any of the other individuals included 43632
in determining the individual's eligibility, is involved in a 43633
strike, as defined in section 5107.10 of the Revised Code; 43634

(6) For the purpose of avoiding consideration of property in 43635
determinations of the individual's eligibility for disability 43636
financial assistance or a greater amount of assistance, the 43637
individual has transferred property during the two years preceding 43638
application for or most recent redetermination of eligibility for 43639
disability assistance; 43640

(7) The individual is a child and does not live with the 43641
child's parents, guardians, or other persons standing in place of 43642
parents, unless the child is emancipated by being married, by 43643
serving in the armed forces, or by court order; 43644

(8) The individual reside in a county home, city infirmary, 43645
jail, or public institution; 43646

(9) The individual is a fugitive felon as defined in section 43647
5101.26 of the Revised Code; 43648

~~(B)~~(10) The individual is violating a condition of probation, 43649
a community control sanction, parole, or a post-release control 43650
sanction imposed under federal or state law. 43651

(B)(1) As used in division (B)(2) of this section, 43652
"assistance group" has the same meaning as in section 5107.02 of 43653
the Revised Code. 43654

(2) Ineligibility under division (A)(2)(c) or (d) of this 43655
section applies as follows: 43656

(a) In the case of an individual who is under eighteen years 43657
of age, the individual is ineligible only if the individual caused 43658
the assistance group to be ineligible to participate in the Ohio 43659

works first program or resides with an individual eighteen years of age or older who was a member of the same ineligible assistance group. 43660
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(b) In the case of an individual who is eighteen years of age or older, the individual is ineligible regardless of whether the individual caused the assistance group to be ineligible to participate in the Ohio works first program. 43663
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Sec. 5115.03. (A) The director of job and family services shall ~~do both of the following:~~ 43667
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~~(A) Adopt~~ adopt rules in accordance with section 111.15 of the Revised Code governing the ~~administration of~~ disability assistance, including the ~~administration of~~ financial assistance and ~~disability assistance medical assistance~~ program. The rules shall ~~be binding on county departments of job and family services.~~ 43669
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~~(B) Make investigations to determine whether disability assistance is being administered in compliance with the Revised Code and rules adopted by the director.~~ may establish or specify any or all of the following: 43674
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(1) Maximum payment amounts under the disability financial assistance program, based on state appropriations for the program; 43678
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(2) Limits on the length of time an individual may receive disability financial assistance; 43680
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(3) Limits on the total number of individuals in the state who may receive disability financial assistance; 43682
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(4) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements for disability financial assistance; 43684
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(5) Procedures for disregarding amounts of earned and unearned income for the purpose of determining eligibility for disability financial assistance and the amount of assistance to be 43687
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provided; 43690

(6) Procedures for including the income and resources, or a 43691
certain amount of the income and resources, of a member of an 43692
individual's family when determining eligibility for disability 43693
financial assistance and the amount of assistance to be provided. 43694

(B) In establishing or specifying eligibility requirements 43695
for disability financial assistance, the director shall exclude 43696
the value of any tuition payment contract entered into under 43697
section 3334.09 of the Revised Code or any scholarship awarded 43698
under section 3334.18 of the Revised Code and the amount of 43699
payments made by the Ohio tuition trust authority under section 43700
3334.09 of the Revised Code pursuant to the contract or 43701
scholarship. The director shall not require any individual to 43702
terminate a tuition payment contract entered into under Chapter 43703
3334. of the Revised Code as a condition of eligibility for 43704
disability financial assistance. The director shall consider as 43705
income any refund paid under section 3334.10 of the Revised Code. 43706

(C) Notwithstanding section 3109.01 of the Revised Code, when 43707
a disability financial assistance applicant or recipient who is at 43708
least eighteen but under twenty-two years of age resides with the 43709
applicant's or recipient's parents, the income of the parents 43710
shall be taken into account in determining the applicant's or 43711
recipient's financial eligibility. In the rules adopted under this 43712
section, the director shall specify procedures for determining the 43713
amount of income to be attributed to applicants and recipients in 43714
this age category. 43715

(D) For purposes of limiting the cost of the disability 43716
financial assistance program, the director may do either or both 43717
of the following: 43718

(1) Adopt rules in accordance with section 111.15 of the 43719
Revised Code that revise the program's eligibility requirements, 43720

the maximum payment amounts, or any other requirement or standard 43721
established or specified in the rules adopted by the director; 43722

(2) Suspend acceptance of new applications for disability 43723
financial assistance. While a suspension is in effect, new 43724
eligibility determinations shall cease except for persons who 43725
submitted applications prior to the suspension's effective date, 43726
and no person shall be found eligible to receive disability 43727
financial assistance who was not a recipient during the month 43728
immediately preceding the suspension's effective date. The 43729
director may adopt rules in accordance with section 111.15 of the 43730
Revised Code establishing requirements and specifying procedures 43731
applicable to the suspension of acceptance of new applications. 43732

Sec. 5115.02 5115.04. (A) The department of job and family 43733
services shall supervise and administer the disability financial 43734
assistance program, except that the department may require county 43735
departments of job and family services to perform any 43736
administrative function specified in rules adopted by the director 43737
of job and family services, ~~including making determinations of~~ 43738
~~financial eligibility and initial determinations of whether an~~ 43739
~~applicant meets a condition of eligibility under division~~ 43740
~~(A)(2)(d) of section 5115.01 of the Revised Code, distributing~~ 43741
~~financial assistance payments, reimbursing providers of medical~~ 43742
~~services for services provided to disability assistance~~ 43743
~~recipients, and any other function specified in the rules. The~~ 43744
~~department may also require county departments to make a final~~ 43745
~~determination of whether an applicant meets a condition for~~ 43746
~~eligibility under division (A)(2)(a), (b), (c), (e), or (f) of~~ 43747
~~section 5115.01 of the Revised Code. The department shall make the~~ 43748
~~final determination of whether an applicant meets a condition of~~ 43749
~~eligibility under division (A)(2)(d) of section 5115.01 of the~~ 43750
~~Revised Code.~~ 43751

(B) If the department requires county departments to perform administrative functions under this section, the director shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules. The director shall conduct investigations to determine whether disability financial assistance is being administered in compliance with the Revised Code and rules adopted by the director.

(C) If disability financial assistance payments ~~or medical services reimbursements~~ are made by the county department of job and family services, the department shall advance sufficient funds to provide the county treasurer with the amount estimated for the payments ~~or reimbursements~~. Financial assistance payments shall be distributed in accordance with sections 117.45, 319.16, and 329.03 of the Revised Code.

Sec. 5115.05. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and ~~income, resource, citizenship, age, residence, living arrangement, assistance group composition, and other eligibility requirements~~ the director considers necessary in the administration of the application process for disability financial assistance. The rules may ~~provide for disregarding amounts of earned and unearned income for the purpose of determining whether an assistance group is eligible for assistance and the amount of assistance provided under this chapter. The rules also may provide that the income and resources, or a certain amount of the income and resources, of a member of an assistance group's family group will be included in determining whether the assistance group is eligible for aid and the amount of aid~~

~~provided under this chapter.~~ 43783

~~If financial assistance under this chapter is to be paid by 43784
the auditor of state through the medium of direct deposit, the 43785
application shall be accompanied by information the auditor needs 43786
to make direct deposits. 43787~~

~~The department of job and family services may require 43788
recipients of disability financial assistance to participate in a 43789
reapplication process two months after initial approval for 43790
assistance has been determined and at such other times as 43791
specified in the department requires rules. 43792~~

~~If a recipient of disability assistance, or the spouse of or 43793
member of the assistance group of a recipient, becomes possessed 43794
of resources or income in excess of the amount allowed under rules 43795
adopted under this section, or if other changes occur that affect 43796
the person's eligibility or need for assistance, the recipient 43797
shall notify the department or county department of job and family 43798
services within the time limits specified in the rules. Failure of 43799
a recipient to report possession of excess resources or income or 43800
a change affecting eligibility or need within those time limits 43801
shall be considered prima facie evidence of intent to defraud 43802
under section 5115.15 of the Revised Code. 43803~~

~~Each applicant for or recipient of disability assistance 43804
shall make reasonable efforts to secure support from persons 43805
responsible for the applicant's or recipient's support, and from 43806
other sources, as a means of preventing or reducing the provision 43807
of disability assistance at public expense. The department or 43808
county department may provide assistance to the applicant or 43809
recipient in securing other forms of financial or medical 43810
assistance. 43811~~

~~Notwithstanding section 3109.01 of the Revised Code, when a 43812
disability assistance applicant or recipient who is at least 43813~~

~~eighteen but under twenty two years of age resides with the
applicant's or recipient's parents, the income of the parents
shall be taken into account in determining the applicant's or
recipient's financial eligibility. The director shall adopt rules
for determining the amount of income to be attributed to the
assistance group of applicants in this age category.~~

(B) Any person who applies for disability financial
assistance ~~under this section~~ shall receive a voter registration
application under section 3503.10 of the Revised Code.

Sec. ~~5115.07~~ 5115.06. ~~Financial assistance~~ Assistance under
the disability financial assistance program may be given by
warrant, direct deposit, or, if provided by the director of job
and family services pursuant to section 5101.33 of the Revised
Code, by electronic benefit transfer. It shall be inalienable
whether by way of assignment, charge, or otherwise, and is exempt
from attachment, garnishment, or other like process. ~~Any~~

Any direct deposit shall be made to a financial institution
and account designated by the recipient. ~~The~~ If disability
financial assistance is to be paid by the auditor of state through
direct deposit, the application for assistance shall be
accompanied by information the auditor needs to make direct
deposits.

The director of job and family services may adopt rules for
designation of financial institutions and accounts. ~~No~~

No financial institution shall impose any charge for direct
deposit of disability ~~assistance~~ financial assistance payments
that it does not charge all customers for similar services.

~~The department of job and family services shall establish
financial assistance payment amounts based on state
appropriations.~~

~~Disability assistance may be given to persons living in their own homes or other suitable quarters, but shall not be given to persons who reside in a county home, city infirmary, jail, or public institution. Disability assistance shall not be given to an unemancipated child unless the child lives with the child's parents, guardians, or other persons standing in place of parents. For the purpose of this section, a child is emancipated if the child is married, serving in the armed forces, or has been emancipated by court order.~~

~~No person shall be eligible for disability assistance if, for the purpose of avoiding consideration of property in determinations of the person's eligibility for disability assistance or a greater amount of assistance, the person has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance.~~

Sec. ~~5115.13~~ 5115.07. The acceptance of ~~disability~~ financial assistance under ~~this chapter~~ the disability financial assistance program constitutes an assignment to the department of job and family services of any rights an individual receiving ~~disability~~ the assistance has to financial support from any other person, ~~excluding medical support assigned pursuant to section 5101.59 of the Revised Code.~~ The rights to support assigned to the department pursuant to this section constitute an obligation of the person responsible for providing the support to the state for the amount of disability financial assistance payments to the recipient or recipients whose needs are included in determining the amount of ~~disability~~ assistance received. Support payments assigned to the state pursuant to this section shall be collected by the county department of job and family services and reimbursements for disability financial assistance payments shall be credited to the

state treasury. 43875

Sec. 5115.10. (A) The director of job and family services 43876
shall establish a disability assistance medical assistance program 43877
shall consist of a system of managed primary care. Until July 1, 43878
1992, the program shall also include limited hospital services, 43879
except that if prior to that date hospitals are required by 43880
section 5112.17 of the Revised Code to provide medical services 43881
without charge to persons specified in that section, the program 43882
shall cease to include hospital services at the time the 43883
requirement of section 5112.17 of the Revised Code takes effect. 43884

~~The department of job and family services may require~~ 43885
~~disability assistance medical assistance recipients to enroll in~~ 43886
~~health insuring corporations or other managed care programs, or~~ 43887
~~may limit the number or type of health care providers from which a~~ 43888
~~recipient may receive services.~~ 43889

~~The director of job and family services shall adopt rules~~ 43890
~~governing the disability assistance medical assistance program~~ 43891
~~established under this division. The rules shall specify all of~~ 43892
~~the following:~~ 43893

~~(1) Services that will be provided under the system of~~ 43894
~~managed primary care;~~ 43895

~~(2) Hospital services that will be provided during the period~~ 43896
~~that hospital services are provided under the program;~~ 43897

~~(3) The maximum authorized amount, scope, duration, or limit~~ 43898
~~of payment for services.~~ 43899

~~(B) The director of job and family services shall designate~~ 43900
~~medical services providers for the disability assistance medical~~ 43901
~~assistance program. The first such designation shall be made not~~ 43902
~~later than September 30, 1991. Services under the program shall be~~ 43903
~~provided only by providers designated by the director. The~~ 43904

~~director may require that, as a condition of being designated a disability assistance medical assistance provider, a provider enter into a provider agreement with the state department.~~ 43905
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~~(C) As long as the disability assistance medical assistance program continues to include hospital services, the department or a county director of job and family services may, pursuant to rules adopted under this section, approve an application for disability assistance medical assistance for emergency inpatient hospital services when care has been given to a person who had not completed a sworn application for disability assistance at the time the care was rendered, if all of the following apply:~~ 43908
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~~(1) The person files an application for disability assistance within sixty days after being discharged from the hospital or, if the conditions of division (D) of this section are met, while in the hospital;~~ 43916
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~~(2) The person met all eligibility requirements for disability assistance at the time the care was rendered;~~ 43920
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~~(3) The care given to the person was a medical service within the scope of disability assistance medical assistance as established under rules adopted by the director of job and family services.~~ 43922
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~~(D) If a person files an application for disability assistance medical assistance for emergency inpatient hospital services while in the hospital, a face to face interview shall be conducted with the applicant while the applicant is in the hospital to determine whether the applicant is eligible for the assistance. If the hospital agrees to reimburse the county department of job and family services for all actual costs incurred by the department in conducting the interview, the interview shall be conducted by an employee of the county department. If, at the request of the hospital, the county~~ 43926
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~~department designates an employee of the hospital to conduct the interview, the interview shall be conducted by the hospital employee.~~ 43936
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~~(E) The department of job and family services may assume responsibility for peer review of expenditures for disability assistance medical assistance (B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability medical assistance program, a person may be eligible for disability medical assistance only if the person is medication dependent, as determined by the department of job and family services.~~ 43939
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(C) The director shall adopt rules under section 111.15 of the Revised Code for purposes of implementing division (B) of this section. The rules may specify or establish any or all of the following: 43947
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(1) Standards for determining whether a person is medication dependent, including standards under which a person may qualify as being medication dependent only if it is determined that both of the following are the case: 43951
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(a) The person is receiving ongoing treatment for a chronic medical condition that requires continuous prescription medication for an indefinite, long-term period of time; 43955
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(b) Loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months. 43958
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(2) A requirement that a person's medical condition be certified by an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 43961
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(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being 43965
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medication dependent. 43967

~~Sec. 5115.11. If a member of an assistance group receiving~~ 43968
~~disability assistance under this chapter~~ An individual who 43969
qualifies for the medical assistance program established under 43970
Chapter 5111. of the Revised Code, ~~the member~~ shall receive 43971
medical assistance through that program rather than through the 43972
disability ~~assistance~~ medical assistance program. 43973

An individual is ineligible for disability medical assistance 43974
if, for the purpose of avoiding consideration of property in 43975
determinations of the individual's eligibility for disability 43976
medical assistance or a greater amount of assistance, the person 43977
has transferred property during the two years preceding 43978
application for or most recent redetermination of eligibility for 43979
disability medical assistance. 43980

Sec. 5115.12. (A) The director of job and family services 43981
shall adopt rules in accordance with section 111.15 of the Revised 43982
Code governing the disability medical assistance program. The 43983
rules may establish or specify any or all of the following: 43984

(1) Income, resource, citizenship, age, residence, living 43985
arrangement, and other eligibility requirements; 43986

(2) Health services to be included in the program; 43987

(3) The maximum authorized amount, scope, duration, or limit 43988
of payment for services; 43989

(4) Limits on the length of time an individual may receive 43990
disability medical assistance; 43991

(5) Limits on the total number of individuals in the state 43992
who may receive disability medical assistance. 43993

(B) For purposes of limiting the cost of the disability 43994
medical assistance program, the director may do either of the 43995

following: 43996

(1) Adopt rules in accordance with section 111.15 of the 43997
Revised Code that revise the program's eligibility requirements; 43998
the maximum authorized amount, scope, duration, or limit of 43999
payment for services included in the program; or any other 44000
requirement or standard established or specified by rules adopted 44001
under division (A) of this section or under section 5115.10 of the 44002
Revised Code; 44003

(2) Suspend acceptance of new applications for disability 44004
medical assistance. While a suspension is in effect, new 44005
eligibility determinations shall cease except for persons who 44006
submitted applications prior to the suspension's effective date, 44007
and no person shall be found eligible to receive disability 44008
medical assistance who was not a recipient during the month 44009
immediately preceding the suspension's effective date. The 44010
director may adopt rules in accordance with section 111.15 of the 44011
Revised Code establishing requirements and specifying procedures 44012
applicable to the suspension of acceptance of new applications. 44013

Sec. 5115.13. (A) The department of job and family services 44014
shall supervise and administer the disability medical program, 44015
except as follows: 44016

(1) The department may require county departments of job and 44017
family services to perform any administrative function specified 44018
in rules adopted by the director of job and family services. 44019

(2) The director may contract with any private or public 44020
entity in this state to perform any administrative function or to 44021
administer any or all of the program. 44022

(B) If the department requires county departments to perform 44023
administrative functions, the director of job and family services 44024
shall adopt rules in accordance with section 111.15 of the Revised 44025

Code governing the performance of the functions to be performed by 44026
county departments. County departments shall perform the functions 44027
in accordance with the rules. 44028

If the director contracts with a private or public entity to 44029
perform administrative functions or to administer any or all of 44030
the program, the director may either adopt rules in accordance 44031
with section 111.15 of the Revised Code or include provisions in 44032
the contract governing the performance of the functions by the 44033
private or public entity. Entities under contract shall perform 44034
the functions in accordance with the requirements established by 44035
the director. 44036

(C) Whenever division (A)(1) or (2) of this section is 44037
implemented, the director shall conduct investigations to 44038
determine whether disability medical assistance is being 44039
administered in compliance with the Revised Code and rules adopted 44040
by the director or in accordance with the terms of the contract. 44041

Sec. 5115.14. (A) The director of job and family services 44042
shall adopt rules in accordance with section 111.15 of the Revised 44043
Code establishing application and verification procedures, 44044
reapplication procedures, and other requirements the director 44045
considers necessary in the administration of the application 44046
process for disability medical assistance. 44047

(B) Any person who applies for disability medical assistance 44048
shall receive a voter registration application under section 44049
3503.10 of the Revised Code. 44050

Sec. 5115.20. (A) The department of job and family services 44051
shall establish a disability advocacy program and each county 44052
department of job and family services shall establish a disability 44053
advocacy program unit or join with other county departments of job 44054
and family services to establish a joint county disability 44055

advocacy program unit. Through the program the department and 44056
county departments shall cooperate in efforts to assist applicants 44057
for and recipients of assistance under ~~this chapter~~ the disability 44058
financial assistance program and the disability medical assistance 44059
program, who might be eligible for supplemental security income 44060
benefits under Title XVI of the "Social Security Act," 86 Stat. 44061
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 44062
benefits. ~~The~~ 44063

As part of their disability advocacy programs, the state 44064
department and county departments may enter into contracts for the 44065
~~services to applicants for and recipients of assistance under this~~ 44066
~~chapter who might be eligible for supplemental security income~~ 44067
~~benefits with~~ of persons and governmental government entities that 44068
in the judgment of the department or county department have 44069
demonstrated expertise in representing persons seeking 44070
supplemental security income benefits. Each contract shall require 44071
the person or entity with which a department contracts to assess 44072
each person referred to it by the department to determine whether 44073
the person appears to be eligible for supplemental security income 44074
benefits, and, if the person appears to be eligible, assist the 44075
person in applying and represent the person in any proceeding of 44076
the social security administration, including any appeal or 44077
reconsideration of a denial of benefits. The department or county 44078
department shall provide to the person or entity with which it 44079
contracts all records in its possession relevant to the 44080
application for supplemental security income benefits. The 44081
department shall require a county department with relevant records 44082
to submit them to the person or entity. 44083

(B) Each applicant for or recipient of disability financial 44084
assistance or disability medical assistance ~~under this chapter~~ 44085
who, in the judgment of the department or a county department 44086
might be eligible for supplemental security benefits, ~~must~~ shall, 44087

as a condition of eligibility for assistance, apply for such 44088
benefits if directed to do so by the department or county 44089
department. 44090

(C) ~~Each~~ With regard to applicants for and recipients of 44091
disability financial assistance or disability medical assistance, 44092
each county department of job and family services shall do all of 44093
the following: 44094

(1) Identify applicants ~~for~~ and recipients of ~~assistance~~ 44095
~~under this chapter~~ who might be eligible for supplemental security 44096
income benefits; 44097

(2) Assist applicants ~~for~~ and recipients of ~~assistance under~~ 44098
~~this chapter~~ in securing documentation of disabling conditions or 44099
refer them for such assistance to a person or government ~~agency~~ 44100
entity with which the department or county department has 44101
contracted under division (A) of this section; 44102

(3) Inform applicants ~~for~~ and recipients of ~~assistance under~~ 44103
~~this chapter~~ of available sources of representation, which may 44104
include a person or government entity with which the department or 44105
county department has contracted under division (A) of this 44106
section, and of their right to represent themselves in 44107
reconsiderations and appeals of social security administration 44108
decisions that deny them supplemental security income benefits. 44109
The county department may require the applicants and recipients, 44110
as a condition of eligibility for assistance, to pursue 44111
reconsiderations and appeals of social security administration 44112
decisions that deny them supplemental security income benefits, 44113
and shall assist applicants and recipients as necessary to obtain 44114
such benefits or refer them to a person or government ~~agency~~ 44115
entity with which the department or county department has 44116
contracted under division (A) of this section. 44117

(4) Require applicants ~~for~~ and recipients of ~~assistance under~~ 44118

~~this chapter~~ who, in the judgment of the county department, are or 44119
may be aged, blind, or disabled, to apply for medical assistance 44120
under Chapter 5111. of the Revised Code, make determinations when 44121
appropriate as to eligibility for medical assistance, and refer 44122
their applications when necessary to the disability determination 44123
unit established in accordance with division (F) of this section 44124
for expedited review; 44125

(5) Require each applicant ~~for~~ and ~~each~~ recipient of 44126
~~assistance under this chapter~~ who in the judgment of the 44127
department or the county department might be eligible for 44128
supplemental security income benefits, as a condition of 44129
eligibility for disability financial assistance or disability 44130
medical assistance ~~under this chapter~~, to execute a written 44131
authorization for the secretary of health and human services to 44132
withhold benefits due that individual and pay to the director of 44133
job and family services or the director's designee an amount 44134
sufficient to reimburse the state and county shares of interim 44135
assistance furnished to the individual. For the purposes of 44136
division (C)(5) of this section, "benefits" and "interim 44137
assistance" have the meanings given in Title XVI of the "Social 44138
Security Act." 44139

(D) The director of job and family services shall adopt rules 44140
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 44141
for the effective administration of the disability advocacy 44142
program. The rules shall include all of the following: 44143

(1) Methods to be used in collecting information from and 44144
disseminating it to county departments, including the following: 44145

(a) The number of individuals in the county who are disabled 44146
recipients of disability financial assistance or disability 44147
medical assistance ~~under this chapter in the county;~~ 44148

(b) The final decision made either by the social security 44149

administration or by a court for each application or 44150
reconsideration in which an individual was assisted pursuant to 44151
this section. 44152

(2) The type and process of training to be provided by the 44153
department of job and family services to the employees of the 44154
county department of job and family services who perform duties 44155
under this section; 44156

(3) Requirements for the written authorization required by 44157
division (C)(5) of this section. 44158

(E) The department shall provide basic and continuing 44159
training to employees of the county department of job and family 44160
services who perform duties under this section. Training shall 44161
include but not be limited to all processes necessary to obtain 44162
federal disability benefits, and methods of advocacy. 44163

(F) The department shall establish a disability determination 44164
unit and develop guidelines for expediting reviews of applications 44165
for medical assistance under Chapter 5111. of the Revised Code for 44166
persons who have been referred to the unit under division (C)(4) 44167
of this section. The department shall make determinations of 44168
eligibility for medical assistance for any such person within the 44169
time prescribed by federal regulations. 44170

(G) The department may, under rules the director of job and 44171
family services adopts in accordance with section 111.15 of the 44172
Revised Code, pay a portion of the federal reimbursement described 44173
in division (C)(5) of this section to persons or ~~agencies~~ 44174
government entities that assist or represent assistance recipients 44175
in reconsiderations and appeals of social security administration 44176
decisions denying them supplemental security income benefits. 44177

(H) The director shall conduct investigations to determine 44178
whether disability advocacy programs are being administered in 44179
compliance with the Revised Code and the rules adopted by the 44180

director pursuant to this section. 44181

Sec. 5115.22. (A) If a recipient of disability financial 44182
assistance or disability medical assistance, or an individual 44183
whose income and resources are included in determining the 44184
recipient's eligibility for the assistance, becomes possessed of 44185
resources or income in excess of the amount allowed to retain 44186
eligibility, or if other changes occur that affect the recipient's 44187
eligibility or need for assistance, the recipient shall notify the 44188
state or county department of job and family services within the 44189
time limits specified in rules adopted by the director of job and 44190
family services in accordance with section 111.15 of the Revised 44191
Code. Failure of a recipient to report possession of excess 44192
resources or income or a change affecting eligibility or need 44193
within those time limits shall be considered prima-facie evidence 44194
of intent to defraud under section 5115.23 of the Revised Code. 44195

(B) As a condition of eligibility for disability financial 44196
assistance or disability medical assistance, and as a means of 44197
preventing or reducing the provision of assistance at public 44198
expense, each applicant for or recipient of the assistance shall 44199
make reasonable efforts to secure support from persons responsible 44200
for the applicant's or recipient's support, and from other 44201
sources, including any federal program designed to provide 44202
assistance to individuals with disabilities. The state or county 44203
department of job and family services may provide assistance to 44204
the applicant or recipient in securing other forms of financial 44205
assistance. 44206

Sec. ~~5115.15~~ 5115.23. As used in this section, "erroneous 44207
payments" means disability financial assistance payments, 44208
~~including~~ or disability ~~assistance~~ medical assistance payments, 44209
made to persons who are not entitled to receive them, including 44210
payments made as a result of misrepresentation or fraud, and 44211

payments made due to an error by the recipient or by the county 44212
department of job and family services that made the payment. 44213

The department of job and family services shall adopt rules 44214
in accordance with section 111.15 of the Revised Code specifying 44215
the circumstances under which action is to be taken under this 44216
section to recover erroneous payments. The department, or a county 44217
department of job and family services at the request of the 44218
department, shall take action to recover erroneous payments in the 44219
circumstances specified in the rules. The department or county 44220
department may institute a civil action to recover erroneous 44221
payments. 44222

Whenever disability financial assistance or disability 44223
medical assistance has been furnished to a recipient for whose 44224
support another person is responsible, the other person shall, in 44225
addition to the liability otherwise imposed, as a consequence of 44226
failure to support the recipient, be liable for all ~~disability~~ 44227
assistance furnished the recipient. The value of the assistance so 44228
furnished may be recovered in a civil action brought by the county 44229
department of job and family services. 44230

Each county department of job and family services shall 44231
retain fifty per cent of the erroneous payments it recovers under 44232
this section. The department of job and family services shall 44233
receive the remaining fifty per cent. 44234

Sec. 5119.61. Any provision in this chapter that refers to a 44235
board of alcohol, drug addiction, and mental health services also 44236
refers to the community mental health board in an alcohol, drug 44237
addiction, and mental health service district that has a community 44238
mental health board. 44239

The director of mental health with respect to all facilities 44240
and programs established and operated under Chapter 340. of the 44241
Revised Code for mentally ill and emotionally disturbed persons, 44242

shall do all of the following: 44243

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 44244
that may be necessary to carry out the purposes of Chapter 340. 44245
and sections 5119.61 to 5119.63 of the Revised Code. 44246

(1) The rules shall include all of the following: 44247

(a) Rules governing a community mental health agency's 44248
services under section 340.091 of the Revised Code to an 44249
individual referred to the agency under division (C)(2) of section 44250
173.35 of the Revised Code; 44251

(b) For the purpose of division (A)(16) of section 340.03 of 44252
the Revised Code, rules governing the duties of mental health 44253
agencies and boards of alcohol, drug addiction, and mental health 44254
services under section 3722.18 of the Revised Code regarding 44255
referrals of individuals with mental illness or severe mental 44256
disability to adult care facilities and effective arrangements for 44257
ongoing mental health services for the individuals. The rules 44258
shall do at least the following: 44259

(i) Provide for agencies and boards to participate fully in 44260
the procedures owners and managers of adult care facilities must 44261
follow under division (A)(2) of section 3722.18 of the Revised 44262
Code; 44263

(ii) Specify the manner in which boards are accountable for 44264
ensuring that ongoing mental health services are effectively 44265
arranged for individuals with mental illness or severe mental 44266
disability who are referred by the board or mental health agency 44267
under contract with the board to an adult care facility. 44268

(c) Rules governing a board of alcohol, drug addiction, and 44269
mental health services when making a report to the director of 44270
health under section 3722.17 of the Revised Code regarding the 44271
quality of care and services provided by an adult care facility to 44272
a person with mental illness or a severe mental disability. 44273

(2) Rules may be adopted to govern the method of paying a 44274
community mental health facility ~~described, as defined in division~~ 44275
~~(B) of~~ section 5111.022 of the Revised Code, for providing 44276
services ~~established by~~ listed in division (A)(B) of that section. 44277
Such rules must be consistent with the contract entered into 44278
between the departments of job and family services and mental 44279
health under ~~division (E) of that~~ section 5111.91 of the Revised 44280
Code and include requirements ensuring appropriate service 44281
utilization. 44282

(B) Review and evaluate, and, taking into account the 44283
findings and recommendations of the board of alcohol, drug 44284
addiction, and mental health services of the district served by 44285
the program and the requirements and priorities of the state 44286
mental health plan, including the needs of residents of the 44287
district now residing in state mental institutions, approve and 44288
allocate funds to support community programs, and make 44289
recommendations for needed improvements to boards of alcohol, drug 44290
addiction, and mental health services; 44291

(C) Withhold state and federal funds for any program, in 44292
whole or in part, from a board of alcohol, drug addiction, and 44293
mental health services in the event of failure of that program to 44294
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 44295
or 5119.62 of the Revised Code or rules of the department of 44296
mental health. The director shall identify the areas of 44297
noncompliance and the action necessary to achieve compliance. The 44298
director shall offer technical assistance to the board to achieve 44299
compliance. The director shall give the board a reasonable time 44300
within which to comply or to present its position that it is in 44301
compliance. Before withholding funds, a hearing shall be conducted 44302
to determine if there are continuing violations and that either 44303
assistance is rejected or the board is unable to achieve 44304
compliance. Subsequent to the hearing process, if it is determined 44305

that compliance has not been achieved, the director may allocate 44306
all or part of the withheld funds to a public or private agency to 44307
provide the services not in compliance until the time that there 44308
is compliance. The director shall establish rules pursuant to 44309
Chapter 119. of the Revised Code to implement this division. 44310

(D) Withhold state or federal funds from a board of alcohol, 44311
drug addiction, and mental health services that denies available 44312
service on the basis of religion, race, color, creed, sex, 44313
national origin, age, disability as defined in section 4112.01 of 44314
the Revised Code, developmental disability, or the inability to 44315
pay; 44316

(E) Provide consultative services to community mental health 44317
agencies with the knowledge and cooperation of the board of 44318
alcohol, drug addiction, and mental health services; 44319

(F) Provide to boards of alcohol, drug addiction, and mental 44320
health services state or federal funds, in addition to those 44321
allocated under section 5119.62 of the Revised Code, for special 44322
programs or projects the director considers necessary but for 44323
which local funds are not available; 44324

(G) Establish criteria by which a board of alcohol, drug 44325
addiction, and mental health services reviews and evaluates the 44326
quality, effectiveness, and efficiency of services provided 44327
through its community mental health plan. The criteria shall 44328
include requirements ensuring appropriate service utilization. The 44329
department shall assess a board's evaluation of services and the 44330
compliance of each board with this section, Chapter 340. or 44331
section 5119.62 of the Revised Code, and other state or federal 44332
law and regulations. The department, in cooperation with the 44333
board, periodically shall review and evaluate the quality, 44334
effectiveness, and efficiency of services provided through each 44335
board. The department shall collect information that is necessary 44336
to perform these functions. 44337

(H) Develop and operate a community mental health information system. 44338
44339

Boards of alcohol, drug abuse, and mental health services 44340
shall submit information requested by the department in the form 44341
and manner prescribed by the department. Information collected by 44342
the department shall include, but not be limited to, all of the 44343
following: 44344

(1) Information regarding units of services provided in whole 44345
or in part under contract with a board, including diagnosis and 44346
special needs, demographic information, the number of units of 44347
service provided, past treatment, financial status, and service 44348
dates in accordance with rules adopted by the department in 44349
accordance with Chapter 119. of the Revised Code; 44350

(2) Financial information other than price or price-related 44351
data regarding expenditures of boards and community mental health 44352
agencies, including units of service provided, budgeted and actual 44353
expenses by type, and sources of funds. 44354

Boards shall submit the information specified in division 44355
(H)(1) of this section no less frequently than annually for each 44356
client, and each time the client's case is opened or closed. The 44357
department shall not collect any information for the purpose of 44358
identifying by name any person who receives a service through a 44359
board of alcohol, drug addiction, and mental health services, 44360
except as required by state or federal law to validate appropriate 44361
reimbursement. For the purposes of division (H)(1) of this 44362
section, the department shall use an identification system that is 44363
consistent with applicable nationally recognized standards. 44364

(I) Review each board's community mental health plan 44365
submitted pursuant to section 340.03 of the Revised Code and 44366
approve or disapprove it in whole or in part. Periodically, in 44367
consultation with representatives of boards and after considering 44368

the recommendations of the medical director, the director shall 44369
issue criteria for determining when a plan is complete, criteria 44370
for plan approval or disapproval, and provisions for conditional 44371
approval. The factors that the director considers may include, but 44372
are not limited to, the following: 44373

(1) The mental health needs of all persons residing within 44374
the board's service district, especially severely mentally 44375
disabled children, adolescents, and adults; 44376

(2) The demonstrated quality, effectiveness, efficiency, and 44377
cultural relevance of the services provided in each service 44378
district, the extent to which any services are duplicative of 44379
other available services, and whether the services meet the needs 44380
identified above; 44381

(3) The adequacy of the board's accounting for the 44382
expenditure of funds. 44383

If the director disapproves all or part of any plan, the 44384
director shall provide the board an opportunity to present its 44385
position. The director shall inform the board of the reasons for 44386
the disapproval and of the criteria that must be met before the 44387
plan may be approved. The director shall give the board a 44388
reasonable time within which to meet the criteria, and shall offer 44389
technical assistance to the board to help it meet the criteria. 44390

If the approval of a plan remains in dispute thirty days 44391
prior to the conclusion of the fiscal year in which the board's 44392
current plan is scheduled to expire, the board or the director may 44393
request that the dispute be submitted to a mutually agreed upon 44394
third-party mediator with the cost to be shared by the board and 44395
the department. The mediator shall issue to the board and the 44396
department recommendations for resolution of the dispute. Prior to 44397
the conclusion of the fiscal year in which the current plan is 44398
scheduled to expire, the director, taking into consideration the 44399

recommendations of the mediator, shall make a final determination 44400
and approve or disapprove the plan, in whole or in part. 44401

Sec. 5119.611. (A) A board of alcohol, drug addiction, and 44402
mental health services may not contract with a community mental 44403
health agency under division (A)(8)(a) of section 340.03 of the 44404
Revised Code to provide community mental health services included 44405
in the board's community mental health plan unless the services 44406
are certified by the director of mental health under this section. 44407

A community mental health agency that seeks the director's 44408
certification of its community mental health services shall submit 44409
an application to the director. On receipt of the application, the 44410
director may visit and shall evaluate the agency to determine 44411
whether its services satisfy the standards established by rules 44412
adopted under division (C) of this section. The director shall 44413
make the evaluation, and, if the director visits the agency, shall 44414
make the visit, in cooperation with the board of alcohol, drug 44415
addiction, and mental health services with which the agency seeks 44416
to contract. 44417

If the director determines that a community mental health 44418
agency's services satisfy the standards, the director shall 44419
certify the services. 44420

If the director determines that a community mental health 44421
agency's services do not satisfy the standards, the director shall 44422
identify the areas of noncompliance, specify what action is 44423
necessary to satisfy the standards, and offer technical assistance 44424
to the board of alcohol, drug addiction, and mental health 44425
services so that the board may assist the agency in satisfying the 44426
standards. The director shall give the agency a reasonable time 44427
within which to demonstrate that its services satisfy the 44428
standards or to bring the services into compliance with the 44429
standards. If the director concludes that the services continue to 44430

fail to satisfy the standards, the director may request that the board reallocate the funds for the community mental health services the agency was to provide to another community mental health agency whose community mental health services satisfy the standards. If the board does not reallocate those funds in a reasonable period of time, the director may withhold state and federal funds for the community mental health services and allocate those funds directly to a community mental health agency whose community mental health services satisfy the standards.

(B) Each community mental health agency seeking certification of its community mental health services under this section shall pay a fee for the certification review required by this section. Fees shall be paid into the sale of goods and services fund created pursuant to section 5119.161 of the Revised Code.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Establish certification standards for community mental health services, including assertive community treatment and intensive home-based mental health services, that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of services or the health and safety of clients of community mental health services. The standards shall address at a minimum all of the following:

(a) Reporting major unusual incidents to the director;

(b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;

(c) Seclusion;

(d) Restraint;

(e) Development of written policies addressing the rights of clients, including all of the following:	44462 44463
(i) The right to a copy of the written policies addressing client rights;	44464 44465
(ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;	44466 44467
(iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;	44468 44469 44470 44471
(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.	44472 44473 44474 44475 44476
(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;	44477 44478 44479
(3) Establish the process for certification of community mental health services;	44480 44481
(4) Set the amount of certification review fees based on a portion of the cost of performing the review;	44482 44483
(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.	44484 44485
<u>(D) The rules adopted under division (C)(1) of this section to establish certification standards for assertive community treatment and intensive home-based mental health services shall be adopted not later than July 1, 2004.</u>	44486 44487 44488 44489
Sec. 5123.01. As used in this chapter:	44490

(A) "Chief medical officer" means the licensed physician 44491
appointed by the managing officer of an institution for the 44492
mentally retarded with the approval of the director of mental 44493
retardation and developmental disabilities to provide medical 44494
treatment for residents of the institution. 44495

(B) "Chief program director" means a person with special 44496
training and experience in the diagnosis and management of the 44497
mentally retarded, certified according to division (C) of this 44498
section in at least one of the designated fields, and appointed by 44499
the managing officer of an institution for the mentally retarded 44500
with the approval of the director to provide habilitation and care 44501
for residents of the institution. 44502

(C) "Comprehensive evaluation" means a study, including a 44503
sequence of observations and examinations, of a person leading to 44504
conclusions and recommendations formulated jointly, with 44505
dissenting opinions if any, by a group of persons with special 44506
training and experience in the diagnosis and management of persons 44507
with mental retardation or a developmental disability, which group 44508
shall include individuals who are professionally qualified in the 44509
fields of medicine, psychology, and social work, together with 44510
such other specialists as the individual case may require. 44511

(D) "Education" means the process of formal training and 44512
instruction to facilitate the intellectual and emotional 44513
development of residents. 44514

(E) "Habilitation" means the process by which the staff of 44515
the institution assists the resident in acquiring and maintaining 44516
those life skills that enable the resident to cope more 44517
effectively with the demands of the resident's own person and of 44518
the resident's environment and in raising the level of the 44519
resident's physical, mental, social, and vocational efficiency. 44520
Habilitation includes but is not limited to programs of formal, 44521

structured education and training. 44522

(F) "Habilitation center services" means services provided by 44523
a habilitation center certified by the department of mental 44524
retardation and developmental disabilities under section 5123.041 44525
of the Revised Code and covered by the medicaid program pursuant 44526
to rules adopted under section 5111.041 of the Revised Code. 44527

(G) "Health officer" means any public health physician, 44528
public health nurse, or other person authorized or designated by a 44529
city or general health district. 44530

(H) "Home and community-based services" means medicaid-funded 44531
home and community-based services provided under a medicaid 44532
component the department of mental retardation and developmental 44533
disabilities administers pursuant to section 5111.871 of the 44534
Revised Code. 44535

(I) "Indigent person" means a person who is unable, without 44536
substantial financial hardship, to provide for the payment of an 44537
attorney and for other necessary expenses of legal representation, 44538
including expert testimony. 44539

(J) "Institution" means a public or private facility, or a 44540
part of a public or private facility, that is licensed by the 44541
appropriate state department and is equipped to provide 44542
residential habilitation, care, and treatment for the mentally 44543
retarded. 44544

(K) "Licensed physician" means a person who holds a valid 44545
certificate issued under Chapter 4731. of the Revised Code 44546
authorizing the person to practice medicine and surgery or 44547
osteopathic medicine and surgery, or a medical officer of the 44548
government of the United States while in the performance of the 44549
officer's official duties. 44550

(L) "Managing officer" means a person who is appointed by the 44551
director of mental retardation and developmental disabilities to 44552

be in executive control of an institution for the mentally 44553
retarded under the jurisdiction of the department. 44554

(M) "Medicaid" has the same meaning as in section 5111.01 of 44555
the Revised Code. 44556

(N) "Medicaid case management services" means case management 44557
services provided to an individual with mental retardation or 44558
other developmental disability that the state medicaid plan 44559
requires. 44560

(O) "Mentally retarded person" means a person having 44561
significantly subaverage general intellectual functioning existing 44562
concurrently with deficiencies in adaptive behavior, manifested 44563
during the developmental period. 44564

(P) "Mentally retarded person subject to institutionalization 44565
by court order" means a person eighteen years of age or older who 44566
is at least moderately mentally retarded and in relation to whom, 44567
because of the person's retardation, either of the following 44568
conditions exist: 44569

(1) The person represents a very substantial risk of physical 44570
impairment or injury to self as manifested by evidence that the 44571
person is unable to provide for and is not providing for the 44572
person's most basic physical needs and that provision for those 44573
needs is not available in the community; 44574

(2) The person needs and is susceptible to significant 44575
habilitation in an institution. 44576

(Q) "A person who is at least moderately mentally retarded" 44577
means a person who is found, following a comprehensive evaluation, 44578
to be impaired in adaptive behavior to a moderate degree and to be 44579
functioning at the moderate level of intellectual functioning in 44580
accordance with standard measurements as recorded in the most 44581
current revision of the manual of terminology and classification 44582
in mental retardation published by the American association on 44583

mental retardation. 44584

(R) As used in this division, "substantial functional 44585
limitation," "developmental delay," and "established risk" have 44586
the meanings established pursuant to section 5123.011 of the 44587
Revised Code. 44588

"Developmental disability" means a severe, chronic disability 44589
that is characterized by all of the following: 44590

(1) It is attributable to a mental or physical impairment or 44591
a combination of mental and physical impairments, other than a 44592
mental or physical impairment solely caused by mental illness as 44593
defined in division (A) of section 5122.01 of the Revised Code. 44594

(2) It is manifested before age twenty-two. 44595

(3) It is likely to continue indefinitely. 44596

(4) It results in one of the following: 44597

(a) In the case of a person under three years of age, at 44598
least one developmental delay or an established risk; 44599

(b) In the case of a person at least three years of age but 44600
under six years of age, at least two developmental delays or an 44601
established risk; 44602

(c) In the case of a person six years of age or older, a 44603
substantial functional limitation in at least three of the 44604
following areas of major life activity, as appropriate for the 44605
person's age: self-care, receptive and expressive language, 44606
learning, mobility, self-direction, capacity for independent 44607
living, and, if the person is at least sixteen years of age, 44608
capacity for economic self-sufficiency. 44609

(5) It causes the person to need a combination and sequence 44610
of special, interdisciplinary, or other type of care, treatment, 44611
or provision of services for an extended period of time that is 44612
individually planned and coordinated for the person. 44613

(S) "Developmentally disabled person" means a person with a developmental disability.

(T) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(U) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court,

other adult having permanent custody awarded by a court, or 44646
guardian of the person of the minor, provided that: 44647

(1) A minor female who marries shall be considered to have 44648
the legal settlement of her husband and, in the case of death of 44649
her husband or divorce, she shall not thereby lose her legal 44650
settlement obtained by the marriage. 44651

(2) A minor male who marries, establishes a home, and who has 44652
resided in this state for one year without receiving general 44653
assistance prior to July 17, 1995, under former Chapter 5113. of 44654
the Revised Code, ~~disability~~ financial assistance under Chapter 44655
5115. of the Revised Code, or assistance from a private agency 44656
that maintains records of assistance given shall be considered to 44657
have obtained a legal settlement in this state. 44658

(3) The legal settlement of a child under eighteen years of 44659
age who is in the care or custody of a public or private child 44660
caring agency shall not change if the legal settlement of the 44661
parent changes until after the child has been in the home of the 44662
parent for a period of one year. 44663

No person, adult or minor, may establish a legal settlement 44664
in this state for the purpose of gaining admission to any state 44665
institution. 44666

(V)(1) "Resident" means, subject to division (R)(2) of this 44667
section, a person who is admitted either voluntarily or 44668
involuntarily to an institution or other facility pursuant to 44669
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 44670
Code subsequent to a finding of not guilty by reason of insanity 44671
or incompetence to stand trial or under this chapter who is under 44672
observation or receiving habilitation and care in an institution. 44673

(2) "Resident" does not include a person admitted to an 44674
institution or other facility under section 2945.39, 2945.40, 44675
2945.401, or 2945.402 of the Revised Code to the extent that the 44676

reference in this chapter to resident, or the context in which the 44677
reference occurs, is in conflict with any provision of sections 44678
2945.37 to 2945.402 of the Revised Code. 44679

(W) "Respondent" means the person whose detention, 44680
commitment, or continued commitment is being sought in any 44681
proceeding under this chapter. 44682

(X) "Working day" and "court day" mean Monday, Tuesday, 44683
Wednesday, Thursday, and Friday, except when such day is a legal 44684
holiday. 44685

(Y) "Prosecutor" means the prosecuting attorney, village 44686
solicitor, city director of law, or similar chief legal officer 44687
who prosecuted a criminal case in which a person was found not 44688
guilty by reason of insanity, who would have had the authority to 44689
prosecute a criminal case against a person if the person had not 44690
been found incompetent to stand trial, or who prosecuted a case in 44691
which a person was found guilty. 44692

(Z) "Court" means the probate division of the court of common 44693
pleas. 44694

Sec. 5123.051. (A) If the department of mental retardation 44695
and developmental disabilities determines ~~pursuant to an audit~~ 44696
~~conducted under section 5123.05 of the Revised Code or a~~ 44697
~~reconciliation conducted under section 5123.18 or 5111.252 of the~~ 44698
Revised Code that money is owed the state by a ~~provider of a~~ 44699
~~service person~~ or ~~program government entity~~, the department may 44700
enter into a payment agreement with the ~~provider person or~~ 44701
~~government entity for collection of the money owed the state.~~ The 44702
agreement shall include the following: 44703

(1) A schedule of installment payments whereby the money owed 44704
the state is to be paid in full within a reasonable period ~~not to~~ 44705
~~exceed one year;~~ 44706

(2) A provision that the ~~provider may pay~~ the entire balance 44707
owed may be paid at any time during the term of the agreement; 44708

(3) A provision that if any installment is not paid in full 44709
within forty-five days after it is due, the entire balance owed is 44710
immediately due and payable; 44711

(4) Any other terms and conditions that are agreed to by the 44712
department and the ~~provider~~ person or government entity. 44713

(B) The department may include a provision in a payment 44714
agreement that requires the ~~provider to pay~~ payment of interest on 44715
the money owed the state. The department, in its discretion, shall 44716
determine whether to require the payment of interest and, if it so 44717
requires, the rate of interest. Neither the obligation to pay 44718
interest nor the rate of interest is subject to negotiation 44719
between the department and the ~~provider~~ person or government
entity. 44720
44721

(C) If ~~the provider fails to pay~~ any installment is not paid 44722
in full within forty-five days after its due date, the department 44723
shall certify the entire balance owed to the attorney general for 44724
collection under section 131.02 of the Revised Code. ~~The To~~ 44725
satisfy a judgment secured by the attorney general, the department 44726
may withhold funds from any payments ~~made~~ it makes to a ~~provider~~ 44727
~~under section 5123.18 or 5111.252 of the Revised Code to satisfy a~~ 44728
~~judgment secured by the attorney general~~ person or government
entity. 44729
44730

(D) The purchase of service fund is hereby created. Money 44731
credited to the fund shall be used solely for purposes of section 44732
5123.05 of the Revised Code. 44733

Sec. 5123.19. (A) As used in this section and in sections 44734
5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of 44735
the Revised Code: 44736

(1)(a) "Residential facility" means a home or facility in 44737
which a mentally retarded or developmentally disabled person 44738
resides, except the home of a relative or legal guardian in which 44739
a mentally retarded or developmentally disabled person resides, a 44740
respite care home certified under section 5126.05 of the Revised 44741
Code, a county home or district home operated pursuant to Chapter 44742
5155. of the Revised Code, or a dwelling in which the only 44743
mentally retarded or developmentally disabled residents are in an 44744
independent living arrangement or are being provided supported 44745
living. 44746

(b) "Intermediate care facility for the mentally retarded" 44747
means a residential facility that is considered an intermediate 44748
care facility for the mentally retarded for the purposes of 44749
Chapter 5111. of the Revised Code. 44750

(2) "Political subdivision" means a municipal corporation, 44751
county, or township. 44752

(3) "Independent living arrangement" means an arrangement in 44753
which a mentally retarded or developmentally disabled person 44754
resides in an individualized setting chosen by the person or the 44755
person's guardian, which is not dedicated principally to the 44756
provision of residential services for mentally retarded or 44757
developmentally disabled persons, and for which no financial 44758
support is received for rendering such service from any 44759
governmental agency by a provider of residential services. 44760

(4) "Supported living" has the same meaning as in section 44761
5126.01 of the Revised Code. 44762

(5) "Licensee" means the person or government agency that has 44763
applied for a license to operate a residential facility and to 44764
which the license was issued under this section. 44765

(B) Every person or government agency desiring to operate a 44766
residential facility shall apply for licensure of the facility to 44767

the director of mental retardation and developmental disabilities 44768
unless the residential facility is subject to section 3721.02, 44769
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 44770
Chapter 3721. of the Revised Code, a nursing home that is 44771
certified as an intermediate care facility for the mentally 44772
retarded under Title XIX of the "Social Security Act," 79 Stat. 44773
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 44774
licensure of the portion of the home that is certified as an 44775
intermediate care facility for the mentally retarded. 44776

(C) The Subject to section 5123.196 of the Revised Code, the 44777
director of mental retardation and developmental disabilities 44778
shall license the operation of residential facilities. An initial 44779
license shall be issued for a period that does not exceed one 44780
year, unless the director denies the license under division (D) of 44781
this section. A license shall be renewed for a period that does 44782
not exceed three years, unless the director refuses to renew the 44783
license under division (D) of this section. The director, when 44784
issuing or renewing a license, shall specify the period for which 44785
the license is being issued or renewed. A license remains valid 44786
for the length of the licensing period specified by the director, 44787
unless the license is terminated, revoked, or voluntarily 44788
surrendered. 44789

(D) If it is determined that an applicant or licensee is not 44790
in compliance with a provision of this chapter that applies to 44791
residential facilities or the rules adopted under such a 44792
provision, the director may deny issuance of a license, refuse to 44793
renew a license, terminate a license, revoke a license, issue an 44794
order for the suspension of admissions to a facility, issue an 44795
order for the placement of a monitor at a facility, issue an order 44796
for the immediate removal of residents, or take any other action 44797
the director considers necessary consistent with the director's 44798
authority under this chapter regarding residential facilities. In 44799

the director's selection and administration of the sanction to be 44800
imposed, all of the following apply: 44801

(1) The director may deny, refuse to renew, or revoke a 44802
license, if the director determines that the applicant or licensee 44803
has demonstrated a pattern of serious noncompliance or that a 44804
violation creates a substantial risk to the health and safety of 44805
residents of a residential facility. 44806

(2) The director may terminate a license if more than twelve 44807
consecutive months have elapsed since the residential facility was 44808
last occupied by a resident or a notice required by division (J) 44809
of this section is not given. 44810

(3) The director may issue an order for the suspension of 44811
admissions to a facility for any violation that may result in 44812
sanctions under division (D)(1) of this section and for any other 44813
violation specified in rules adopted under division (G)(2) of this 44814
section. If the suspension of admissions is imposed for a 44815
violation that may result in sanctions under division (D)(1) of 44816
this section, the director may impose the suspension before 44817
providing an opportunity for an adjudication under Chapter 119. of 44818
the Revised Code. The director shall lift an order for the 44819
suspension of admissions when the director determines that the 44820
violation that formed the basis for the order has been corrected. 44821

(4) The director may order the placement of a monitor at a 44822
residential facility for any violation specified in rules adopted 44823
under division (G)(2) of this section. The director shall lift the 44824
order when the director determines that the violation that formed 44825
the basis for the order has been corrected. 44826

(5) If the director determines that two or more residential 44827
facilities owned or operated by the same person or government 44828
entity are not being operated in compliance with a provision of 44829
this chapter that applies to residential facilities or the rules 44830

adopted under such a provision, and the director's findings are 44831
based on the same or a substantially similar action, practice, 44832
circumstance, or incident that creates a substantial risk to the 44833
health and safety of the residents, the director shall conduct a 44834
survey as soon as practicable at each residential facility owned 44835
or operated by that person or government entity. The director may 44836
take any action authorized by this section with respect to any 44837
facility found to be operating in violation of a provision of this 44838
chapter that applies to residential facilities or the rules 44839
adopted under such a provision. 44840

(6) When the director initiates license revocation 44841
proceedings, no opportunity for submitting a plan of correction 44842
shall be given. The director shall notify the licensee by letter 44843
of the initiation of such proceedings. The letter shall list the 44844
deficiencies of the residential facility and inform the licensee 44845
that no plan of correction will be accepted. The director shall 44846
also notify each affected resident, the resident's guardian if the 44847
resident is an adult for whom a guardian has been appointed, the 44848
resident's parent or guardian if the resident is a minor, and the 44849
county board of mental retardation and developmental disabilities. 44850

(7) Pursuant to rules which shall be adopted in accordance 44851
with Chapter 119. of the Revised Code, the director may order the 44852
immediate removal of residents from a residential facility 44853
whenever conditions at the facility present an immediate danger of 44854
physical or psychological harm to the residents. 44855

(8) In determining whether a residential facility is being 44856
operated in compliance with a provision of this chapter that 44857
applies to residential facilities or the rules adopted under such 44858
a provision, or whether conditions at a residential facility 44859
present an immediate danger of physical or psychological harm to 44860
the residents, the director may rely on information obtained by a 44861
county board of mental retardation and developmental disabilities 44862

or other governmental agencies. 44863

(9) In proceedings initiated to deny, refuse to renew, or 44864
revoke licenses, the director may deny, refuse to renew, or revoke 44865
a license regardless of whether some or all of the deficiencies 44866
that prompted the proceedings have been corrected at the time of 44867
the hearing. 44868

(E) The director shall establish a program under which public 44869
notification may be made when the director has initiated license 44870
revocation proceedings or has issued an order for the suspension 44871
of admissions, placement of a monitor, or removal of residents. 44872
The director shall adopt rules in accordance with Chapter 119. of 44873
the Revised Code to implement this division. The rules shall 44874
establish the procedures by which the public notification will be 44875
made and specify the circumstances for which the notification must 44876
be made. The rules shall require that public notification be made 44877
if the director has taken action against the facility in the 44878
eighteen-month period immediately preceding the director's latest 44879
action against the facility and the latest action is being taken 44880
for the same or a substantially similar violation of a provision 44881
of this chapter that applies to residential facilities or the 44882
rules adopted under such a provision. The rules shall specify a 44883
method for removing or amending the public notification if the 44884
director's action is found to have been unjustified or the 44885
violation at the residential facility has been corrected. 44886

(F)(1) Except as provided in division (F)(2) of this section, 44887
appeals from proceedings initiated to impose a sanction under 44888
division (D) of this section shall be conducted in accordance with 44889
Chapter 119. of the Revised Code. 44890

(2) Appeals from proceedings initiated to order the 44891
suspension of admissions to a facility shall be conducted in 44892
accordance with Chapter 119. of the Revised Code, unless the order 44893
was issued before providing an opportunity for an adjudication, in 44894

which case all of the following apply: 44895

(a) The licensee may request a hearing not later than ten 44896
days after receiving the notice specified in section 119.07 of the 44897
Revised Code. 44898

(b) If a timely request for a hearing is made, the hearing 44899
shall commence not later than thirty days after the department 44900
receives the request. 44901

(c) After commencing, the hearing shall continue 44902
uninterrupted, except for Saturdays, Sundays, and legal holidays, 44903
unless other interruptions are agreed to by the licensee and the 44904
director. 44905

(d) If the hearing is conducted by a hearing examiner, the 44906
hearing examiner shall file a report and recommendations not later 44907
than ten days after the close of the hearing. 44908

(e) Not later than five days after the hearing examiner files 44909
the report and recommendations, the licensee may file objections 44910
to the report and recommendations. 44911

(f) Not later than fifteen days after the hearing examiner 44912
files the report and recommendations, the director shall issue an 44913
order approving, modifying, or disapproving the report and 44914
recommendations. 44915

(g) Notwithstanding the pendency of the hearing, the director 44916
shall lift the order for the suspension of admissions when the 44917
director determines that the violation that formed the basis for 44918
the order has been corrected. 44919

(G) In accordance with Chapter 119. of the Revised Code, the 44920
director shall adopt and may amend and rescind rules for licensing 44921
and regulating the operation of residential facilities, including 44922
intermediate care facilities for the mentally retarded. The rules 44923
for intermediate care facilities for the mentally retarded may 44924

<u>differ from those for other residential facilities.</u> The rules	44925
shall establish and specify the following:	44926
(1) Procedures and criteria for issuing and renewing	44927
licenses, including procedures and criteria for determining the	44928
length of the licensing period that the director must specify for	44929
each license when it is issued or renewed;	44930
(2) Procedures and criteria for denying, refusing to renew,	44931
terminating, and revoking licenses and for ordering the suspension	44932
of admissions to a facility, placement of a monitor at a facility,	44933
and the immediate removal of residents from a facility;	44934
(3) Fees for issuing and renewing licenses;	44935
(4) Procedures for surveying residential facilities;	44936
(5) Requirements for the training of residential facility	44937
personnel;	44938
(6) Classifications for the various types of residential	44939
facilities;	44940
(7) Certification procedures for licensees and management	44941
contractors that the director determines are necessary to ensure	44942
that they have the skills and qualifications to properly operate	44943
or manage residential facilities;	44944
(8) The maximum number of persons who may be served in a	44945
particular type of residential facility;	44946
(9) Uniform procedures for admission of persons to and	44947
transfers and discharges of persons from residential facilities;	44948
(10) Other standards for the operation of residential	44949
facilities and the services provided at residential facilities;	44950
(11) Procedures for waiving any provision of any rule adopted	44951
under this section.	44952
(H) Before issuing a license, the director of the department	44953

or the director's designee shall conduct a survey of the 44954
residential facility for which application is made. The director 44955
or the director's designee shall conduct a survey of each licensed 44956
residential facility at least once during the period the license 44957
is valid and may conduct additional inspections as needed. A 44958
survey includes but is not limited to an on-site examination and 44959
evaluation of the residential facility, its personnel, and the 44960
services provided there. 44961

In conducting surveys, the director or the director's 44962
designee shall be given access to the residential facility; all 44963
records, accounts, and any other documents related to the 44964
operation of the facility; the licensee; the residents of the 44965
facility; and all persons acting on behalf of, under the control 44966
of, or in connection with the licensee. The licensee and all 44967
persons on behalf of, under the control of, or in connection with 44968
the licensee shall cooperate with the director or the director's 44969
designee in conducting the survey. 44970

Following each survey, unless the director initiates a 44971
license revocation proceeding, the director or the director's 44972
designee shall provide the licensee with a report listing any 44973
deficiencies, specifying a timetable within which the licensee 44974
shall submit a plan of correction describing how the deficiencies 44975
will be corrected, and, when appropriate, specifying a timetable 44976
within which the licensee must correct the deficiencies. After a 44977
plan of correction is submitted, the director or the director's 44978
designee shall approve or disapprove the plan. A copy of the 44979
report and any approved plan of correction shall be provided to 44980
any person who requests it. 44981

The director shall initiate disciplinary action against any 44982
department employee who notifies or causes the notification to any 44983
unauthorized person of an unannounced survey of a residential 44984
facility by an authorized representative of the department. 44985

(I) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license.

(J) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of such notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(K) A county board of mental retardation and developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts

constituting the basis of the allegation. The department shall not 45018
reveal the source of any complaint unless the complainant agrees 45019
in writing to waive the right to confidentiality or until so 45020
ordered by a court of competent jurisdiction. 45021

The department shall adopt rules in accordance with Chapter 45022
119. of the Revised Code establishing procedures for the receipt, 45023
referral, investigation, and disposition of complaints filed with 45024
the department under this division. 45025

(L) The department shall establish procedures for the 45026
notification of interested parties of the transfer or interim care 45027
of residents from residential facilities that are closing or are 45028
losing their license. 45029

(M) Before issuing a license under this section to a 45030
residential facility that will accommodate at any time more than 45031
one mentally retarded or developmentally disabled individual, the 45032
director shall, by first class mail, notify the following: 45033

(1) If the facility will be located in a municipal 45034
corporation, the clerk of the legislative authority of the 45035
municipal corporation; 45036

(2) If the facility will be located in unincorporated 45037
territory, the clerk of the appropriate board of county 45038
commissioners and the clerk of the appropriate board of township 45039
trustees. 45040

The director shall not issue the license for ten days after 45041
mailing the notice, excluding Saturdays, Sundays, and legal 45042
holidays, in order to give the notified local officials time in 45043
which to comment on the proposed issuance. 45044

Any legislative authority of a municipal corporation, board 45045
of county commissioners, or board of township trustees that 45046
receives notice under this division of the proposed issuance of a 45047
license for a residential facility may comment on it in writing to 45048

the director within ten days after the director mailed the notice, 45049
excluding Saturdays, Sundays, and legal holidays. If the director 45050
receives written comments from any notified officials within the 45051
specified time, the director shall make written findings 45052
concerning the comments and the director's decision on the 45053
issuance of the license. If the director does not receive written 45054
comments from any notified local officials within the specified 45055
time, the director shall continue the process for issuance of the 45056
license. 45057

(N) Any person may operate a licensed residential facility 45058
that provides room and board, personal care, habilitation 45059
services, and supervision in a family setting for at least six but 45060
not more than eight persons with mental retardation or a 45061
developmental disability as a permitted use in any residential 45062
district or zone, including any single-family residential district 45063
or zone, of any political subdivision. These residential 45064
facilities may be required to comply with area, height, yard, and 45065
architectural compatibility requirements that are uniformly 45066
imposed upon all single-family residences within the district or 45067
zone. 45068

(O) Any person may operate a licensed residential facility 45069
that provides room and board, personal care, habilitation 45070
services, and supervision in a family setting for at least nine 45071
but not more than sixteen persons with mental retardation or a 45072
developmental disability as a permitted use in any multiple-family 45073
residential district or zone of any political subdivision, except 45074
that a political subdivision that has enacted a zoning ordinance 45075
or resolution establishing planned unit development districts may 45076
exclude these residential facilities from such districts, and a 45077
political subdivision that has enacted a zoning ordinance or 45078
resolution may regulate these residential facilities in 45079
multiple-family residential districts or zones as a conditionally 45080

permitted use or special exception, in either case, under 45081
reasonable and specific standards and conditions set out in the 45082
zoning ordinance or resolution to: 45083

(1) Require the architectural design and site layout of the 45084
residential facility and the location, nature, and height of any 45085
walls, screens, and fences to be compatible with adjoining land 45086
uses and the residential character of the neighborhood; 45087

(2) Require compliance with yard, parking, and sign 45088
regulation; 45089

(3) Limit excessive concentration of these residential 45090
facilities. 45091

(P) This section does not prohibit a political subdivision 45092
from applying to residential facilities nondiscriminatory 45093
regulations requiring compliance with health, fire, and safety 45094
regulations and building standards and regulations. 45095

(Q) Divisions (N) and (O) of this section are not applicable 45096
to municipal corporations that had in effect on June 15, 1977, an 45097
ordinance specifically permitting in residential zones licensed 45098
residential facilities by means of permitted uses, conditional 45099
uses, or special exception, so long as such ordinance remains in 45100
effect without any substantive modification. 45101

(R)(1) The director may issue an interim license to operate a 45102
residential facility to an applicant for a license under this 45103
section if either of the following is the case: 45104

(a) The director determines that an emergency exists 45105
requiring immediate placement of persons in a residential 45106
facility, that insufficient licensed beds are available, and that 45107
the residential facility is likely to receive a permanent license 45108
under this section within thirty days after issuance of the 45109
interim license. 45110

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 45111
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(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 45114
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(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days. 45119
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(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses. 45122
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(S) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of such rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of mental retardation and developmental disabilities and which is in the review process prior to April 4, 1986. 45125
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(T) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section. 45135
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The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for 45140
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an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

(U) Except as provided in section 5123.196 of the Revised Code, whenever a resident of a residential facility is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department shall reduce by one the maximum number of residents for which the facility is licensed.

Sec. 5123.196. (A) The director of mental retardation and developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, the number of such beds taken out of service on or after July 1, 2003, pursuant to section 5123.197 of the Revised Code or because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed taken out of service if the director determines that the bed is needed to provide services to an individual with mental retardation or a developmental disability who resided in the residential facility

in which the bed was located. 45173

(D) The director shall maintain an up-to-date written record 45174
of the maximum number of residential facility beds provided for by 45175
division (B) of this section. 45176

Sec. 5123.197. A licensee shall take out of service as a 45177
residential facility bed any bed located in the facility that is 45178
converted to use for supported living. The number of residential 45179
facility beds a residential facility is licensed to have shall be 45180
reduced by each bed taken out of service under this section. 45181

Sec. 5123.198. (A) Whenever a resident of an intermediate 45182
care facility for the mentally retarded is committed to a 45183
state-operated intermediate care facility for the mentally 45184
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 45185
Code, the department of mental retardation and developmental 45186
disabilities shall reduce by one the number of residents for which 45187
the facility in which the resident resided is licensed, unless the 45188
facility admits an individual who resides in a state-operated 45189
intermediate care facility for the mentally retarded on the date 45190
of the commitment or another individual determined to need the 45191
level of care provided by such a facility and designated by the 45192
department not later than ninety days after the date of the 45193
commitment. 45194

(B) The department of mental retardation and developmental 45195
disabilities may notify the department of job and family services 45196
of any reduction under this section in the number of residents for 45197
which a facility is licensed. On receiving the notice, the 45198
department of job and family services may transfer to the 45199
department of mental retardation and developmental disabilities 45200
the savings in the nonfederal share of medicaid expenditures for 45201
each fiscal year after the year of the commitment to be used for 45202

costs of the resident's care in the state-operated intermediate 45203
care facility for the mentally retarded. In determining the amount 45204
saved, the department of job and family services shall consider 45205
medicaid payments for the remaining residents of the facility in 45206
which the resident resided. 45207

Sec. ~~5111.252~~ 5123.199. (A) As used in this section: 45208

(1) "Contractor" means a person or government agency that has 45209
entered into a contract with the department of mental retardation 45210
and developmental disabilities under this section. 45211

(2) "Government agency" and "residential services" have the 45212
same meanings as in section 5123.18 of the Revised Code. 45213

(3) "Intermediate care facility for the mentally retarded" 45214
has the same meaning as in section 5111.20 of the Revised Code. 45215

(4) "Respite care services" has the same meaning as in 45216
section 5123.171 of the Revised Code. 45217

(B) The department of mental retardation and developmental 45218
disabilities may enter into a contract with a person or government 45219
agency to do any of the following: 45220

(1) Provide residential services in an intermediate care 45221
facility for the mentally retarded to an individual who meets the 45222
criteria for admission to such a facility but is not eligible for 45223
assistance under ~~this chapter~~ Chapter 5111. of the Revised Code 45224
due to unliquidated assets subject to final probate action; 45225

(2) Provide respite care services in an intermediate care 45226
facility for the mentally retarded; 45227

(3) Provide residential services in a facility for which the 45228
person or government agency has applied for, but has not received, 45229
certification and payment as an intermediate care facility for the 45230
mentally retarded if the person or government agency is making a 45231
good faith effort to bring the facility into compliance with 45232

requirements for certification and payment as an intermediate care 45233
facility for the mentally retarded. In assigning payment amounts 45234
to such contracts, the department shall take into account costs 45235
incurred in attempting to meet certification requirements. 45236

(4) Reimburse an intermediate care facility for the mentally 45237
retarded for costs not otherwise reimbursed under ~~this chapter~~ 45238
Chapter 5111. of the Revised Code for clothing for individuals who 45239
are mentally retarded or developmentally disabled. Reimbursement 45240
under such contracts shall not exceed a maximum amount per 45241
individual per year specified in rules that the department shall 45242
adopt in accordance with Chapter 119. of the Revised Code. 45243

(C) The amount paid to a contractor under divisions (B)(1) to 45244
(3) of this section shall not exceed the reimbursement that would 45245
be made under ~~this chapter~~ Chapter 5111. of the Revised Code by 45246
the department of job and family services for the same goods and 45247
services. 45248

(D) The department of mental retardation and developmental 45249
disabilities shall adopt rules as necessary to implement this 45250
section, including rules establishing standards and procedures for 45251
the submission of cost reports by contractors and the department's 45252
conduct of audits and reconciliations regarding the contracts. The 45253
rules shall be adopted in accordance with Chapter 119. of the 45254
Revised Code. 45255

Sec. 5123.38. (A) Except as provided in division (B) and (C) 45256
of this section, if an individual receiving supported living or 45257
home and community-based services, as defined in section 5126.01 45258
of the Revised Code, funded by a county board of mental 45259
retardation and developmental disabilities is committed to a 45260
state-operated intermediate care facility for the mentally 45261
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 45262
Code, the department of mental retardation and developmental 45263

disabilities shall use the funds otherwise allocated to the county board as the nonfederal share of medicaid expenditures for the individual's care in the state-operated facility. 45264
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(B) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving supported services, commences funding of supported living for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department. 45267
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(C) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving home and community-based services, commences funding of home and community-based services for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department. 45274
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Sec. 5123.61. (A) As used in this section: 45281

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff. 45282
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(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section. 45285
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(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code. 45288
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(B) The department of mental retardation and developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports 45290
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received from county boards of mental retardation and 45294
developmental disabilities under section 5126.31 of the Revised 45295
Code. The department shall establish committees to review reports 45296
of abuse, neglect, and other major unusual incidents. 45297

(C)(1) Any person listed in division (C)(2) of this section, 45298
having reason to believe that a person with mental retardation or 45299
a developmental disability has suffered any wound, injury, 45300
disability, or condition of such a nature as to reasonably 45301
indicate abuse or neglect of that person, shall immediately report 45302
or cause reports to be made of such information to a law 45303
enforcement agency or to the county board of mental retardation 45304
and developmental disabilities, except that if the report concerns 45305
a resident of a facility operated by the department of mental 45306
retardation and developmental disabilities the report shall be 45307
made either to a law enforcement agency or to the department. 45308

(2) All of the following persons are required to make a 45309
report under division (C)(1) of this section: 45310

(a) Any physician, including a hospital intern or resident, 45311
any dentist, podiatrist, chiropractor, practitioner of a limited 45312
branch of medicine as specified in section 4731.15 of the Revised 45313
Code, hospital administrator or employee of a hospital, nurse 45314
licensed under Chapter 4723. of the Revised Code, employee of ~~an~~ 45315
~~ambulatory a health facility as defined in section 5101.61 of the~~ 45316
~~Revised Code that provides outpatient services~~, employee of a home 45317
health agency, employee of an adult care facility licensed under 45318
Chapter 3722. of the Revised Code, or employee of a community 45319
mental health facility; 45320

(b) Any school teacher or school authority, social worker, 45321
psychologist, attorney, peace officer, coroner, clergyman, or 45322
residents' rights advocate as defined in section 3721.10 of the 45323
Revised Code; 45324

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

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of mental retardation and developmental disabilities under section 5123.092 of the Revised Code;

(e) A person who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

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

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

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

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

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

(E) When a physician performing services as a member of the

staff of a hospital or similar institution has reason to believe 45355
that a person with mental retardation or a developmental 45356
disability has suffered injury, abuse, or physical neglect, the 45357
physician shall notify the person in charge of the institution or 45358
that person's designated delegate, who shall make the necessary 45359
reports. 45360

(F) Any person having reasonable cause to believe that a 45361
person with mental retardation or a developmental disability has 45362
suffered abuse or neglect may report the belief, or cause a report 45363
to be made, to a law enforcement agency or the county board of 45364
mental retardation and developmental disabilities, or, if the 45365
person is a resident of a facility operated by the department of 45366
mental retardation and developmental disabilities, to a law 45367
enforcement agency or to the department. 45368

(G)(1) Upon the receipt of a report concerning the possible 45369
abuse or neglect of a person with mental retardation or a 45370
developmental disability, the law enforcement agency shall inform 45371
the county board of mental retardation and developmental 45372
disabilities or, if the person is a resident of a facility 45373
operated by the department of mental retardation and developmental 45374
disabilities, the director of the department or the director's 45375
designee. 45376

(2) On receipt of a report under this section that includes 45377
an allegation of action or inaction that may constitute a crime 45378
under federal law or the law of this state, the department of 45379
mental retardation and developmental disabilities shall notify the 45380
law enforcement agency. 45381

(3) When a county board of mental retardation and 45382
developmental disabilities receives a report under this section 45383
that includes an allegation of action or inaction that may 45384
constitute a crime under federal law or the law of this state, the 45385
superintendent of the board or an individual the superintendent 45386

designates under division (H) of this section shall notify the law 45387
enforcement agency. The superintendent or individual shall notify 45388
the department of mental retardation and developmental 45389
disabilities when it receives any report under this section. 45390

(H) The superintendent of the board may designate an 45391
individual to be responsible for notifying the law enforcement 45392
agency and the department when the county board receives a report 45393
under this section. 45394

(I) An adult with mental retardation or a developmental 45395
disability about whom a report is made may be removed from the 45396
adult's place of residence only by law enforcement officers who 45397
consider that the adult's immediate removal is essential to 45398
protect the adult from further injury or abuse or in accordance 45399
with the order of a court made pursuant to section 5126.33 of the 45400
Revised Code. 45401

(J) A law enforcement agency shall investigate each report of 45402
abuse or neglect it receives under this section. In addition, the 45403
department, in cooperation with law enforcement officials, shall 45404
investigate each report regarding a resident of a facility 45405
operated by the department to determine the circumstances 45406
surrounding the injury, the cause of the injury, and the person 45407
responsible. The department shall determine, with the registry 45408
office which shall be maintained by the department, whether prior 45409
reports have been made concerning ~~and~~ an adult with mental 45410
retardation or a developmental disability or other principals in 45411
the case. If the department finds that the report involves action 45412
or inaction that may constitute a crime under federal law or the 45413
law of this state, it shall submit a report of its investigation, 45414
in writing, to the law enforcement agency. If the person with 45415
mental retardation or a developmental disability is an adult, with 45416
the consent of the adult, the department shall provide such 45417
protective services as are necessary to protect the adult. The law 45418

enforcement agency shall make a written report of its findings to 45419
the department. 45420

If the person is an adult and is not a resident of a facility 45421
operated by the department, the county board of mental retardation 45422
and developmental disabilities shall review the report of abuse or 45423
neglect in accordance with sections 5126.30 to 5126.33 of the 45424
Revised Code and the law enforcement agency shall make the written 45425
report of its findings to the county board. 45426

(K) Any person or any hospital, institution, school, health 45427
department, or agency participating in the making of reports 45428
pursuant to this section, any person participating as a witness in 45429
an administrative or judicial proceeding resulting from the 45430
reports, or any person or governmental entity that discharges 45431
responsibilities under sections 5126.31 to 5126.33 of the Revised 45432
Code shall be immune from any civil or criminal liability that 45433
might otherwise be incurred or imposed as a result of such actions 45434
except liability for perjury, unless the person or governmental 45435
entity has acted in bad faith or with malicious purpose. 45436

(L) No employer or any person with the authority to do so 45437
shall discharge, demote, transfer, prepare a negative work 45438
performance evaluation, reduce pay or benefits, terminate work 45439
privileges, or take any other action detrimental to an employee or 45440
retaliate against an employee as a result of the employee's having 45441
made a report under this section. This division does not preclude 45442
an employer or person with authority from taking action with 45443
regard to an employee who has made a report under this section if 45444
there is another reasonable basis for the action. 45445

(M) Reports made under this section are not public records as 45446
defined in section 149.43 of the Revised Code. Information 45447
contained in the reports on request shall be made available to the 45448
person who is the subject of the report, to the person's legal 45449
counsel, and to agencies authorized to receive information in the 45450

report by the department or by a county board of mental 45451
retardation and developmental disabilities. 45452

(N) Notwithstanding section 4731.22 of the Revised Code, the 45453
physician-patient privilege shall not be a ground for excluding 45454
evidence regarding the injuries or physical neglect of a person 45455
with mental retardation or a developmental disability or the cause 45456
thereof in any judicial proceeding resulting from a report 45457
submitted pursuant to this section. 45458

Sec. 5123.801. If neither a discharged resident, nor a 45459
resident granted trial visit, nor the persons requesting the 45460
resident's trial visit or discharge are financially able to bear 45461
the expense of the resident's trial visit or discharge, the 45462
managing officer of an institution under the control of the 45463
department of mental retardation and developmental disabilities 45464
may then provide actual traveling and escort expenses to the 45465
township of which the resident resided at the time of 45466
institutionalization. The amount payable shall be charged to the 45467
current expense fund of the institution. 45468

The expense of the return of a resident on trial visit from 45469
an institution, if it cannot be paid by the responsible relatives, 45470
shall be borne by the county of institutionalization. 45471

~~The managing officer of the institution shall take all proper 45472
measures for the apprehension of an escaped resident. The expense 45473
of the return of an escaped resident shall be borne by the 45474
institution where the resident is institutionalized. 45475~~

The managing officer of the institution shall provide 45476
sufficient and proper clothing for traveling if neither the 45477
resident nor the persons requesting the resident's trial visit or 45478
discharge are financially able to provide that clothing. 45479

Sec. 5123.851. When a resident institutionalized pursuant to 45480

this chapter is discharged from the institution, the managing officer of the institution may provide the resident with all personal items that were purchased in implementing the resident's habilitation plan established pursuant to section 5123.85 of the Revised Code. The personal items may be provided to the resident, regardless of the source of the funds that were used to purchase the items.

Sec. 5126.042. (A) As used in this section+ 45488

~~(1) "Emergency"~~ , "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations:

~~(a)(1)~~ Loss of present residence for any reason, including legal action;

~~(b)(2)~~ Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

~~(c)(3)~~ Abuse, neglect, or exploitation of the individual;

~~(d)(4)~~ Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

~~(e)(5)~~ Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

~~(2) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~

(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request

programs and services and may be offered the programs and 45511
services, it shall establish waiting lists for services. The board 45512
may establish priorities for making placements on its waiting 45513
lists according to an individual's emergency status and shall 45514
establish priorities in accordance with ~~division~~ divisions (D) and 45515
(E) of this section. 45516

The individuals who may be placed on a waiting list include 45517
individuals with a need for services on an emergency basis and 45518
individuals who have requested services for which resources are 45519
not available. 45520

Except for an individual who is to receive priority for 45521
services pursuant to division (D)(3) of this section, an 45522
individual who currently receives a service but would like to 45523
change to another service shall not be placed on a waiting list 45524
but shall be placed on a service substitution list. The board 45525
shall work with the individual, service providers, and all 45526
appropriate entities to facilitate the change in service as 45527
expeditiously as possible. The board may establish priorities for 45528
making placements on its service substitution lists according to 45529
an individual's emergency status. 45530

In addition to maintaining waiting lists and service 45531
substitution lists, a board shall maintain a long-term service 45532
planning registry for individuals who wish to record their 45533
intention to request in the future a service they are not 45534
currently receiving. The purpose of the registry is to enable the 45535
board to document requests and to plan appropriately. The board 45536
may not place an individual on the registry who meets the 45537
conditions for receipt of services on an emergency basis. 45538

(C) A county board shall establish a separate waiting list 45539
for each of the following categories of services, and may 45540
establish separate waiting lists within the waiting lists: 45541

(1) Early childhood services;	45542
(2) Educational programs for preschool and school age children;	45543 45544
(3) Adult services;	45545
(4) Service and support administration;	45546
(5) Residential services and supported living;	45547
(6) Transportation services;	45548
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	45549 45550 45551
(8) Family support services provided under section 5126.11 of the Revised Code.	45552 45553
(D) Except as provided in division (F) (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:	45554 45555 45556 45557 45558
(1) For the purpose of obtaining additional federal medicaid funds for home and community-based services, medicaid case management services, and habilitation center services, do both of the following:	45559 45560 45561 45562
(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:	45563 45564 45565 45566 45567 45568
(i) Is twenty-two years of age or older;	45569
(ii) Receives supported living or family support services.	45570

(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:

(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;

(ii) Receives adult services from the county board.

(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:

(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;

(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:

(i) Severe behavior problems for which a behavior support plan is needed;

(ii) An emotional disorder for which anti-psychotic medication is needed;

(iii) A medical condition that leaves the individual dependent on life-support medical technology;

(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or

habilitation services are needed; 45601

(v) A condition the county board determines to be comparable 45602
in severity to any condition described in division (D)(2)(b)(i) to 45603
(iv) of this section and places the individual at significant risk 45604
of institutionalization. 45605

(c) Is twenty-two years of age or older, does not receive 45606
residential services or supported living, and is determined by the 45607
county board to have intensive needs for home and community-based 45608
services on an in-home or out-of-home basis. 45609

(3) In fiscal years 2002 and 2003, give an individual who is 45610
eligible for home and community-based services, resides in an 45611
intermediate care facility for the mentally retarded or nursing 45612
facility, chooses to move to another setting with the help of home 45613
and community-based services, and has been determined by the 45614
department of mental retardation and developmental disabilities to 45615
be capable of residing in the other setting, priority over any 45616
other individual on a waiting list established under division (C) 45617
of this section for home and community-based services who does not 45618
meet these criteria. The department of mental retardation and 45619
developmental disabilities shall identify the individuals to 45620
receive priority under division (D)(3) of this section, assess the 45621
needs of the individuals, and notify the county boards that are to 45622
provide the individuals priority under division (D)(3) of this 45623
section of the individuals identified by the department and the 45624
individuals' assessed needs. 45625

(E) Except as provided in division (G) of this section and 45626
for a number of years and beginning on a date specified in rules 45627
adopted under division (K) of this section, a county board shall 45628
give an individual who is eligible for home and community-based 45629
services, resides in a nursing facility, chooses to move to 45630
another setting with the help of home and community-based 45631
services, and has been determined by the department of mental 45632

retardation and developmental disabilities to be capable of 45633
residing in the other setting, priority over any other individual 45634
on a waiting list established under division (C) of this section 45635
for home and community-based services who does not meet these 45636
criteria. 45637

(F) If two or more individuals on a waiting list established 45638
under division (C) of this section for home and community-based 45639
services have priority for the services pursuant to division 45640
(D)(1) or (2) or (E) of this section, a county board may use, 45641
until December 31, 2003, criteria specified in rules adopted under 45642
division ~~(J)~~(K)(2) of this section in determining the order in 45643
which the individuals with priority will be offered the services. 45644
Otherwise, the county board shall offer the home and 45645
community-based services to such individuals in the order they are 45646
placed on the waiting list. 45647

~~(F)~~(G)(1) No individual may receive priority for services 45648
pursuant to division (D) or (E) of this section over an individual 45649
placed on a waiting list established under division (C) of this 45650
section on an emergency status. 45651

(2) No more than four hundred individuals in the state may 45652
receive priority for services during the 2002 and 2003 biennium 45653
pursuant to division (D)(2)(b) of this section. 45654

(3) No more than a total of seventy-five individuals in the 45655
state may receive priority for services during state fiscal years 45656
2002 and 2003 pursuant to division (D)(3) of this section. 45657

~~(G)~~(4) No more than forty individuals in the state may 45658
receive priority for services pursuant to division (E) of this 45659
section for each year that priority category is in effect as 45660
specified in rules adopted under division (K) of this section. 45661

(H) Prior to establishing any waiting list under this 45662
section, a county board shall develop and implement a policy for 45663

waiting lists that complies with this section and rules adopted 45664
under division ~~(J)~~(K) of this section. 45665

Prior to placing an individual on a waiting list, the county 45666
board shall assess the service needs of the individual in 45667
accordance with all applicable state and federal laws. The county 45668
board shall place the individual on the appropriate waiting list 45669
and may place the individual on more than one waiting list. The 45670
county board shall notify the individual of the individual's 45671
placement and position on each waiting list on which the 45672
individual is placed. 45673

At least annually, the county board shall reassess the 45674
service needs of each individual on a waiting list. If it 45675
determines that an individual no longer needs a program or 45676
service, the county board shall remove the individual from the 45677
waiting list. If it determines that an individual needs a program 45678
or service other than the one for which the individual is on the 45679
waiting list, the county board shall provide the program or 45680
service to the individual or place the individual on a waiting 45681
list for the program or service in accordance with the board's 45682
policy for waiting lists. 45683

When a program or service for which there is a waiting list 45684
becomes available, the county board shall reassess the service 45685
needs of the individual next scheduled on the waiting list to 45686
receive that program or service. If the reassessment demonstrates 45687
that the individual continues to need the program or service, the 45688
board shall offer the program or service to the individual. If it 45689
determines that an individual no longer needs a program or 45690
service, the county board shall remove the individual from the 45691
waiting list. If it determines that an individual needs a program 45692
or service other than the one for which the individual is on the 45693
waiting list, the county board shall provide the program or 45694
service to the individual or place the individual on a waiting 45695

list for the program or service in accordance with the board's 45696
policy for waiting lists. The county board shall notify the 45697
individual of the individual's placement and position on the 45698
waiting list on which the individual is placed. 45699

~~(H)~~(I) A child subject to a determination made pursuant to 45700
section 121.38 of the Revised Code who requires the home and 45701
community-based services provided through the medicaid component 45702
that the department of mental retardation and developmental 45703
disabilities administers under section 5111.871 of the Revised 45704
Code shall receive services through that medicaid component. For 45705
all other services, a child subject to a determination made 45706
pursuant to section 121.38 of the Revised Code shall be treated as 45707
an emergency by the county boards and shall not be subject to a 45708
waiting list. 45709

~~(I)~~(J) Not later than the fifteenth day of March of each 45710
even-numbered year, each county board shall prepare and submit to 45711
the director of mental retardation and developmental disabilities 45712
its recommendations for the funding of services for individuals 45713
with mental retardation and developmental disabilities and its 45714
proposals for reducing the waiting lists for services. 45715

~~(J)~~(K)(1) The department of mental retardation and 45716
developmental disabilities shall adopt rules in accordance with 45717
Chapter 119. of the Revised Code governing waiting lists 45718
established under this section. The rules shall include procedures 45719
to be followed to ensure that the due process rights of 45720
individuals placed on waiting lists are not violated. 45721

(2) As part of the rules adopted under this division, the 45722
department shall adopt, ~~not later than December 31, 2001,~~ rules 45723
establishing criteria a county board may use under division ~~(E)~~(F) 45724
of this section in determining the order in which individuals with 45725
priority for home and community-based services will be offered the 45726
services. The rules shall also specify conditions under which a 45727

county board, when there is no individual with priority for home 45728
and community-based services pursuant to division (D)(1) or (2) or 45729
(E) of this section available and appropriate for the services, 45730
may offer the services to an individual on a waiting list for the 45731
services but not given such priority for the services. The rules 45732
adopted under division ~~(J)~~(K)(2) of this section shall cease to 45733
have effect December 31, 2003. 45734

~~(K)~~(3) As part of the rules adopted under this division, the 45735
department shall adopt rules specifying both of the following for 45736
the priority category established under division (E) of this 45737
section: 45738

(a) The number of years, which shall not exceed five, that 45739
the priority category will be in effect; 45740

(b) The date that the priority category is to go into effect. 45741

(L) The following shall take precedence over the applicable 45742
provisions of this section: 45743

(1) Medicaid rules and regulations; 45744

(2) Any specific requirements that may be contained within a 45745
medicaid state plan amendment or waiver program that a county 45746
board has authority to administer or with respect to which it has 45747
authority to provide services, programs, or supports. 45748

Sec. 5126.12. (A) As used in this section: 45749

(1) "Approved school age class" means a class operated by a 45750
county board of mental retardation and developmental disabilities 45751
and funded by the department of education under section 3317.20 of 45752
the Revised Code. 45753

(2) "Approved preschool unit" means a class or unit operated 45754
by a county board of mental retardation and developmental 45755
disabilities and approved ~~by the state board of education~~ under 45756
division (B) of section 3317.05 of the Revised Code. 45757

(3) "Active treatment" means a continuous treatment program, 45758
which includes aggressive, consistent implementation of a program 45759
of specialized and generic training, treatment, health services, 45760
and related services, that is directed toward the acquisition of 45761
behaviors necessary for an individual with mental retardation or 45762
other developmental disability to function with as much 45763
self-determination and independence as possible and toward the 45764
prevention of deceleration, regression, or loss of current optimal 45765
functional status. 45766

(4) "Eligible for active treatment" means that an individual 45767
with mental retardation or other developmental disability resides 45768
in an intermediate care facility for the mentally retarded 45769
certified under Title XIX of the "Social Security Act," 49 79 45770
Stat. 620 286 (1935 1965), 42 U.S.C. 301 1396, as amended; resides 45771
in a state institution operated by the department of mental 45772
retardation and developmental disabilities; or is enrolled in a 45773
home and community-based services waiver program administered by 45774
~~the department of mental retardation and developmental~~ 45775
~~disabilities as part of the medical assistance program established~~ 45776
~~under section 5111.01 of the Revised Code.~~ 45777

(5) "Community alternative funding system" means the program 45778
under which habilitation center services are reimbursed under the 45779
medicaid program pursuant to section 5111.041 of the Revised Code 45780
and rules adopted under that section. 45781

(6) "Home and community-based services waiver program" means, 45782
notwithstanding section 5126.01 of the Revised Code, 45783
medicaid-funded home and community-based services provided under a 45784
medicaid component the department of mental retardation and 45785
developmental disabilities administers pursuant to section 45786
5111.871 or 5111.882 of the Revised Code. 45787

(7) "Traditional adult services" means vocational and 45788

nonvocational activities conducted within a sheltered workshop or 45789
adult activity center or supportive home services. 45790

(B) Each county board of mental retardation and developmental 45791
disabilities shall certify to the director of mental retardation 45792
and developmental disabilities all of the following: 45793

(1) On or before the fifteenth day of October, the average 45794
daily membership for the first full week of programs and services 45795
during October receiving: 45796

(a) Early childhood services provided pursuant to section 45797
5126.05 of the Revised Code for children who are less than three 45798
years of age on the thirtieth day of September of the academic 45799
year; 45800

(b) Special education for handicapped children in approved 45801
school age classes; 45802

(c) Adult services for persons sixteen years of age and older 45803
operated pursuant to section 5126.05 and division (B) of section 45804
5126.051 of the Revised Code. Separate counts shall be made for 45805
the following: 45806

(i) Persons enrolled in traditional adult services who are 45807
eligible for but not enrolled in active treatment under the 45808
community alternative funding system; 45809

(ii) Persons enrolled in traditional adult services who are 45810
eligible for and enrolled in active treatment under the community 45811
alternative funding system; 45812

(iii) Persons enrolled in traditional adult services but who 45813
are not eligible for active treatment under the community 45814
alternative funding system; 45815

(iv) Persons participating in community employment services. 45816
To be counted as participating in community employment services, a 45817
person must have spent an average of no less than ten hours per 45818

week in that employment during the preceding six months. 45819

(d) Other programs in the county for individuals with mental 45820
retardation and developmental disabilities that have been approved 45821
for payment of subsidy by the department of mental retardation and 45822
developmental disabilities. 45823

The membership in each such program and service in the county 45824
shall be reported on forms prescribed by the department of mental 45825
retardation and developmental disabilities. 45826

The department of mental retardation and developmental 45827
disabilities shall adopt rules defining full-time equivalent 45828
enrollees and for determining the average daily membership 45829
therefrom, except that certification of average daily membership 45830
in approved school age classes shall be in accordance with rules 45831
adopted by the state board of education. The average daily 45832
membership figure shall be determined by dividing the amount 45833
representing the sum of the number of enrollees in each program or 45834
service in the week for which the certification is made by the 45835
number of days the program or service was offered in that week. No 45836
enrollee may be counted in average daily membership for more than 45837
one program or service. 45838

(2) By the fifteenth day of December, the number of children 45839
enrolled in approved preschool units on the first day of December; 45840

(3) On or before the thirtieth day of March, an itemized 45841
report of all income and operating expenditures for the 45842
immediately preceding calendar year, in the format specified by 45843
the department of mental retardation and developmental 45844
disabilities; 45845

(4) By the fifteenth day of February, a report of the total 45846
annual cost per enrollee for operation of programs and services in 45847
the preceding calendar year. The report shall include a grand 45848
total of all programs operated, the cost of the individual 45849

programs, and the sources of funds applied to each program. 45850

(5) That each required certification and report is in 45851
accordance with rules established by the department of mental 45852
retardation and developmental disabilities and the state board of 45853
education for the operation and subsidization of the programs and 45854
services. 45855

(C) To compute payments under this section to the board for 45856
the fiscal year, the department of mental retardation and 45857
developmental disabilities shall use the certification of average 45858
daily membership required by division (B)(1) of this section 45859
exclusive of the average daily membership in any approved school 45860
age class and the number in any approved preschool unit. 45861

(D) The department shall pay each county board for each 45862
fiscal year an amount equal to nine hundred fifty dollars times 45863
the certified number of persons who on the first day of December 45864
of the academic year are under three years of age and are not in 45865
an approved preschool unit. For persons who are at least age 45866
sixteen and are not in an approved school age class, the 45867
department shall pay each county board for each fiscal year the 45868
following amounts: 45869

(1) One thousand dollars times the certified average daily 45870
membership of persons enrolled in traditional adult services who 45871
are eligible for but not enrolled in active treatment under the 45872
community alternative funding system; 45873

(2) One thousand two hundred dollars times the certified 45874
average daily membership of persons enrolled in traditional adult 45875
services who are eligible for and enrolled in active treatment 45876
under the community alternative funding system; 45877

(3) No less than one thousand five hundred dollars times the 45878
certified average daily membership of persons enrolled in 45879
traditional adult services but who are not eligible for active 45880

treatment under the community alternative funding system; 45881

(4) No less than one thousand five hundred dollars times the 45882
certified average daily membership of persons participating in 45883
community employment services. 45884

(E) The department shall distribute this subsidy to county 45885
boards in semiannual installments of equal amounts. The 45886
installments shall be made not later than the thirty-first day of 45887
August and the thirty-first day of January. 45888

(F) The director of mental retardation and developmental 45889
disabilities shall make efforts to obtain increases in the 45890
subsidies for early childhood services and adult services so that 45891
the amount of the subsidies is equal to at least fifty per cent of 45892
the statewide average cost of those services minus any applicable 45893
federal reimbursements for those services. The director shall 45894
advise the director of budget and management of the need for any 45895
such increases when submitting the biennial appropriations request 45896
for the department. 45897

(G) In determining the reimbursement of a county board for 45898
the provision of service and support administration, family 45899
support services, and other services required or approved by the 45900
director for which children three through twenty-one years of age 45901
are eligible, the department shall include the average daily 45902
membership in approved school age or preschool units. The 45903
department, in accordance with this section and upon receipt and 45904
approval of the certification required by this section and any 45905
other information it requires to enable it to determine a board's 45906
payments, shall pay the agency providing the specialized training 45907
the amounts payable under this section. 45908

Sec. 5126.31. (A) A county board of mental retardation and 45909
developmental disabilities shall review reports of abuse and 45910
neglect made under section 5123.61 of the Revised Code and reports 45911

referred to it under section 5101.611 of the Revised Code to 45912
determine whether the person who is the subject of the report is 45913
an adult with mental retardation or a developmental disability in 45914
need of services to deal with the abuse or neglect. The board 45915
shall give notice of each report to the registry office of the 45916
department of mental retardation and developmental disabilities 45917
established pursuant to section 5123.61 of the Revised Code on the 45918
first working day after receipt of the report. If the report 45919
alleges that there is a substantial risk to the adult of immediate 45920
physical harm or death, the board shall initiate review within 45921
twenty-four hours of its receipt of the report. If the board 45922
determines that the person is sixty years of age or older but does 45923
not have mental retardation or a developmental disability, it 45924
shall refer the case to the county department of job and family 45925
services or designated agency, as defined in section 5101.60 of 45926
the Revised Code. If the board determines that the person is an 45927
adult with mental retardation or a developmental disability, it 45928
shall continue its review of the case. 45929

(B) For each review over which the board retains 45930
responsibility under division (A) of this section, it shall do all 45931
of the following: 45932

(1) Give both written and oral notice of the purpose of the 45933
review to the adult and, if any, to the adult's legal counsel or 45934
caretaker, in simple and clear language; 45935

(2) Visit the adult, in the adult's residence if possible, 45936
and explain the notice given under division (B)(1) of this 45937
section; 45938

(3) Request from the registry office any prior reports 45939
concerning the adult or other principals in the case; 45940

(4) Consult, if feasible, with the person who made the report 45941
under section 5101.61 or 5123.61 of the Revised Code and with any 45942

agencies or persons who have information about the alleged abuse 45943
or neglect; 45944

(5) Cooperate fully with the law enforcement agency 45945
responsible for investigating the report and for filing any 45946
resulting criminal charges and, on request, turn over evidence to 45947
the agency; 45948

(6) Determine whether the adult needs services, and prepare a 45949
written report stating reasons for the determination. No adult 45950
shall be determined to be abused, neglected, or in need of 45951
services for the sole reason that, in lieu of medical treatment, 45952
the adult relies on or is being furnished spiritual treatment 45953
through prayer alone in accordance with the tenets and practices 45954
of a church or religious denomination of which the adult is a 45955
member or adherent. 45956

(C) The board shall arrange for the provision of services for 45957
the prevention, correction or discontinuance of abuse or neglect 45958
or of a condition resulting from abuse or neglect for any adult 45959
who has been determined to need the services and consents to 45960
receive them. These services may include, but are not limited to, 45961
service and support administration, fiscal management, medical, 45962
mental health, home health care, homemaker, legal, and residential 45963
services and the provision of temporary accommodations and 45964
necessities such as food and clothing. The services do not include 45965
acting as a guardian, trustee, or protector as defined in section 45966
5123.55 of the Revised Code. If the provision of residential 45967
services would require expenditures by the department of mental 45968
retardation and developmental disabilities, the board shall obtain 45969
the approval of the department prior to arranging the residential 45970
services. 45971

To arrange services, the board shall: 45972

(1) Develop an individualized service plan identifying the 45973

types of services required for the adult, the goals for the 45974
services, and the persons or agencies that will provide them; 45975

(2) In accordance with rules established by the director of 45976
mental retardation and developmental disabilities, obtain the 45977
consent of the adult or the adult's guardian to the provision of 45978
any of these services and obtain the signature of the adult or 45979
guardian on the individual service plan. An adult who has been 45980
found incompetent under Chapter 2111. of the Revised Code may 45981
consent to services. If the board is unable to obtain consent, it 45982
may seek, if the adult is incapacitated, a court order pursuant to 45983
section 5126.33 of the Revised Code authorizing the board to 45984
arrange these services. 45985

(D) The board shall ensure that the adult receives the 45986
services arranged by the board from the provider and shall have 45987
the services terminated if the adult withdraws consent. 45988

(E) On completion of a review, the board shall submit a 45989
written report to the registry office established under section 45990
5123.61 of the Revised Code. If the report includes a finding that 45991
a person with mental retardation or a developmental disability is 45992
a victim of action or inaction that may constitute a crime under 45993
federal law or the law of this state, the board shall submit the 45994
report to the law enforcement agency responsible for investigating 45995
the report. Reports prepared under this section are not public 45996
records as defined in section 149.43 of the Revised Code. 45997

(F) The board shall provide comprehensive formal training for 45998
employees and other persons authorized to implement the 45999
requirements of this section. 46000

Sec. 5139.36. (A) In accordance with this section and the 46001
rules adopted under it and from funds appropriated to the 46002
department of youth services for the purposes of this section, the 46003
department shall make grants that provide financial resources to 46004

operate community corrections facilities for felony delinquents. 46005

(B)(1) Each community corrections facility that intends to 46006
seek a grant under this section shall file an application with the 46007
department of youth services at the time and in accordance with 46008
the procedures that the department shall establish by rules 46009
adopted in accordance with Chapter 119. of the Revised Code. In 46010
addition to other items required to be included in the 46011
application, a plan that satisfies both of the following shall be 46012
included: 46013

(a) It reduces the number of felony delinquents committed to 46014
the department from the county or counties associated with the 46015
community corrections facility. 46016

(b) It ensures equal access for minority felony delinquents 46017
to the programs and services for which a potential grant would be 46018
used. 46019

(2) The department of youth services shall review each 46020
application submitted pursuant to division (B)(1) of this section 46021
to determine whether the plan described in that division, the 46022
community corrections facility, and the application comply with 46023
this section and the rules adopted under it. 46024

(C) To be eligible for a grant under this section and for 46025
continued receipt of moneys comprising a grant under this section, 46026
a community corrections facility shall satisfy at least all of the 46027
following requirements: 46028

(1) Be constructed, reconstructed, improved, or financed by 46029
the Ohio building authority pursuant to section 307.021 of the 46030
Revised Code and Chapter 152. of the Revised Code for the use of 46031
the department of youth services and be designated as a community 46032
corrections facility; 46033

(2) Have written standardized criteria governing the types of 46034
felony delinquents that are eligible for the programs and services 46035

provided by the facility; 46036

(3) Have a written standardized intake screening process and 46037
an intake committee that at least performs both of the following 46038
tasks: 46039

(a) Screens all eligible felony delinquents who are being 46040
considered for admission to the facility in lieu of commitment to 46041
the department; 46042

(b) Notifies, within ten days after the date of the referral 46043
of a felony delinquent to the facility, the committing court 46044
whether the felony delinquent will be admitted to the facility. 46045

(4) Comply with all applicable fiscal and program rules that 46046
the department adopts in accordance with Chapter 119. of the 46047
Revised Code and demonstrate that felony delinquents served by the 46048
facility have been or will be diverted from a commitment to the 46049
department. 46050

(D) The department of youth services shall determine the 46051
method of distribution of the funds appropriated for grants under 46052
this section to community corrections facilities. 46053

~~(E) With the consent of a committing court and of a community 46054
corrections facility that has received a grant under this section, 46055
the department of youth services may place in that facility a 46056
felony delinquent who has been committed to the department. During 46057
the period in which the felony delinquent is in that facility, the 46058
felony delinquent~~ (1) The department of youth services shall adopt 46059
rules in accordance with Chapter 119. of the Revised Code to 46060
establish the minimum occupancy threshold of community corrections 46061
facilities. 46062

(2) The department may make referrals for the placement of 46063
children in its custody to a community corrections facility if the 46064
community corrections facility is not meeting the minimum 46065
occupancy threshold established by the department. At least 46066

forty-five days prior to the referral of a child, the department 46067
shall notify the committing court of its intent to place the child 46068
in a community corrections facility. The court shall have thirty 46069
days after the receipt of the notice to approve or disapprove the 46070
placement. If the court does not respond to the notice of the 46071
placement within that thirty-day period, the department shall 46072
proceed with the placement and debit the county in accordance with 46073
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 46074
a community corrections facility pursuant to this division shall 46075
remain in the legal custody of the department of youth services 46076
during the period in which the child is in the community 46077
corrections facility. 46078

(3) Counties that are not associated with a community 46079
corrections facility may refer children to a community corrections 46080
facility with the consent of the facility. The department of youth 46081
services shall debit the county that makes the referral in 46082
accordance with sections 5139.41 to 5139.45 of the Revised Code. 46083

(F) If the board or other governing body of a community 46084
corrections facility establishes an advisory board, the board or 46085
other governing authority of the community corrections facility 46086
shall reimburse the members of the advisory board for their actual 46087
and necessary expenses incurred in the performance of their 46088
official duties on the advisory board. The members of advisory 46089
boards shall serve without compensation. 46090

Sec. 5139.87. (A) The department of youth services shall 46091
serve as the state agent for the administration of all federal 46092
juvenile justice grants awarded to the state. 46093

(B) There are hereby created in the state treasury the 46094
federal juvenile justice programs funds. A separate fund shall be 46095
established each federal fiscal year. All federal grants and other 46096
moneys received for federal juvenile programs shall be deposited 46097

into the funds. All receipts deposited into the funds shall be 46098
used for federal juvenile programs. All investment earnings on the 46099
cash balance in a federal juvenile program fund shall be credited 46100
to that fund for the appropriate federal fiscal year. 46101

(C) All rules, orders, and determinations of the office of 46102
criminal justice services regarding the administration of federal 46103
juvenile justice grants that are in effect on the effective date 46104
of this amendment shall continue in effect as rules, orders, and 46105
determinations of the department of youth services. 46106

Sec. 5153.16. (A) Except as provided in section 2151.422 of 46107
the Revised Code, in accordance with rules of the department of 46108
job and family services, and on behalf of children in the county 46109
whom the public children services agency considers to be in need 46110
of public care or protective services, the public children 46111
services agency shall do all of the following: 46112

(1) Make an investigation concerning any child alleged to be 46113
an abused, neglected, or dependent child; 46114

(2) Enter into agreements with the parent, guardian, or other 46115
person having legal custody of any child, or with the department 46116
of job and family services, department of mental health, 46117
department of mental retardation and developmental disabilities, 46118
other department, any certified organization within or outside the 46119
county, or any agency or institution outside the state, having 46120
legal custody of any child, with respect to the custody, care, or 46121
placement of any child, or with respect to any matter, in the 46122
interests of the child, provided the permanent custody of a child 46123
shall not be transferred by a parent to the public children 46124
services agency without the consent of the juvenile court; 46125

(3) Accept custody of children committed to the public 46126
children services agency by a court exercising juvenile 46127
jurisdiction; 46128

- (4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service;
- (5) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;
- (6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;
- (7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;
- (8) Find certified foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;
- (9) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;
- (10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose;

(11) Enter into an agreement with the trustees of any 46159
district children's home, respecting the operation of the district 46160
children's home in cooperation with the other county boards in the 46161
district; 46162

(12) Cooperate with, make its services available to, and act 46163
as the agent of persons, courts, the department of job and family 46164
services, the department of health, and other organizations within 46165
and outside the state, in matters relating to the welfare of 46166
children, except that the public children services agency shall 46167
not be required to provide supervision of or other services 46168
related to the exercise of parenting time rights granted pursuant 46169
to section 3109.051 or 3109.12 of the Revised Code or 46170
companionship or visitation rights granted pursuant to section 46171
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 46172
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 46173
a common pleas court, pursuant to division (E)(6) of section 46174
3113.31 of the Revised Code, requires the provision of supervision 46175
or other services related to the exercise of the parenting time 46176
rights or companionship or visitation rights; 46177

(13) Make investigations at the request of any superintendent 46178
of schools in the county or the principal of any school concerning 46179
the application of any child adjudicated to be an abused, 46180
neglected, or dependent child for release from school, where such 46181
service is not provided through a school attendance department; 46182

(14) Administer funds provided under Title IV-E of the 46183
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 46184
amended, in accordance with rules adopted under section 5101.141 46185
of the Revised Code; 46186

(15) In addition to administering Title IV-E adoption 46187
assistance funds, enter into agreements to make adoption 46188
assistance payments under section 5153.163 of the Revised Code; 46189

(16) Implement a system of risk assessment, in accordance 46190
with rules adopted by the director of job and family services, to 46191
assist the public children services agency in determining the risk 46192
of abuse or neglect to a child; 46193

(17) Enter into a plan of cooperation with the board of 46194
county commissioners under section 307.983 of the Revised Code and 46195
comply with ~~the partnership~~ each fiscal agreement the board enters 46196
into under section 307.98 of the Revised Code and contracts the 46197
board enters into under sections 307.981 and 307.982 of the 46198
Revised Code that affect the public children services agency; 46199

(18) Make reasonable efforts to prevent the removal of an 46200
alleged or adjudicated abused, neglected, or dependent child from 46201
the child's home, eliminate the continued removal of the child 46202
from the child's home, or make it possible for the child to return 46203
home safely, except that reasonable efforts of that nature are not 46204
required when a court has made a determination under division 46205
(A)(2) of section 2151.419 of the Revised Code; 46206

(19) Make reasonable efforts to place the child in a timely 46207
manner in accordance with the permanency plan approved under 46208
division (E) of section 2151.417 of the Revised Code and to 46209
complete whatever steps are necessary to finalize the permanent 46210
placement of the child; 46211

(20) Administer a Title IV-A program identified under 46212
division (A)(3)(c) or (d) of section 5101.80 of the Revised Code 46213
that the department of job and family services provides for the 46214
public children services agency to administer under the 46215
department's supervision pursuant to section 5101.801 of the 46216
Revised Code; 46217

(21) Provide independent living services pursuant to sections 46218
2151.81 to 2151.84 of the Revised Code. 46219

(B) The public children services agency shall use the system 46220

implemented pursuant to division (B)(16) of this section in 46221
connection with an investigation undertaken pursuant to division 46222
(F)(1) of section 2151.421 of the Revised Code and may use the 46223
system at any other time the agency is involved with any child 46224
when the agency determines that risk assessment is necessary. 46225

(C) Except as provided in section 2151.422 of the Revised 46226
Code, in accordance with rules of the director of job and family 46227
services, and on behalf of children in the county whom the public 46228
children services agency considers to be in need of public care or 46229
protective services, the public children services agency may do 46230
the following: 46231

(1) Provide or find, with other child serving systems, 46232
specialized foster care for the care of children in a specialized 46233
foster home, as defined in section 5103.02 of the Revised Code, 46234
certified under section 5103.03 of the Revised Code; 46235

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 46236
this section, contract with the following for the purpose of 46237
assisting the agency with its duties: 46238

(i) County departments of job and family services; 46239

(ii) Boards of alcohol, drug addiction, and mental health 46240
services; 46241

(iii) County boards of mental retardation and developmental 46242
disabilities; 46243

(iv) Regional councils of political subdivisions established 46244
under Chapter 167. of the Revised Code; 46245

(v) Private and government providers of services; 46246

(vi) Managed care organizations and prepaid health plans. 46247

(b) A public children services agency contract under division 46248
(C)(2)(a) of this section regarding the agency's duties under 46249
section 2151.421 of the Revised Code may not provide for the 46250

entity under contract with the agency to perform any service not 46251
authorized by the department's rules. 46252

(c) Only a county children services board appointed under 46253
section 5153.03 of the Revised Code that is a public children 46254
services agency may contract under division (C)(2)(a) of this 46255
section. If an entity specified in division (B) or (C) of section 46256
5153.02 of the Revised Code is the public children services agency 46257
for a county, the board of county commissioners may enter into 46258
contracts pursuant to section 307.982 of the Revised Code 46259
regarding the agency's duties. 46260

Sec. 5153.163. (A) As used in this section, "adoptive parent" 46261
means, as the context requires, a prospective adoptive parent or 46262
an adoptive parent. 46263

(B)(1) ~~If Before a child's adoption is finalized, a public 46264
children services agency considers a child with special needs 46265
residing in the county served by the agency to be in need of 46266
public care or protective services and all of the following apply,~~ 46267
~~the agency shall enter into an agreement with the child's adoptive 46268
parent before the child is adopted under which the agency shall 46269
make state adoption maintenance subsidy payments as needed on 46270
behalf of the child when all of the following apply:~~ 46271

(a) The child is a child with special needs. 46272

(b) The child was placed in the adoptive home by a public 46273
children services agency or a private child placing agency and may 46274
legally be adopted. 46275

(c) The adoptive parent has the capability of providing the 46276
permanent family relationships needed by the child ~~in all areas 46277
except financial need as determined by the agency;.~~ 46278

~~(b)(d)~~ (d) The needs of the child are beyond the economic 46279
resources of the adoptive parent ~~as determined by the agency;.~~ 46280

~~(c) The agency determines the acceptance~~ (e) Acceptance of 46281
the child as a member of the adoptive parent's family would not be 46282
in the child's best interest without payments on the child's 46283
behalf under this section. 46284

~~(2) Payments to an adoptive parent under division (B) of this~~ 46285
~~section shall include medical, surgical, psychiatric,~~ 46286
~~psychological, and counseling expenses, and may include~~ 46287
~~maintenance costs if necessary and other costs incidental to the~~ 46288
~~care of the child. No payment of maintenance costs shall be made~~ 46289
~~under division (B) of this section on behalf of a child if either~~ 46290
~~of the following apply:~~ 46291

~~(a)(f)~~ (f) The gross income of the adoptive parent's family 46292
~~exceeds~~ does not exceed one hundred twenty per cent of the median 46293
income of a family of the same size, including the child, as most 46294
recently determined for this state by the secretary of health and 46295
human services under Title XX of the "Social Security Act," 88 46296
Stat. 2337, 42 U.S.C.A. 1397, as amended. 46297

~~(b)(g)~~ (g) The child is not eligible for adoption assistance 46298
~~payments for maintenance costs~~ under Title IV-E of the "Social 46299
Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 46300

(2) State adoption maintenance subsidy payment agreements 46301
must be made by either the public children services agency that 46302
has permanent custody of the child or the public children services 46303
agency of the county in which the private child placing agency 46304
that has permanent custody of the child is located. 46305

(3) State adoption maintenance subsidy payments shall be made 46306
in accordance with the agreement between the public children 46307
services agency and the adoptive parent and are subject to an 46308
annual redetermination of need. 46309

(4) Payments under this division (B) of this section may 46310
begin either before or after issuance of the final adoption 46311

decree, except that payments made before issuance of the final 46312
adoption decree may be made only while the child is living in the 46313
adoptive parent's home. Preadoption payments may be made for not 46314
more than twelve months, unless the final adoption decree is not 46315
issued within that time because of a delay in court proceedings. 46316
Payments that begin before issuance of the final adoption decree 46317
may continue after its issuance. 46318

(C)(1) If, after the child's adoption is finalized, a public 46319
children services agency considers a child residing in the county 46320
served by the agency to be in need of public care or protective 46321
services and both of the following apply, the agency may, ~~and~~ to 46322
the extent state funds are appropriated for this purpose ~~shall,~~ 46323
enter into an agreement with the child's adoptive parent ~~after the~~ 46324
~~child is adopted~~ under which the agency shall make post adoption 46325
special services subsidy payments on behalf of the child as 46326
needed: 46327

~~(1)(a)~~ The child has a physical or developmental handicap or 46328
mental or emotional condition that either: 46329

~~(a)(i)~~ Existed before the adoption petition was filed; 46330

~~(b)(ii)~~ Developed after the adoption petition was filed and 46331
can be directly attributed to factors in the child's preadoption 46332
background, medical history, or biological family's background or 46333
medical history. 46334

~~(2)(b)~~ The agency determines the expenses necessitated by the 46335
child's handicap or condition are beyond the adoptive parent's 46336
economic resources. 46337

~~Payments to an adoptive parent~~ (2) Services for which a 46338
public children services agency may make post adoption special 46339
services subsidy payments on behalf of a child under this division 46340
shall include medical, surgical, psychiatric, psychological, and 46341
counseling ~~expenses~~ services, including residential treatment. 46342

(3) The department of job and family services shall establish clinical standards to evaluate a child's physical or developmental handicap or mental or emotional condition and assess the child's need for services. 46343
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(4) The total dollar value of post adoption special services subsidy payments made on a child's behalf shall not exceed ten thousand dollars in any fiscal year, unless the department determines that extraordinary circumstances exist that necessitate further funding of services for the child. Under such extraordinary circumstances, the value of the payments made on the child's behalf shall not exceed fifteen thousand dollars in any fiscal year. 46347
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(5) The adoptive parent or parents of a child who receives post adoption special services subsidy payments shall pay at least five per cent of the total cost of all services provided to the child. 46355
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(6) A public children services agency may use other sources of revenue to make post adoption special services subsidy payments, in addition to any state funds appropriated for that purpose. 46359
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~~(D) No payment shall be made under division (B) or (C) of this section on behalf of any person eighteen years of age or older or, if mentally or physically handicapped, twenty-one years of age or older. Payments under those divisions shall be made in accordance with the terms of the agreement between the public children services agency and the adoptive parent, subject to an annual redetermination of need. The agency may use sources of funding in addition to any state funds appropriated for the purposes of those divisions.~~ 46363
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(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that are 46372
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needed to implement this section. The rules shall establish all of 46374
the following: 46375

(1) The application process for ~~payments~~ all forms of 46376
assistance provided under this section; 46377

(2) The method to determine the ~~amounts and kinds~~ amount of 46378
assistance payable under division (B) of this section; 46379

(3) The definition of "child with special needs" for this 46380
section; 46381

(4) The process whereby a child's continuing need for 46382
services provided under division (B) of this section is annually 46383
redetermined; 46384

(5) The method of determining the amount, duration, and scope 46385
of services provided to a child under division (C) of this 46386
section; 46387

(6) Any other rule, requirement, or procedure the department 46388
considers appropriate for the implementation of this section. 46389

~~The rules shall allow for payments for children placed by~~ 46390
~~nonpublic agencies.~~ 46391

~~(E)~~(F) The state adoption special services subsidy program 46392
ceases to exist on July 1, 2004, except that, subject to the 46393
findings of the annual redetermination process established under 46394
division (E) of this section and the child's individual need for 46395
services, a public children services agency may continue to 46396
provide state adoption special services subsidy payments on behalf 46397
of a child for whom payments were being made prior to July 1, 46398
2004. 46399

(G) No public children services agency shall, pursuant to 46400
either section 2151.353 or 5103.15 of the Revised Code, place or 46401
maintain a child with special needs who is in the permanent 46402
custody of an institution or association certified by the 46403