

(b) Curriculum requirements established in rules the board of nursing shall adopt in accordance with Chapter 119. of the Revised Code; 46563  
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(c) Standards that require the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely. 46566  
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(2) The nurse has successfully completed a ~~course in intravenous administration approved by the board that includes both of the following:~~ 46569  
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~~(a) A~~ minimum of forty hours of training that includes all of the following: 46572  
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~~(i)(a)~~ The curriculum established by rules adopted by the board and in effect on January 1, 1999; 46574  
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~~(ii)(b)~~ Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for management of these complications; 46576  
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~~(iii)(c)~~ Any other training or instruction the board considers appropriate. 46580  
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~~(b)(d)~~ A testing component that ~~includes the successful performance of three venipunctures supervised by a physician or registered nurse in a health care setting~~ requires the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely. 46582  
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(B) Except as provided in section 4723.171 of the Revised Code, a licensed practical nurse may perform intravenous therapy only if authorized by the board pursuant to division (A) of this section and only if it is performed in accordance with this section. 46587  
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A licensed practical nurse authorized by the board to perform 46592

intravenous therapy may perform an intravenous therapy procedure 46593  
only at the direction of one of the following: 46594

(1) A licensed physician, dentist, optometrist, or podiatrist 46595  
who, except as provided in division (C)(2) of this section, is 46596  
present and readily available at the facility where the 46597  
intravenous therapy procedure is performed; 46598

(2) A registered nurse in accordance with division (C) of 46599  
this section. 46600

(C)(1) Except as provided in division (C)(2) of this section 46601  
and section 4723.171 of the Revised Code, when a licensed 46602  
practical nurse authorized by the board to perform intravenous 46603  
therapy performs an intravenous therapy procedure at the direction 46604  
of a registered nurse, the registered nurse or another registered 46605  
nurse shall be readily available at the site where the intravenous 46606  
therapy is performed, and before the licensed practical nurse 46607  
initiates the intravenous therapy, the registered nurse shall 46608  
personally perform an on-site assessment of the individual who is 46609  
to receive the intravenous therapy. 46610

(2) When a licensed practical nurse authorized by the board 46611  
to perform intravenous therapy performs an intravenous therapy 46612  
procedure in a home as defined in section 3721.10 of the Revised 46613  
Code, or in an intermediate care facility for the mentally 46614  
retarded as defined in section 5111.20 of the Revised Code, at the 46615  
direction of a registered nurse or licensed physician, dentist, 46616  
optometrist, or podiatrist, a registered nurse shall be on the 46617  
premises of the home or facility or accessible by some form of 46618  
telecommunication. 46619

(D) No licensed practical nurse shall perform any of the 46620  
following intravenous therapy procedures: 46621

(1) Initiating or maintaining any of the following: 46622

(a) Blood or blood components; 46623

(b) Solutions for total parenteral nutrition;	46624
(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;	46625 46626
(d) Solutions administered through any central venous line or arterial line or any other line that does not terminate in a peripheral vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may maintain the solutions specified in division (D)(6)(a) of this section that are being administered through a central venous line or peripherally inserted central catheter;	46627 46628 46629 46630 46631 46632 46633
(e) Any investigational or experimental medication.	46634
(2) Initiating intravenous therapy in any vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate intravenous therapy in accordance with this section in a vein of the hand, forearm, or antecubital fossa;	46635 46636 46637 46638 46639
(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;	46640 46641
(4) Initiating or discontinuing a peripherally inserted central catheter;	46642 46643
(5) Mixing, preparing, or reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to perform intravenous therapy may prepare or reconstitute an antibiotic additive;	46644 46645 46646 46647
(6) Administering medication via the intravenous route, including all of the following activities:	46648 46649
(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may do either of the following:	46650 46651 46652 46653

(i) Initiate an intravenous infusion containing one or more 46654  
of the following elements: dextrose 5%; normal saline; lactated 46655  
ringers; sodium chloride .45%; sodium chloride 0.2%; sterile 46656  
water. 46657

(ii) Hang subsequent containers of the intravenous solutions 46658  
specified in division (D)(6)(a) of this section that contain 46659  
vitamins or electrolytes, if a registered nurse initiated the 46660  
infusion of that same intravenous solution. 46661

(b) Initiating or maintaining an intravenous piggyback 46662  
infusion, except that a licensed practical nurse authorized by the 46663  
board to perform intravenous therapy may initiate or maintain an 46664  
intravenous piggyback infusion containing an antibiotic additive; 46665

(c) Injecting medication via a direct intravenous route, 46666  
except that a licensed practical nurse authorized by the board to 46667  
perform intravenous therapy may inject heparin or normal saline to 46668  
flush an intermittent infusion device or heparin lock including, 46669  
but not limited to, bolus or push. 46670

(7) Aspirating any intravenous line to maintain patency; 46671

(8) Changing tubing on any line including, but not limited 46672  
to, an arterial line or a central venous line, except that a 46673  
licensed practical nurse authorized by the board to perform 46674  
intravenous therapy may change tubing on an intravenous line that 46675  
terminates in a peripheral vein; 46676

(9) Programming or setting any function of a patient 46677  
controlled infusion pump. 46678

(E) Notwithstanding division (D) of this section, at the 46679  
direction of a physician or a registered nurse, a licensed 46680  
practical nurse authorized by the board to perform intravenous 46681  
therapy may perform the following activities for the purpose of 46682  
performing dialysis: 46683

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan; 46684  
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(2) The administration of a heparin dose intravenously; 46686

(3) The administration of a heparin dose peripherally via a fistula needle; 46687  
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(4) The loading and activation of a constant infusion pump or the intermittent injection of a dose of medication prescribed by a licensed physician for dialysis. 46689  
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(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the licensed practical nurse is authorized by the board to perform intravenous therapy. 46692  
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(G) The board shall issue an intravenous therapy card to the licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy. A fee for issuing the card shall not be charged under section 4723.08 of the Revised Code if the licensed practical nurse receives the card by meeting the requirements of division (A)(1) of this section. The board shall maintain a registry of the names of licensed practical nurses ~~authorized pursuant to division (A) of this section to perform~~ who hold intravenous therapy cards. 46696  
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**Sec. 4723.271.** The board of nursing shall provide a replacement copy of a nursing license, certificate of authority, ~~or~~ dialysis technician certificate, or community health worker certificate issued under this chapter upon request of the holder accompanied by proper identification as prescribed in rules adopted by the board and payment of the fee authorized under section 4723.08 of the Revised Code. 46705  
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Upon request of the holder of a nursing license, certificate of authority, ~~or~~ dialysis technician certificate, or community 46712  
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health worker certificate issued under this chapter and payment of 46714  
the fee authorized under section 4723.08 of the Revised Code, the 46715  
board shall verify to an agency of another jurisdiction or foreign 46716  
country the fact that the person holds such nursing license, 46717  
certificate of authority, ~~or~~ dialysis technician certificate, or 46718  
community health worker certificate. 46719

**Sec. 4723.34.** (A) Reports to the board of nursing shall be 46720  
made as follows: 46721

(1) Every employer of registered nurses, licensed practical 46722  
nurses, or dialysis technicians shall report to the board of 46723  
nursing the name of any current or former employee who holds a 46724  
nursing license or dialysis technician certificate issued under 46725  
this chapter who has engaged in conduct that would be grounds for 46726  
disciplinary action by the board under section 4723.28 of the 46727  
Revised Code. Every employer of certified community health workers 46728  
shall report to the board the name of any current or former 46729  
employee who holds a community health worker certificate issued 46730  
under this chapter who has engaged in conduct that would be 46731  
grounds for disciplinary action by the board under section 4723.86 46732  
of the Revised Code. 46733

(2) Nursing associations shall report to the board the name 46734  
of any registered nurse or licensed practical nurse and dialysis 46735  
technician associations shall report to the board the name of any 46736  
dialysis technician who has been investigated and found to 46737  
constitute a danger to the public health, safety, and welfare 46738  
because of conduct that would be grounds for disciplinary action 46739  
by the board under section 4723.28 of the Revised Code, except 46740  
that an association is not required to report the individual's 46741  
name if the individual is maintaining satisfactory participation 46742  
in a peer support program approved by the board under rules 46743  
adopted under section 4723.07 of the Revised Code. Community 46744

health worker associations shall report to the board the name of 46745  
any certified community health worker who has been investigated 46746  
and found to constitute a danger to the public health, safety, and 46747  
welfare because of conduct that would be grounds for disciplinary 46748  
action by the board under section 4723.86 of the Revised Code, 46749  
except that an association is not required to report the 46750  
individual's name if the individual is maintaining satisfactory 46751  
participation in a peer support program approved by the board 46752  
under rules adopted under section 4723.07 of the Revised Code. 46753

(3) If the prosecutor in a case described in divisions (B)(3) 46754  
to (5) of section 4723.28 of the Revised Code, or in a case where 46755  
the trial court issued an order of dismissal upon technical or 46756  
procedural grounds of a charge of a misdemeanor committed in the 46757  
course of practice, a felony charge, or a charge of gross 46758  
immorality or moral turpitude, knows or has reason to believe that 46759  
the person charged is licensed under this chapter to practice 46760  
nursing as a registered nurse or as a licensed practical nurse or 46761  
holds a certificate issued under this chapter to practice as a 46762  
dialysis technician, the prosecutor shall notify the board of 46763  
nursing. With regard to certified community health workers, if the 46764  
prosecutor in a case involving a charge of a misdemeanor committed 46765  
in the course of employment, a felony charge, or a charge of gross 46766  
immorality or moral turpitude, including a case dismissed on 46767  
technical or procedural grounds, knows or has reason to believe 46768  
that the person charged holds a community health worker 46769  
certificate issued under this chapter, the prosecutor shall notify 46770  
the board. 46771

Each notification required by this division shall be made on 46772  
forms prescribed and provided by the board. The report shall 46773  
include the name and address of the license or certificate holder, 46774  
the charge, and the certified court documents recording the 46775  
action. 46776

(B) If any person fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

**Sec. 4723.35.** (A) As used in this section, "chemical dependency" means either of the following:

(1) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(2) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 or 4723.86 of the Revised Code against an individual with a chemical dependency if it finds that the individual can be treated effectively and there is no impairment of the individual's ability to practice according to acceptable and prevailing standards of safe care. The board shall establish a chemical dependency monitoring program to monitor the registered nurses, licensed practical nurses, ~~and~~ dialysis technicians, and certified community health workers against whom the board has abstained from taking action. The board shall develop the program, select the program's name, and designate a coordinator to administer the program.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following:



(1) Eligibility requirements for admission to and continued participation in the monitoring program;	46807 46808
(2) Terms and conditions that must be met to participate in and successfully complete the program;	46809 46810
(3) Procedures for keeping confidential records regarding participants;	46811 46812
(4) Any other requirements or procedures necessary to establish and administer the program.	46813 46814
(D)(1) As a condition of being admitted to the monitoring program, an individual shall surrender to the program coordinator the license or certificate that the individual holds. While the surrender is in effect, the individual is prohibited from engaging in the practice of nursing <del>or</del> , <u>engaging in</u> the provision of dialysis care, <u>or engaging in the provision of services that were being provided as a certified community health worker.</u>	46815 46816 46817 46818 46819 46820 46821
If the program coordinator determines that a participant is capable of resuming practice according to acceptable and prevailing standards of safe care, the coordinator shall return the participant's license or certificate. If the participant violates the terms and conditions of resumed practice, the program coordinator shall require the participant to surrender the license or certificate as a condition of continued participation in the program. The coordinator may require the surrender only on the approval of the board's supervising member for disciplinary matters.	46822 46823 46824 46825 46826 46827 46828 46829 46830 46831
The surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute an action by the board under section 4723.28 <u>or 4723.86</u> of the Revised Code. The participant may rescind the surrender at any time and the board may proceed by taking action under section 4723.28 <u>or 4723.86</u> of the Revised Code.	46832 46833 46834 46835 46836 46837

(2) If the program coordinator determines that a participant 46838  
is significantly out of compliance with the terms and conditions 46839  
for participation, the coordinator shall notify the board's 46840  
supervising member for disciplinary matters and the supervising 46841  
member shall temporarily suspend the participant's license or 46842  
certificate. The program coordinator shall notify the participant 46843  
of the suspension by certified mail sent to the participant's last 46844  
known address and shall refer the matter to the board for formal 46845  
action under section 4723.28 or 4723.86 of the Revised Code. 46846

(E) All of the following apply with respect to the receipt, 46847  
release, and maintenance of records and information by the 46848  
monitoring program: 46849

(1) The program coordinator shall maintain all records in the 46850  
board's office for a period of five years. 46851

(2) When applying to participate in the monitoring program, 46852  
the applicant shall sign a waiver permitting the program 46853  
coordinator to receive and release information necessary for the 46854  
coordinator to determine whether the individual is eligible for 46855  
admission. After being admitted, the participant shall sign a 46856  
waiver permitting the program coordinator to receive and release 46857  
information necessary to determine whether the individual is 46858  
eligible for continued participation in the program. Information 46859  
that may be necessary for the program coordinator to determine 46860  
eligibility for admission or continued participation in the 46861  
monitoring program includes, but is not limited to, information 46862  
provided to and by employers, probation officers, law enforcement 46863  
agencies, peer assistance programs, health professionals, and 46864  
treatment providers. No entity with knowledge that the information 46865  
has been provided to the monitoring program shall divulge that 46866  
knowledge to any other person. 46867

(3) Except as provided in division (E)(4) of this section, 46868

all records pertaining to an individual's application for or 46869  
participation in the monitoring program, including medical 46870  
records, treatment records, and mental health records, shall be 46871  
confidential. The records are not public records for the purposes 46872  
of section 149.43 of the Revised Code and are not subject to 46873  
discovery by subpoena or admissible as evidence in any judicial 46874  
proceeding. 46875

(4) The program coordinator may disclose information 46876  
regarding a participant's progress in the program to any person or 46877  
government entity that the participant authorizes in writing to be 46878  
given the information. In disclosing information under this 46879  
division, the coordinator shall not include any information that 46880  
is protected under section 3793.13 of the Revised Code or any 46881  
federal statute or regulation that provides for the 46882  
confidentiality of medical, mental health, or substance abuse 46883  
records. 46884

(F) In the absence of fraud or bad faith, the program 46885  
coordinator, the board of nursing, and the board's employees and 46886  
representatives are not liable for damages in any civil action as 46887  
a result of disclosing information in accordance with division 46888  
(E)(4) of this section. In the absence of fraud or bad faith, any 46889  
person reporting to the program with regard to an individual's 46890  
chemical dependence, or the progress or lack of progress of that 46891  
individual with regard to treatment, is not liable for damages in 46892  
any civil action as a result of the report. 46893

**Sec. 4723.431.** (A) Except as provided in division (C)(1) of 46894  
this section, a clinical nurse specialist, certified 46895  
nurse-midwife, or certified nurse practitioner may practice only 46896  
in accordance with a standard care arrangement entered into with 46897  
each physician or podiatrist with whom the nurse collaborates. A 46898  
copy of the standard care arrangement shall be retained on file at 46899

each site where the nurse practices. Prior approval of the 46900  
standard care arrangement by the board of nursing is not required, 46901  
but the board may periodically review it for compliance with this 46902  
section. 46903

A clinical nurse specialist, certified nurse-midwife, or 46904  
certified nurse practitioner may enter into a standard care 46905  
arrangement with one or more collaborating physicians or 46906  
podiatrists. Each physician or podiatrist must be actively engaged 46907  
in direct clinical practice in this state and practicing in a 46908  
specialty that is the same as or similar to the nurse's nursing 46909  
specialty. If a collaborating physician or podiatrist enters into 46910  
standard care arrangements with more than three nurses who hold 46911  
certificates to prescribe issued under section 4723.48 of the 46912  
Revised Code, the physician or podiatrist shall not collaborate at 46913  
the same time with more than three of the nurses in the 46914  
prescribing component of their practices. 46915

(B) A standard care arrangement shall be in writing and, 46916  
except as provided in division (C)(2) of this section, shall 46917  
contain all of the following: 46918

(1) Criteria for referral of a patient by the clinical nurse 46919  
specialist, certified nurse-midwife, or certified nurse 46920  
practitioner to a collaborating physician or podiatrist; 46921

(2) A process for the clinical nurse specialist, certified 46922  
nurse-midwife, or certified nurse practitioner to obtain a 46923  
consultation with a collaborating physician or podiatrist; 46924

(3) A plan for coverage in instances of emergency or planned 46925  
absences of either the clinical nurse specialist, certified 46926  
nurse-midwife, or certified nurse practitioner or a collaborating 46927  
physician or podiatrist that provides the means whereby a 46928  
physician or podiatrist is available for emergency care; 46929

(4) The process for resolution of disagreements regarding 46930

matters of patient management between the clinical nurse 46931  
specialist, certified nurse-midwife, or certified nurse 46932  
practitioner and a collaborating physician or podiatrist; 46933

(5) A procedure for a regular review of the referrals by the 46934  
clinical nurse specialist, certified nurse-midwife, or certified 46935  
nurse practitioner to other health care professionals and the care 46936  
outcomes for a random sample of all patients seen by the nurse; 46937

(6) If the clinical nurse specialist or certified nurse 46938  
practitioner regularly provides services to infants, a policy for 46939  
care of infants up to age one and recommendations for 46940  
collaborating physician visits for children from birth to age 46941  
three; 46942

(7) Any other criteria required by rule of the board adopted 46943  
pursuant to section 4723.07 or 4723.50 of the Revised Code. 46944

(C) A standard care arrangement entered into pursuant to this 46945  
section may permit a clinical nurse specialist, certified 46946  
nurse-midwife, or certified nurse practitioner to supervise 46947  
services provided by a home health agency as defined in section 46948  
3701.881 of the Revised Code. 46949

(D)(1) A clinical nurse specialist who does not hold a 46950  
certificate to prescribe and whose nursing specialty is mental 46951  
health or psychiatric mental health, as determined by the board, 46952  
is not required to enter into a standard care arrangement, but 46953  
shall practice in collaboration with one or more physicians. 46954

(2) If a clinical nurse specialist practicing in either of 46955  
the specialties specified in division (C)(1) of this section holds 46956  
a certificate to prescribe, the nurse shall enter into a standard 46957  
care arrangement with one or more physicians. The standard care 46958  
arrangement must meet the requirements of division (B) of this 46959  
section, but only to the extent necessary to address the 46960  
prescribing component of the nurse's practice. 46961

~~(D)~~(E) Nothing in this section prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and governing body of the hospital prior to implementation of the arrangement at the hospital.

**Sec. 4723.63.** On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of nursing shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license ~~or~~, dialysis technician certificate, or community health worker certificate issued pursuant to this chapter.

**Sec. 4723.81.** The board of nursing shall develop and implement a program for the certification of community health workers. The board shall begin issuing community health worker certificates under section 4723.85 of the Revised Code not later than February 1, 2005.

The certification program shall reflect the board's recognition of individuals who, as community representatives, advocate for individuals and groups in the community by assisting them in accessing community health and supportive resources through the provision of such services as education, role modeling, outreach, home visits, and referrals, any of which may be targeted toward an individual, family, or entire community. The certification program also shall reflect the board's recognition of the individuals as members of the community with a unique

perspective of community needs that enables them to develop 46992  
culturally appropriate solutions to problems and translate the 46993  
solutions into practice. 46994

The certification program does not require an individual to 46995  
obtain a community health worker certificate as a means of 46996  
authorizing the individual to perform any of the activities that 46997  
may be performed by an individual who holds a community health 46998  
worker certificate. 46999

**Sec. 4723.82.** (A) An individual who holds a current, valid 47000  
community health worker certificate issued by the board of nursing 47001  
under section 4723.85 of the Revised Code may use the title 47002  
"certified community health worker" or "community health worker." 47003  
When providing services within the community, the certificate 47004  
holder may represent to the public that the individual is 47005  
providing the services under either title. 47006

(B)(1) Holding a community health worker certificate does not 47007  
authorize an individual to administer medications or perform any 47008  
other activity that requires judgment based on nursing knowledge 47009  
or expertise. Any activities performed by a certified community 47010  
health worker that are related to nursing care shall be performed 47011  
only pursuant to the delegation of a registered nurse acting in 47012  
accordance with the rules for delegation adopted under this 47013  
chapter. Any other health-related activities performed by a 47014  
certified community health worker shall be performed only under 47015  
the supervision of a health professional acting within the scope 47016  
of the professional's practice. 47017

Only a registered nurse may supervise a certified community 47018  
health worker when performing delegated activities related to 47019  
nursing care. The registered nurse supervising a certified 47020  
community health worker shall provide the supervision in 47021  
accordance with the rules for delegation adopted under this 47022

chapter and the rules for supervision of community health workers 47023  
adopted under section 4723.88 of the Revised Code, including the 47024  
rules limiting the number of certified community health workers 47025  
who may be supervised at any one time. 47026

(2) A registered nurse who delegates activities to a 47027  
certified community health worker or supervises a certified 47028  
community health worker in the performance of delegated activities 47029  
is not liable in damages to any person or government entity in a 47030  
civil action for injury, death, or loss to person or property that 47031  
allegedly arises from an action or omission of the certified 47032  
community health worker in performing the activities, if the 47033  
registered nurse delegates the activities or provides the 47034  
supervision in accordance with this chapter and the rules adopted 47035  
under this chapter. 47036

**Sec. 4723.83.** (A) An individual seeking a community health 47037  
worker certificate shall submit an application to the board of 47038  
nursing on forms the board shall prescribe and furnish. The 47039  
applicant shall include all information the board requires to 47040  
process the application. The application shall be accompanied by 47041  
the fee established in rules adopted under section 4723.88 of the 47042  
Revised Code. 47043

(B) An applicant for a community health worker certificate 47044  
shall submit a request to the bureau of criminal identification 47045  
and investigation for a criminal records check of the applicant. 47046  
The request shall be on the form prescribed pursuant to division 47047  
(C)(1) of section 109.572 of the Revised Code, accompanied by a 47048  
standard impression sheet to obtain fingerprints prescribed 47049  
pursuant to division (C)(2) of that section, and accompanied by 47050  
the fee prescribed pursuant to division (C)(3) of that section. On 47051  
receipt of the completed form, the completed impression sheet, and 47052  
the fee, the bureau shall conduct a criminal records check of the 47053



applicant. On completion of the criminal records check, the bureau 47054  
shall send the results of the check to the board. The applicant 47055  
shall ask the superintendent of the bureau of criminal 47056  
identification and investigation to request that the federal 47057  
bureau of investigation provide the superintendent with any 47058  
information it has with respect to the applicant. 47059

The results of any criminal records check conducted pursuant 47060  
to a request made under this section, and any report containing 47061  
those results, are not public records for purposes of section 47062  
149.43 of the Revised Code and shall not be made available to any 47063  
person or for any purpose other than the following: 47064

(1) The results may be made available to any person for use 47065  
in determining whether the individual who is the subject of the 47066  
check should be issued a community health worker certificate. 47067

(2) The results may be made available to the individual who 47068  
is the subject of the check or that individual's representative. 47069

**Sec. 4723.84.** (A) To be eligible to receive a community 47070  
health worker certificate, an applicant shall meet all of the 47071  
following conditions: 47072

(1) Be eighteen years of age or older; 47073

(2) Possess a high school diploma or the equivalent of a high 47074  
school diploma, as determined by the board; 47075

(3) Except as provided in division (B) of this section, 47076  
successfully complete a community health worker training program 47077  
approved by the board under section 4723.87 of the Revised Code; 47078

(4) Have results on the criminal records check requested 47079  
under section 4723.83 of the Revised Code indicating that the 47080  
individual has not been convicted of, has not pleaded guilty to, 47081  
and has not had a judicial finding of guilt for violating section 47082  
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 47083

2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 47084  
substantially similar law of another state, the United States, or 47085  
another country; 47086

(5) Meet all other requirements the board specifies in rules 47087  
adopted under section 4723.88 of the Revised Code. 47088

(B) In lieu of meeting the condition of completing a 47089  
community health worker training program, an applicant may be 47090  
issued a community health worker certificate if the individual was 47091  
employed in a capacity substantially the same as a community 47092  
health worker before the board implemented the certification 47093  
program. To be eligible under this division, an applicant must 47094  
meet the requirements specified in rules adopted by the board 47095  
under section 4723.88 of the Revised Code and provide 47096  
documentation from the employer attesting to the employer's belief 47097  
that the applicant is competent to perform activities as a 47098  
certified community health worker. 47099

**Sec. 4723.85.** (A) The board of nursing shall review all 47100  
applications received under section 4723.83 of the Revised Code. 47101  
If an applicant meets the requirements of section 4723.84 of the 47102  
Revised Code, the board shall issue a community health worker 47103  
certificate to the applicant. 47104

(B) A community health worker certificate issued under this 47105  
section expires biennially and may be renewed in accordance with 47106  
the schedule and procedures established by the board in rules 47107  
adopted under section 4723.88 of the Revised Code. To be eligible 47108  
for renewal, an individual must complete the continuing education 47109  
requirements established by the board in rules adopted under 47110  
section 4723.88 of the Revised Code and meet all other 47111  
requirements for renewal, as specified in the board's rules 47112  
adopted under that section. If an applicant for renewal has 47113  
successfully completed the continuing education requirements and 47114

meets all other requirements for renewal, the board shall issue a 47115  
renewed community health worker certificate to the applicant. 47116

Sec. 4723.86. The board of nursing, by vote of a quorum, may 47117  
deny, revoke, or suspend a community health worker certificate. 47118  
The board may impose one or more of the sanctions against an 47119  
applicant or certificate holder for any of the reasons it 47120  
specifies in rules adopted under section 4723.88 of the Revised 47121  
Code. All actions to impose a sanction shall be taken in 47122  
accordance with Chapter 119. of the Revised Code. 47123

Sec. 4723.87. (A) A person or government entity seeking to 47124  
operate a training program that prepares individuals to become 47125  
certified community health workers shall submit an application to 47126  
the board of nursing on forms the board shall prescribe and 47127  
furnish. The applicant shall include all information the board 47128  
requires to process the application. The application shall be 47129  
accompanied by the fee established in rules adopted under section 47130  
4723.87 of the Revised Code. 47131

The board shall review all applications received. If an 47132  
applicant meets the standards for approval established in the 47133  
board's rules adopted under section 4723.88 of the Revised Code, 47134  
the board shall approve the program. 47135

(B) The board's approval of a training program expires 47136  
biennially and may be renewed in accordance with the schedule and 47137  
procedures established by the board in rules adopted under section 47138  
4723.88 of the Revised Code. 47139

(C) If an approved community health worker training program 47140  
ceases to meet the standards for approval, the board shall 47141  
withdraw its approval of the program, refuse to renew its approval 47142  
of the program, or place the program on provisional approval. In 47143  
withdrawing or refusing to renew its approval, the board shall act 47144

in accordance with Chapter 119. of the Revised Code. In placing a 47145  
program on provisional approval, the board shall specify the 47146  
period of time during which the provisional approval is valid. At 47147  
the end of the period, the board shall reconsider whether the 47148  
program meets the standards for approval. If the program meets the 47149  
standards for approval, the board shall reinstate its full 47150  
approval of the program or renew its approval of the program. If 47151  
the program does not meet the standards for approval, the board 47152  
shall proceed by withdrawing or refusing to renew its approval of 47153  
the program. 47154

Sec. 4723.88. The board of nursing, in accordance with 47155  
Chapter 119. of the Revised Code, shall adopt rules to administer 47156  
and enforce sections 4723.81 to 4723.87 of the Revised Code. The 47157  
rules shall establish all of the following: 47158

(A) Standards and procedures for issuance of community health 47159  
worker certificates; 47160

(B) Standards for evaluating the competency of an individual 47161  
who applies to receive a certificate on the basis of having been 47162  
employed in a capacity substantially the same as a community 47163  
health worker before the board implemented the certification 47164  
program; 47165

(C) Standards and procedures for renewal of community health 47166  
worker certificates, including the continuing education 47167  
requirements that must be met for renewal; 47168

(D) Standards governing the performance of activities related 47169  
to nursing care that are delegated by a registered nurse to 47170  
certified community health workers. In establishing the standards, 47171  
the board shall specify limits on the number of certified 47172  
community health workers a registered nurse may supervise at any 47173  
one time. 47174

(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers; 47175  
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(F) Standards and procedures for denying, suspending, and revoking a community health worker certificate, including reasons for imposing the sanctions that are substantially similar to the reasons that sanctions are imposed under section 4723.28 of the Revised Code; 47177  
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(G) Standards and procedures for approving and renewing the board's approval of training programs that prepare individuals to become certified community health workers. In establishing the standards, the board shall specify the minimum components that must be included in a training program, shall require that all approved training programs offer the standardized curriculum, and shall ensure that the curriculum enables individuals to use the training as a basis for entering programs leading to other careers, including nursing education programs. 47182  
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(H) Standards and procedures for withdrawing the board's approval of a training program, refusing to renew the approval of a training program, and placing a training program on provisional approval; 47191  
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(I) Amounts for each fee that may be imposed under division (A)(25) of section 4723.08 of the Revised Code; 47195  
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(J) Any other standards or procedures the board considers necessary and appropriate for the administration and enforcement of sections 4723.81 to 4723.87 of the Revised Code. 47197  
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**Sec. 4729.01.** As used in this chapter: 47200

(A) "Pharmacy," except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted. 47201  
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(B) "Practice of pharmacy" means providing pharmacist care	47205
requiring specialized knowledge, judgment, and skill derived from	47206
the principles of biological, chemical, behavioral, social,	47207
pharmaceutical, and clinical sciences. As used in this division,	47208
"pharmacist care" includes the following:	47209
(1) Interpreting prescriptions;	47210
(2) Compounding or dispensing drugs and dispensing drug	47211
therapy related devices;	47212
(3) Counseling individuals with regard to their drug therapy,	47213
recommending drug therapy related devices, and assisting in the	47214
selection of drugs and appliances for treatment of common diseases	47215
and injuries and providing instruction in the proper use of the	47216
drugs and appliances;	47217
(4) Performing drug regimen reviews with individuals by	47218
discussing all of the drugs that the individual is taking and	47219
explaining the interactions of the drugs;	47220
(5) Performing drug utilization reviews with licensed health	47221
professionals authorized to prescribe drugs when the pharmacist	47222
determines that an individual with a prescription has a drug	47223
regimen that warrants additional discussion with the prescriber;	47224
(6) Advising an individual and the health care professionals	47225
treating an individual with regard to the individual's drug	47226
therapy;	47227
(7) Acting pursuant to a consult agreement with a physician	47228
authorized under Chapter 4731. of the Revised Code to practice	47229
medicine and surgery or osteopathic medicine and surgery, if an	47230
agreement has been established with the physician;	47231
(8) Administering <del>by injection</del> the adult immunizations	47232
specified in section 4729.41 of the Revised Code, if the	47233
pharmacist has met the requirements of that section.	47234

(C) "Compounding" means the preparation, mixing, assembling,	47235
packaging, and labeling of one or more drugs in any of the	47236
following circumstances:	47237
(1) Pursuant to a prescription issued by a licensed health	47238
professional authorized to prescribe drugs;	47239
(2) Pursuant to the modification of a prescription made in	47240
accordance with a consult agreement;	47241
(3) As an incident to research, teaching activities, or	47242
chemical analysis;	47243
(4) In anticipation of prescription drug orders based on	47244
routine, regularly observed dispensing patterns.	47245
(D) "Consult agreement" means an agreement to manage an	47246
individual's drug therapy that has been entered into by a	47247
pharmacist and a physician authorized under Chapter 4731. of the	47248
Revised Code to practice medicine and surgery or osteopathic	47249
medicine and surgery.	47250
(E) "Drug" means:	47251
(1) Any article recognized in the United States pharmacopoeia	47252
and national formulary, or any supplement to them, intended for	47253
use in the diagnosis, cure, mitigation, treatment, or prevention	47254
of disease in humans or animals;	47255
(2) Any other article intended for use in the diagnosis,	47256
cure, mitigation, treatment, or prevention of disease in humans or	47257
animals;	47258
(3) Any article, other than food, intended to affect the	47259
structure or any function of the body of humans or animals;	47260
(4) Any article intended for use as a component of any	47261
article specified in division (C)(1), (2), or (3) of this section;	47262
but does not include devices or their components, parts, or	47263
accessories.	47264

(F) "Dangerous drug" means any of the following:	47265
(1) Any drug to which either of the following applies:	47266
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;	47267 47268 47269 47270 47271 47272 47273
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	47274 47275
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	47276 47277 47278
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.	47279 47280 47281
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	47282 47283
(H) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.	47284 47285 47286 47287
(I) "Licensed health professional authorized to prescribe drugs" or "prescriber" means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:	47288 47289 47290 47291 47292
(1) A dentist licensed under Chapter 4715. of the Revised Code;	47293 47294



(2) Until January 17, 2000, an advanced practice nurse approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices;	47295 47296 47297
(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;	47298 47299 47300
(4) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;	47301 47302 47303
(5) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	47304 47305 47306
(6) A veterinarian licensed under Chapter 4741. of the Revised Code.	47307 47308
(J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.	47309 47310 47311 47312
(K) "Wholesale sale" and "sale at wholesale" mean any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.	47313 47314 47315
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	47316 47317
(M) "Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration. Mere advice or instructions regarding administration do not constitute control or establish responsibility.	47318 47319 47320 47321 47322
(N) "Price information" means the price charged for a prescription for a particular drug product and, in an easily	47323 47324

understandable manner, all of the following:	47325
(1) The proprietary name of the drug product;	47326
(2) The established (generic) name of the drug product;	47327
(3) The strength of the drug product if the product contains a single active ingredient or if the drug product contains more than one active ingredient and a relevant strength can be associated with the product without indicating each active ingredient. The established name and quantity of each active ingredient are required if such a relevant strength cannot be so associated with a drug product containing more than one ingredient.	47328 47329 47330 47331 47332 47333 47334 47335
(4) The dosage form;	47336
(5) The price charged for a specific quantity of the drug product. The stated price shall include all charges to the consumer, including, but not limited to, the cost of the drug product, professional fees, handling fees, if any, and a statement identifying professional services routinely furnished by the pharmacy. Any mailing fees and delivery fees may be stated separately without repetition. The information shall not be false or misleading.	47337 47338 47339 47340 47341 47342 47343 47344
(O) "Wholesale distributor of dangerous drugs" means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of such a person authorized by the person to engage in the sale of dangerous drugs at wholesale.	47345 47346 47347 47348
(P) "Manufacturer of dangerous drugs" means a person, other than a pharmacist, who manufactures dangerous drugs and who is engaged in the sale of those dangerous drugs within this state.	47349 47350 47351
(Q) "Terminal distributor of dangerous drugs" means a person who is engaged in the sale of dangerous drugs at retail, or any person, other than a wholesale distributor or a pharmacist, who	47352 47353 47354

has possession, custody, or control of dangerous drugs for any 47355  
purpose other than for that person's own use and consumption, and 47356  
includes pharmacies, hospitals, nursing homes, and laboratories 47357  
and all other persons who procure dangerous drugs for sale or 47358  
other distribution by or under the supervision of a pharmacist or 47359  
licensed health professional authorized to prescribe drugs. 47360

(R) "Promote to the public" means disseminating a 47361  
representation to the public in any manner or by any means, other 47362  
than by labeling, for the purpose of inducing, or that is likely 47363  
to induce, directly or indirectly, the purchase of a dangerous 47364  
drug at retail. 47365

(S) "Person" includes any individual, partnership, 47366  
association, limited liability company, or corporation, the state, 47367  
any political subdivision of the state, and any district, 47368  
department, or agency of the state or its political subdivisions. 47369

(T) "Finished dosage form" has the same meaning as in section 47370  
3715.01 of the Revised Code. 47371

(U) "Generically equivalent drug" has the same meaning as in 47372  
section 3715.01 of the Revised Code. 47373

(V) "Animal shelter" means a facility operated by a humane 47374  
society or any society organized under Chapter 1717. of the 47375  
Revised Code or a dog pound operated pursuant to Chapter 955. of 47376  
the Revised Code. 47377

(W) "Food" has the same meaning as in section 3715.01 of the 47378  
Revised Code. 47379

**Sec. 4729.41.** (A) A pharmacist licensed under this chapter 47380  
who meets the requirements of division (B) of this section may 47381  
administer, ~~by injection,~~ adult immunizations for any of the 47382  
following: 47383

(1) Influenza; 47384

(2) Pneumonia;	47385
(3) Tetanus;	47386
(4) Hepatitis A;	47387
(5) Hepatitis B.	47388
(B) To be authorized to administer the adult immunizations specified in division (A) of this section, a pharmacist shall do all of the following:	47389 47390 47391
(1) Successfully complete a course in the administration of adult immunizations that has been approved by the state board of pharmacy as meeting the standards established for such courses by the centers for disease control and prevention in the public health service of the United States department of health and human services;	47392 47393 47394 47395 47396 47397
(2) Receive and maintain certification to perform basic life-support procedures by successfully completing a basic life-support training course certified by the American red cross or American heart association;	47398 47399 47400 47401
(3) Practice in accordance with a definitive set of treatment guidelines specified in a protocol established by a physician and approved by the state board of pharmacy. The protocol shall include provisions requiring that the pharmacist do both of the following:	47402 47403 47404 47405 47406
(a) Observe an individual who has been immunized by the pharmacist to determine whether the individual has an adverse reaction to the immunization. The length of time and location of the observation shall be specified in rules adopted by the state board of pharmacy under division (D) of this section.	47407 47408 47409 47410 47411
(b) Not later than thirty days after administering an adult immunization to an individual, notify the individual's family physician or, if the individual has no family physician, the board	47412 47413 47414

of health of the health district in which the individual resides. 47415

(C) No pharmacist shall do either of the following: 47416

(1) Engage in the administration of adult immunizations by 47417  
injection unless the requirements of division (B) of this section 47418  
have been met; 47419

(2) Delegate to any person the pharmacist's authority to 47420  
administer adult immunizations. 47421

(D) The state board of pharmacy shall adopt rules to 47422  
implement this section, including rules for approval of courses in 47423  
administration of adult immunizations and approval of protocols to 47424  
be followed by pharmacists in administering adult immunizations. 47425  
Prior to adopting the rules regarding approval of protocols, the 47426  
state board of pharmacy shall consult with the state medical board 47427  
and the board of nursing. The rules shall be adopted in accordance 47428  
with Chapter 119. of the Revised Code. 47429

**Sec. 4731.27.** (A) As used in this section, "collaboration," 47430  
"physician," "standard care arrangement," and "supervision" have 47431  
the same meanings as in section 4723.01 of the Revised Code. 47432

(B) Except as provided in division ~~(C)~~(D)(1) of section 47433  
4723.431 of the Revised Code, a physician or podiatrist shall 47434  
enter into a standard care arrangement with each clinical nurse 47435  
specialist, certified nurse-midwife, or certified nurse 47436  
practitioner with whom the physician or podiatrist is in 47437  
collaboration. The collaborating physician or podiatrist shall 47438  
fulfill the responsibilities of collaboration, as specified in the 47439  
arrangement and in accordance with division (A) of section 47440  
4723.431 of the Revised Code. A copy of the standard care 47441  
arrangement shall be retained on file at each site where the nurse 47442  
practices. Prior approval of the standard care arrangement by the 47443  
state medical board is not required, but the board may 47444

periodically review it. 47445

Nothing in this division prohibits a hospital from hiring a 47446  
clinical nurse specialist, certified nurse-midwife, or certified 47447  
nurse practitioner as an employee and negotiating standard care 47448  
arrangements on behalf of the employee as necessary to meet the 47449  
requirements of this section. A standard care arrangement between 47450  
the hospital's employee and the employee's collaborating physician 47451  
is subject to approval by the medical staff and governing body of 47452  
the hospital prior to implementation of the arrangement at the 47453  
hospital. 47454

(C) With respect to a clinical nurse specialist, certified 47455  
nurse-midwife, or certified nurse practitioner participating in an 47456  
externship pursuant to an initial certificate to prescribe issued 47457  
under section 4723.48 of the Revised Code, the physician 47458  
responsible for evaluating the externship shall provide the state 47459  
medical board with the name of the nurse. If the externship is 47460  
terminated for any reason, the physician shall notify the board. 47461

(D) A physician or podiatrist shall cooperate with the board 47462  
of nursing in any investigation the board conducts with respect to 47463  
a clinical nurse specialist, certified nurse-midwife, or certified 47464  
nurse practitioner who collaborates with the physician or 47465  
podiatrist or with respect to a certified registered nurse 47466  
anesthetist who practices with the supervision of the physician or 47467  
podiatrist. 47468

**Sec. 4731.65.** As used in sections 4731.65 to 4731.71 of the 47469  
Revised Code: 47470

(A)(1) "Clinical laboratory services" means either of the 47471  
following: 47472

(a) Any examination of materials derived from the human body 47473  
for the purpose of providing information for the diagnosis, 47474

prevention, or treatment of any disease or impairment or for the 47475  
assessment of health; 47476

(b) Procedures to determine, measure, or otherwise describe 47477  
the presence or absence of various substances or organisms in the 47478  
body. 47479

(2) "Clinical laboratory services" does not include the mere 47480  
collection or preparation of specimens. 47481

(B) "Designated health services" means any of the following: 47482

(1) Clinical laboratory services; 47483

(2) Home health care services; 47484

(3) Outpatient prescription drugs. 47485

(C) "Fair market value" means the value in arms-length 47486  
transactions, consistent with general market value and: 47487

(1) With respect to rentals or leases, the value of rental 47488  
property for general commercial purposes, not taking into account 47489  
its intended use; 47490

(2) With respect to a lease of space, not adjusted to reflect 47491  
the additional value the prospective lessee or lessor would 47492  
attribute to the proximity or convenience to the lessor if the 47493  
lessor is a potential source of referrals to the lessee. 47494

(D) "Governmental health care program" means any program 47495  
providing health care benefits that is administered by the federal 47496  
government, this state, or a political subdivision of this state, 47497  
including the medicare program established under Title XVIII of 47498  
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 47499  
as amended, health care coverage for public employees, health care 47500  
benefits administered by the bureau of workers' compensation, the 47501  
medical assistance program established under Chapter 5111. of the 47502  
Revised Code, and the disability ~~assistance~~ medical assistance 47503  
program established under Chapter 5115. of the Revised Code. 47504

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to



which all of the following apply: 47538

(a) Each physician who is a member of the group practice 47539  
provides substantially the full range of services that the 47540  
physician routinely provides, including medical care, 47541  
consultation, diagnosis, or treatment, through the joint use of 47542  
shared office space, facilities, equipment, and personnel. 47543

(b) Substantially all of the services of the members of the 47544  
group are provided through the group and are billed in the name of 47545  
the group and amounts so received are treated as receipts of the 47546  
group. 47547

(c) The overhead expenses of and the income from the practice 47548  
are distributed in accordance with methods previously determined 47549  
by members of the group. 47550

(d) The group practice meets any other requirements that the 47551  
state medical board applies in rules adopted under section 4731.70 47552  
of the Revised Code. 47553

(2) In the case of a faculty practice plan associated with a 47554  
hospital with a medical residency training program in which 47555  
physician members may provide a variety of specialty services and 47556  
provide professional services both within and outside the group, 47557  
as well as perform other tasks such as research, the criteria in 47558  
division (E)(1) of this section apply only with respect to 47559  
services rendered within the faculty practice plan. 47560

(F) "Home health care services" and "immediate family" have 47561  
the same meanings as in the rules adopted under section 4731.70 of 47562  
the Revised Code. 47563

(G) "Hospital" has the same meaning as in section 3727.01 of 47564  
the Revised Code. 47565

(H) A "referral" includes both of the following: 47566

(1) A request by a holder of a certificate under this chapter 47567

for an item or service, including a request for a consultation 47568  
with another physician and any test or procedure ordered by or to 47569  
be performed by or under the supervision of the other physician; 47570

(2) A request for or establishment of a plan of care by a 47571  
certificate holder that includes the provision of designated 47572  
health services. 47573

(I) "Third-party payer" has the same meaning as in section 47574  
3901.38 of the Revised Code. 47575

**Sec. 4731.71.** The auditor of state may implement procedures 47576  
to detect violations of section 4731.66 or 4731.69 of the Revised 47577  
Code within governmental health care programs administered by the 47578  
state. The auditor of state shall report any violation of either 47579  
section to the state medical board and shall certify to the 47580  
attorney general in accordance with section 131.02 of the Revised 47581  
Code the amount of any refund owed to a state-administered 47582  
governmental health care program under section 4731.69 of the 47583  
Revised Code as a result of a violation. If a refund is owed to 47584  
the medical assistance program established under Chapter 5111. of 47585  
the Revised Code or the disability ~~assistance~~ medical assistance 47586  
program established under Chapter 5115. of the Revised Code, the 47587  
auditor of state also shall report the amount to the department of 47588  
commerce. 47589

The state medical board also may implement procedures to 47590  
detect violations of section 4731.66 or 4731.69 of the Revised 47591  
Code. 47592

**Sec. 4734.15.** (A) The license provided for in this chapter 47593  
shall entitle the holder thereof to practice chiropractic in this 47594  
state. All of the following apply to the practice of chiropractic 47595  
in this state: 47596

(1) A chiropractor is authorized to examine, diagnose, and 47597

assume responsibility for the care of patients, any or all of 47598  
which is included in the practice of chiropractic. 47599

(2) The practice of chiropractic does not permit the 47600  
chiropractor to treat infectious, contagious, or venereal disease, 47601  
to perform surgery or acupuncture, or to prescribe or administer 47602  
drugs for treatment. 47603

(3) A chiropractor may use roentgen rays only for diagnostic 47604  
purposes. 47605

(4) The practice of chiropractic does not include the 47606  
performance of abortions. 47607

(B) An individual holding a valid, current license to 47608  
practice chiropractic is entitled to use the title "doctor," 47609  
"doctor of chiropractic," "chiropractic physician," or 47610  
"chiropractic" and is a "physician" for the purposes of Chapter 47611  
4123. of the Revised Code ~~and the medicaid program operated~~ 47612  
~~pursuant to Chapter 5111. of the Revised Code.~~ 47613

**Sec. 4736.12.** (A) The state board of sanitarian registration 47614  
shall charge the following fees: 47615

(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ 47616  
seventy-five dollars; 47617

(2) For sanitarians-in-training to apply for registration as 47618  
sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall 47619  
pay this fee only once regardless of the number of times the 47620  
applicant takes an examination required under section 4736.08 of 47621  
the Revised Code. 47622

(3) For persons other than sanitarians-in-training to apply 47623  
for registration as sanitarians, including persons meeting the 47624  
requirements of section 4736.16 of the Revised Code, one hundred 47625  
~~fourteen~~ fifty dollars. The applicant shall pay this fee only once 47626  
regardless of the number of times the applicant takes an 47627

examination required under section 4736.08 of the Revised Code. 47628

(4) The renewal fee for registered sanitarians shall be ~~fixed~~ 47629  
~~by the board and shall not exceed sixty one~~ sixty-nine dollars. 47630

(5) The renewal fee for sanitarians-in-training shall be 47631  
~~fixed by the board and shall not exceed sixty one~~ sixty-nine 47632  
dollars. 47633

(6) For late application for renewal, twenty-five dollars. 47634

The board of sanitarian registration, with the approval of 47635  
the controlling board, may establish fees in excess of the amounts 47636  
provided in this section, provided that such fees do not exceed 47637  
the amounts permitted by this section by more than fifty per cent. 47638

(B) The board of sanitarian registration shall charge 47639  
separate fees for examinations as required by section 4736.08 of 47640  
the Revised Code, provided that the fees are not in excess of the 47641  
actual cost to the board of conducting the examinations. 47642

(C) The board of sanitarian registration may adopt rules 47643  
establishing fees for all of the following: 47644

(1) Application for the registration of a training agency 47645  
approved under rules adopted by the board pursuant to section 47646  
4736.11 of the Revised Code and for the annual registration 47647  
renewal of an approved training agency. 47648

(2) Application for the review of continuing education hours 47649  
submitted for the board's approval by approved training agencies 47650  
or by registered sanitarians or sanitarians-in-training. 47651

**Sec. 4743.05.** Except as otherwise provided in sections 47652  
4701.20, 4723.062, 4723.082, and 4729.65 of the Revised Code, all 47653  
money collected under Chapters 3773., 4701., 4703., 4709., 4713., 47654  
4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 47655  
4741., 4753., 4755., 4757., 4758., 4759., ~~and~~ 4761., 4771., and 47656  
4779. of the Revised Code, ~~and until December 31, 2004,~~ money 47657

~~collected under Chapter 4779. of the Revised Code,~~ shall be paid 47658  
into the state treasury to the credit of the occupational 47659  
licensing and regulatory fund, which is hereby created for use in 47660  
administering such chapters. 47661

At the end of each quarter, the director of budget and 47662  
management shall transfer from the occupational licensing and 47663  
regulatory fund to the nurse education assistance fund created in 47664  
section 3333.28 of the Revised Code the amount certified to the 47665  
director under division (B) of section 4723.08 of the Revised 47666  
Code. 47667

At the end of each quarter, the director shall transfer from 47668  
the occupational licensing and regulatory fund to the certified 47669  
public accountant education assistance fund created in section 47670  
4701.26 of the Revised Code the amount certified to the director 47671  
under division (H)(2) of section 4701.10 of the Revised Code. 47672

**Sec. 4747.05.** (A) The hearing aid dealers and fitters 47673  
licensing board shall issue to each applicant, within sixty days 47674  
of receipt of a properly completed application and payment of two 47675  
hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or 47676  
fitter's license if the applicant, if an individual: 47677

(1) Is at least eighteen years of age; 47678

(2) Is a person of good moral character; 47679

(3) Is free of contagious or infectious disease; 47680

(4) Has successfully passed a qualifying examination 47681  
specified and administered by the board. 47682

(B) If the applicant is a firm, partnership, association, or 47683  
corporation, the application, in addition to such information as 47684  
the board requires, shall be accompanied by an application for a 47685  
license for each person, whether owner or employee, of the firm, 47686  
partnership, association, or corporation, who engages in dealing 47687

in or fitting of hearing aids, or shall contain a statement that 47688  
such applications are submitted separately. No firm, partnership, 47689  
association, or corporation licensed pursuant to this chapter 47690  
shall permit any unlicensed person to sell or fit hearing aids. 47691

(C) Each license issued expires on the thirtieth day of 47692  
January of the year following that in which it was issued. 47693

**Sec. 4747.06.** (A) Each person engaged in the practice of 47694  
dealing in or fitting of hearing aids who holds a valid hearing 47695  
aid dealer's or fitter's license shall apply annually to the 47696  
hearing aid dealers and fitters licensing board for renewal of 47697  
such license under the standard renewal procedure specified in 47698  
Chapter 4745. of the Revised Code. The board shall issue to each 47699  
applicant, on proof of completion of the continuing education 47700  
required by division (B) of this section and payment of one 47701  
hundred ~~fifty~~ fifty-seven dollars on or before the first day of 47702  
February, one hundred ~~seventy-five~~ eighty-three dollars on or 47703  
before the first day of March, or two hundred ten dollars 47704  
thereafter, a renewed hearing aid dealer's or fitter's license. No 47705  
person who applies for renewal of a hearing aid dealer's or 47706  
fitter's license that has expired shall be required to take any 47707  
examination as a condition of renewal provided application for 47708  
renewal is made within two years of the date such license expired. 47709

(B) Each person engaged in the practice of dealing in or 47710  
fitting of hearing aids who holds a valid hearing aid dealer's or 47711  
fitter's license shall complete each year not less than ten hours 47712  
of continuing professional education approved by the board. On a 47713  
form provided by the board, the person shall certify to the board, 47714  
at the time of license renewal pursuant to division (A) of this 47715  
section, that in the preceding year the person has completed 47716  
continuing education in compliance with this division and shall 47717  
submit any additional information required by rule of the board 47718

regarding the continuing education. The board shall adopt rules in 47719  
accordance with Chapter 119. of the Revised Code establishing the 47720  
standards continuing education programs must meet to obtain board 47721  
approval and continuing education reporting requirements. 47722

Continuing education may be applied to meet the requirement 47723  
of this division if it is provided or certified by any of the 47724  
following: 47725

(1) The national institute of hearing instruments studies 47726  
committee of the international hearing society; 47727

(2) The American speech-language hearing association; 47728

(3) The American academy of audiology. 47729

The board may excuse persons licensed under this chapter, as 47730  
a group or as individuals, from all or any part of the 47731  
requirements of this division because of an unusual circumstance, 47732  
emergency, or special hardship. 47733

**Sec. 4747.07.** Each person who holds a hearing aid dealer's or 47734  
fitter's license and engages in the practice of dealing in and 47735  
fitting of hearing aids shall display such license in a 47736  
conspicuous place in the person's office or place of business at 47737  
all times. Each person who maintains more than one office or place 47738  
of business shall post a duplicate copy of the license at each 47739  
location. The hearing aid dealers and fitters licensing board 47740  
shall issue duplicate copies of a license upon receipt of a 47741  
properly completed application and payment of ~~fifteen~~ sixteen 47742  
dollars for each copy requested. 47743

**Sec. 4747.10.** Each person currently engaged in training to 47744  
become a licensed hearing aid dealer or fitter shall apply to the 47745  
hearing aid dealers and fitters licensing board for a hearing aid 47746  
dealer's and fitter's trainee permit. The board shall issue to 47747  
each applicant within thirty days of receipt of a properly 47748

completed application and payment of one hundred fifty dollars, a 47749  
trainee permit if such applicant is: 47750

(A) At least eighteen years of age; 47751

(B) The holder of a diploma from an accredited high school, 47752  
or possesses an equivalent education; 47753

(C) A person of good moral character; 47754

(D) Free of contagious or infectious disease. 47755

Each trainee permit issued by the board expires one year from 47756  
the date it was first issued, and may be renewed once if the 47757  
trainee has not successfully completed the qualifying requirements 47758  
for licensing as a hearing aid dealer or fitter before the 47759  
expiration date of such permit. The board shall issue a renewed 47760  
permit to each applicant upon receipt of a properly completed 47761  
application and payment of one hundred five dollars. No person 47762  
holding a trainee permit shall engage in the practice of dealing 47763  
in or fitting of hearing aids except while under supervision by a 47764  
licensed hearing aid dealer or fitter. 47765

**Sec. 4749.01.** As used in this chapter: 47766

(A) "Private investigator" means any person who engages in 47767  
the business of private investigation. 47768

(B) "Business of private investigation" means, except when 47769  
performed by one excluded under division (H) of this section, the 47770  
conducting, for hire, in person or through a partner or employees, 47771  
of any investigation relevant to any crime or wrong done or 47772  
threatened, or to obtain information on the identity, habits, 47773  
conduct, movements, whereabouts, affiliations, transactions, 47774  
reputation, credibility, or character of any person, or to locate 47775  
and recover lost or stolen property, or to determine the cause of 47776  
or responsibility for any libel or slander, or any fire, accident, 47777  
or damage to property, or to secure evidence for use in any 47778



legislative, administrative, or judicial investigation or 47779  
proceeding. 47780

(C) "Security guard provider" means any person who engages in 47781  
the business of security services. 47782

(D) "Business of security services" means either of the 47783  
following: 47784

(1) Furnishing, for hire, watchpersons, guards, private 47785  
patrol officers, or other persons whose primary duties are to 47786  
protect persons or property; 47787

(2) Furnishing, for hire, guard dogs, or armored motor 47788  
vehicle security services, in connection with the protection of 47789  
persons or property. 47790

(E) "Class A license" means a license issued under section 47791  
4749.03 of the Revised Code that qualifies the person issued the 47792  
license to engage in the business of private investigation and the 47793  
business of security services. 47794

(F) "Class B license" means a license issued under section 47795  
4749.03 of the Revised Code that qualifies the person issued the 47796  
license to engage only in the business of private investigation. 47797

(G) "Class C license" means a license issued under section 47798  
4749.03 of the Revised Code that qualifies the person issued the 47799  
license to engage only in the business of security services. 47800

(H) "Private investigator," "business of private 47801  
investigation," "security guard provider," and "business of 47802  
security services" do not include: 47803

(1) Public officers and employees whose official duties 47804  
require them to engage in investigatory activities; 47805

(2) Attorneys at law or any expert hired by an attorney at 47806  
law for consultation or litigation purposes; 47807

(3) A consumer reporting agency, as defined in the "Fair 47808

Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as 47809  
amended, provided that the consumer reporting agency is in 47810  
compliance with the requirements of that act and that the agency's 47811  
activities are confined to any of the following: 47812

(a) The issuance of consumer credit reports; 47813

(b) The conducting of limited background investigations that 47814  
pertain only to a client's prospective tenant and that are engaged 47815  
in with the prior written consent of the prospective tenant; 47816

(c) The business of pre-employment background investigation. 47817  
As used in division (H)(3)(c) of this section, "business of 47818  
pre-employment background investigation" means, and is limited to, 47819  
furnishing for hire, in person or through a partner or employees, 47820  
the conducting of limited background investigations, in-person 47821  
interviews, telephone interviews, or written inquiries that 47822  
pertain only to a client's prospective employee and the employee's 47823  
employment and that are engaged in with the prior written consent 47824  
of the prospective employee. 47825

(4) Certified public insurance adjusters that hold a 47826  
certificate of authority issued pursuant to sections 3951.01 to 47827  
3951.09 of the Revised Code, while the adjuster is investigating 47828  
the cause of or responsibility for a fire, accident, or other 47829  
damage to property with respect to a claim or claims for loss or 47830  
damage under a policy of insurance covering real or personal 47831  
property; 47832

~~(5) Personnel placement services and persons who act as 47833  
employees of such entities engaged in investigating matters 47834  
related to personnel placement activities; 47835~~

~~(6) An employee in the regular course of the employee's 47836  
employment, engaged in investigating matters pertinent to the 47837  
business of the employee's employer or protecting property in the 47838  
possession of the employee's employer, provided the employer is 47839~~

deducting all applicable state and federal employment taxes on 47840  
behalf of the employee and neither the employer nor the employee 47841  
is employed by, associated with, or acting for or on behalf of any 47842  
private investigator or security guard provider; 47843

~~(7)~~(6) Any better business bureau or similar organization or 47844  
any of its employees while engaged in the maintenance of the 47845  
quality of business activities relating to consumer sales and 47846  
services; 47847

~~(8)~~(7) An accountant who is registered or certified under 47848  
Chapter 4701. of the Revised Code or any of the accountant's 47849  
employees while engaged in activities for which the accountant is 47850  
certified or registered; 47851

~~(9)~~(8) Any person who, for hire or otherwise, conducts 47852  
genealogical research in this state. 47853

As used in division (H)~~(9)~~(8) of this section, "genealogical 47854  
research" means the determination of the origins and descent of 47855  
families, including the identification of individuals, their 47856  
family relationships, and the biographical details of their lives. 47857  
"Genealogical research" does not include furnishing for hire 47858  
services for locating missing persons or natural or birth parents 47859  
or children. 47860

~~(10)~~(9) Any person residing in this state who conducts 47861  
research for the purpose of locating the last known owner of 47862  
unclaimed funds, provided that the person is in compliance with 47863  
Chapter 169. of the Revised Code and rules adopted thereunder. The 47864  
exemption set forth in division (H)~~(10)~~(9) of this section applies 47865  
only to the extent that the person is conducting research for the 47866  
purpose of locating the last known owner of unclaimed funds. 47867

As used in division (H)~~(10)~~(9) of this section, "owner" and 47868  
"unclaimed funds" have the same meanings as in section 169.01 of 47869  
the Revised Code. 47870

~~(11)~~(10) A professional engineer who is registered under Chapter 4733. of the Revised Code or any of his employees. 47871  
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As used in division (H)~~(11)~~(10) of this section and notwithstanding division (I) of this section, "employee" has the same meaning as in section 4101.01 of the Revised Code. 47873  
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~~(12)~~(11) Any person residing in this state who, for hire or otherwise, conducts research for the purpose of locating persons to whom the state of Ohio owes money in the form of warrants, as defined in division (S) of section 131.01 of the Revised Code, that the state voided but subsequently reissues. 47876  
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~~(13)~~(12) An independent insurance adjuster who, as an individual, an independent contractor, an employee of an independent contractor, adjustment bureau association, corporation, insurer, partnership, local recording agent, managing general agent, or self-insurer, engages in the business of independent insurance adjustment, or any person who supervises the handling of claims except while acting as an employee of an insurer licensed in this state while handling claims pertaining to specific policies written by that insurer. 47881  
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As used in division (H)~~(13)~~(12) of this section, "independent insurance adjustment" means conducting investigations to determine the cause of or circumstances concerning a fire, accident, bodily injury, or damage to real or personal property; determining the extent of damage of that fire, accident, injury, or property damage; securing evidence for use in a legislative, administrative, or judicial investigation or proceeding, adjusting losses; and adjusting or settling claims, including the investigation, adjustment, denial, establishment of damages, negotiation, settlement, or payment of claims in connection with insurance contractors, self-insured programs, or other similar insurance programs. "Independent adjuster" does not include either 47890  
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of the following: 47902

(a) An attorney who adjusts insurance losses incidental to 47903  
the practice of law and who does not advertise or represent that 47904  
the attorney is an independent insurance adjuster; 47905

(b) A licensed agent or general agent of an insurer licensed 47906  
in this state who processes undisputed or uncontested losses for 47907  
insurers under policies issued by that agent or general agent. 47908

(14) Except for a commissioned peace officer who engages in 47909  
the business of private investigation or compensates others who 47910  
engage in the business of private investigation or the business of 47911  
security services or both, any commissioned peace officer as 47912  
defined in division (B) of section 2935.01 of the Revised Code. 47913

(I) "Employee" means every person who may be required or 47914  
directed by any employer, in consideration of direct or indirect 47915  
gain or profit, to engage in any employment, or to go, or work, or 47916  
be at any time in any place of employment, provided that the 47917  
employer of the employee deducts all applicable state and federal 47918  
employment taxes on behalf of the employee. 47919

**Sec. 4749.02.** The ~~department~~ director of ~~commerce public~~ 47920  
~~safety~~ shall administer this chapter ~~through the division of real~~ 47921  
~~estate and professional licensing~~, and for that purpose, ~~the~~ 47922  
~~superintendent of real estate and professional licensing~~ may 47923  
appoint such employees and adopt such rules as the ~~superintendent~~ 47924  
director considers necessary. 47925

**Sec. 4749.03.** (A)(1) Any individual, including a partner in a 47926  
partnership, may be licensed as a private investigator under a 47927  
class B license, or as a security guard provider under a class C 47928  
license, or as a private investigator and a security guard 47929  
provider under a class A license, if the individual meets the 47930  
following requirements: 47931

(a) Has a good reputation for integrity, has not been 47932  
convicted of a felony within the last twenty years or any offense 47933  
involving moral turpitude, and has not been adjudicated 47934  
incompetent for the purpose of holding the license, as provided in 47935  
section 5122.301 of the Revised Code, without having been restored 47936  
to legal capacity for that purpose. 47937

(b) Depending upon the class of license for which application 47938  
is made, for a continuous period of at least two years immediately 47939  
preceding application for a license, has been engaged in 47940  
investigatory or security services work for a law enforcement or 47941  
other public agency engaged in investigatory activities, or for a 47942  
private investigator or security guard provider, or engaged in the 47943  
practice of law, or has acquired equivalent experience as 47944  
determined by rule of the director of ~~commerce~~ public safety. 47945

(c) Demonstrates competency as a private investigator or 47946  
security guard provider by passing an examination devised for this 47947  
purpose by the director, except that any individually licensed 47948  
person who qualifies a corporation for licensure shall not be 47949  
required to be reexamined if the person qualifies the corporation 47950  
in the same capacity that the person was individually licensed. 47951

(d) Submits evidence of comprehensive general liability 47952  
insurance coverage, or other equivalent guarantee approved by the 47953  
director in such form and in principal amounts satisfactory to the 47954  
director, but not less than one hundred thousand dollars for each 47955  
person and three hundred thousand dollars for each occurrence for 47956  
bodily injury liability, and one hundred thousand dollars for 47957  
property damage liability. 47958

(e) Pays the requisite examination and license fees. 47959

(2) A corporation may be licensed as a private investigator 47960  
under a class B license, or as a security guard provider under a 47961  
class C license, or as a private investigator and a security guard 47962

provider under a class A license, if an application for licensure 47963  
is filed by an officer of the corporation and the officer, another 47964  
officer, or the qualifying agent of the corporation satisfies the 47965  
requirements of divisions (A)(1) and (F)(1) of this section. 47966  
Officers and the statutory agent of a corporation shall be 47967  
determined in accordance with Chapter 1701. of the Revised Code. 47968

(3) At least one partner in a partnership shall be licensed 47969  
as a private investigator, or as a security guard provider, or as 47970  
a private investigator and a security guard provider. Partners in 47971  
a partnership shall be determined as provided for in Chapter 1775. 47972  
of the Revised Code. 47973

(B) Application for a class A, B, or C license shall be in 47974  
writing, under oath, to the director. In the case of an 47975  
individual, the application shall state the applicant's name, 47976  
birth date, citizenship, physical description, current residence, 47977  
residences for the preceding ten years, current employment, 47978  
employment for the preceding seven years, experience 47979  
qualifications, the location of each of the applicant's offices in 47980  
this state, and any other information that is necessary in order 47981  
for the director to comply with the requirements of this chapter. 47982  
In the case of a corporation, the application shall state the name 47983  
of the officer or qualifying agent filing the application; the 47984  
state in which the corporation is incorporated and the date of 47985  
incorporation; the states in which the corporation is authorized 47986  
to transact business; the name of its qualifying agent; the name 47987  
of the officer or qualifying agent of the corporation who 47988  
satisfies the requirements of divisions (A)(1) and (F)(1) of this 47989  
section and the birth date, citizenship, physical description, 47990  
current residence, residences for the preceding ten years, current 47991  
employment, employment for the preceding seven years, and 47992  
experience qualifications of that officer or qualifying agent; and 47993  
other information that the director requires. A corporation may 47994

specify in its application information relative to one or more 47995  
individuals who satisfy the requirements of divisions (A)(1) and 47996  
(F)(1) of this section. 47997

The application shall be accompanied by: 47998

(1) One recent full-face photograph of the applicant or, in 47999  
the case of a corporation, of each officer or qualifying agent 48000  
specified in the application as satisfying the requirements of 48001  
divisions (A)(1) and (F)(1) of this section; 48002

(2) One complete set of the applicant's fingerprints or, in 48003  
the case of a corporation, of the fingerprints of each officer or 48004  
qualifying agent specified in the application as satisfying the 48005  
requirements of divisions (A)(1) and (F)(1) of this section; 48006

(3) Character references from at least five reputable 48007  
citizens for the applicant or, in the case of a corporation, for 48008  
each officer or qualifying agent specified in the application as 48009  
satisfying the requirements of divisions (A)(1) and (F)(1) of this 48010  
section, each of whom has known the applicant, officer, or 48011  
qualifying agent for at least five years preceding the 48012  
application, and none of whom are connected with the applicant, 48013  
officer, or qualifying agent by blood or marriage; 48014

(4) An examination fee of twenty-five dollars for the 48015  
applicant or, in the case of a corporation, for each officer or 48016  
qualifying agent specified in the application as satisfying the 48017  
requirements of divisions (A)(1) and (F)(1) of this section, and a 48018  
license fee of two hundred fifty dollars. The license fee shall be 48019  
refunded if a license is not issued. 48020

(C) Upon receipt of the application and accompanying matter, 48021  
the director shall forward to the bureau of criminal 48022  
identification and investigation a request that it make an 48023  
investigation of the applicant or, in the case of a corporation, 48024  
each officer or qualifying agent specified in the application as 48025



satisfying the requirements of divisions (A)(1) and (F)(1) of this section, to determine whether the applicant, officer, or qualifying agent meets the requirements of division (A)(1)(a) of this section. If the director determines that the applicant, officer, or qualifying agent meets the requirements of divisions (A)(1)(a), (b) and (d) of this section and that an officer or qualifying agent meets the requirement of division (F)(1) of this section, the director shall notify the applicant, officer, or agent of the time and place for the examination. If the director determines that an applicant does not meet the requirements of divisions (A)(1)(a), (b), and (d) of this section, the director shall notify the applicant that the applicant's application is refused and refund the license fee. If the director determines that none of the individuals specified in the application of a corporation as satisfying the requirements of divisions (A)(1) and (F)(1) of this section meet the requirements of divisions (A)(1)(a), (b), and (d) and (F)(1) of this section, the director shall notify the corporation that its application is refused and refund the license fee. If the director requests an investigation of any applicant, officer, or qualifying agent and if the bureau assesses the director a fee for the investigation, the director, in addition to any other fee assessed pursuant to this chapter, may assess the applicant, officer, or qualifying agent, as appropriate, a fee that is equal to the fee assessed by the bureau.

(D) If upon application, investigation, and examination, the director finds that the applicant or, in the case of a corporation, any officer or qualifying agent specified in the application as satisfying the requirements of divisions (A)(1) and (F)(1) of this section, meets the applicable requirements, the director shall issue the applicant or the corporation a class A, B, or C license. The director also shall issue to an applicant, but not an officer or qualifying agent of a corporation, who meets

the applicable requirements an identification card. The license 48059  
and identification card shall state the licensee's name, the 48060  
classification of the license, the location of the licensee's 48061  
principal place of business in this state, and the expiration date 48062  
of the license and, in the case of a corporation, it also shall 48063  
state the name of each officer or qualifying agent who satisfied 48064  
the requirements of divisions (A)(1) and (F)(1) of this section. 48065

Licenses expire on the first day of March following the date 48066  
of initial issue, and on the first day of March of each year 48067  
thereafter. Renewals shall be according to the standard renewal 48068  
procedures contained in Chapter 4745. of the Revised Code, upon 48069  
payment of a renewal fee of two hundred fifty dollars. No license 48070  
shall be renewed if the licensee or, in the case of a corporation, 48071  
each officer or qualifying agent who qualified the corporation for 48072  
licensure no longer meets the applicable requirements of this 48073  
section. No license shall be renewed unless the licensee provides 48074  
evidence of workers' compensation risk coverage and unemployment 48075  
compensation insurance coverage, other than for clerical employees 48076  
and excepting sole proprietors who are exempted therefrom, as 48077  
provided for in Chapters 4123. and 4141. of the Revised Code, 48078  
respectively, as well as the licensee's state tax identification 48079  
number. No reexamination shall be required for renewal of a 48080  
current license. 48081

For purposes of this chapter, a class A, B, or C license 48082  
issued to a corporation shall be considered as also having 48083  
licensed the individuals who qualified the corporation for 48084  
licensure, for as long as they are associated with the 48085  
corporation. 48086

For purposes of this division, "sole proprietor" means an 48087  
individual licensed under this chapter who does not employ any 48088  
other individual. 48089

(E) The director may issue a duplicate copy of a license 48090

issued under this section for the purpose of replacement of a 48091  
lost, spoliated, or destroyed license, upon payment of a fee fixed 48092  
by the director, not exceeding twenty-five dollars. Any change in 48093  
license classification requires new application and application 48094  
fees. 48095

(F)(1) In order to qualify a corporation for a class A, B, or 48096  
C license, an officer or qualifying agent may qualify another 48097  
corporation for similar licensure, provided that the officer or 48098  
qualifying agent is actively engaged in the business of both 48099  
corporations. 48100

(2) Each officer or qualifying agent who qualifies a 48101  
corporation for class A, B, or C licensure shall surrender any 48102  
personal license of a similar nature that the officer or 48103  
qualifying agent possesses. 48104

(3) Upon written notification to the director, completion of 48105  
an application similar to that for original licensure, surrender 48106  
of the corporation's current license, and payment of a twenty-five 48107  
dollar fee, a corporation's class A, B, or C license may be 48108  
transferred to another corporation. 48109

(4) Upon written notification to the director, completion of 48110  
an application similar to that for an individual seeking class A, 48111  
B, or C licensure, payment of a twenty-five dollar fee, and, if 48112  
the individual was the only individual that qualified a 48113  
corporation for licensure, surrender of the corporation's license, 48114  
any officer or qualifying agent who qualified a corporation for 48115  
licensure under this chapter may obtain a similar license in the 48116  
individual's own name without reexamination. A request by an 48117  
officer or qualifying agent for an individual license shall not 48118  
affect a corporation's license unless the individual is the only 48119  
individual that qualified the corporation for licensure or all the 48120  
other individuals who qualified the corporation for licensure 48121  
submit such requests. 48122

(G) If a corporation is for any reason no longer associated with an individual who qualified it for licensure under this chapter, an officer of the corporation shall notify the director of that fact by certified mail, return receipt requested, within ten days after the association terminates. If the notification is so given, the individual was the only individual that qualified the corporation for licensure, and the corporation submits the name of another officer or qualifying agent to qualify the corporation for the license within thirty days after the association terminates, the corporation may continue to operate in the business of private investigation, the business of security services, or both businesses in this state under that license for ninety days after the association terminates. If the officer or qualifying agent whose name is so submitted satisfies the requirements of divisions (A)(1) and (F)(1) of this section, the director shall issue a new license to the corporation within that ninety-day period. The names of more than one individual may be so submitted.

**Sec. 4749.04.** (A) The director of ~~commerce~~ public safety may revoke, suspend, or refuse to renew, when a renewal form has been submitted, the license of any private investigator or security guard provider, or the registration of any employee of a private investigator or security guard provider, for any of the following:

(1) Violation of any of the provisions of division (B) or (C) of section 4749.13 of the Revised Code;

(2) Conviction of a felony or a crime involving moral turpitude;

(3) Violation of any rule of the director governing private investigators, the business of private investigation, security guard providers, or the business of security services;

(4) Testifying falsely under oath, or suborning perjury, in 48153  
any judicial proceeding; 48154

(5) Failure to satisfy the requirements specified in division 48155  
(D) of section 4749.03 of the Revised Code. 48156

Any person whose license or registration is revoked, 48157  
suspended, or not renewed when a renewal form is submitted may 48158  
appeal in accordance with Chapter 119. of the Revised Code. 48159

(B) In lieu of suspending, revoking, or refusing to renew the 48160  
class A, B, or C license, or of suspending, revoking, or refusing 48161  
to renew the registration of an employee of a class A, B, or C 48162  
licensee, the director of ~~commerce~~ may impose a civil penalty of 48163  
not more than one hundred dollars for each calendar day of a 48164  
violation of any of the provisions of this section or of division 48165  
(B) or (C) of section 4749.13 of the Revised Code or of a 48166  
violation of any rule of the director governing private 48167  
investigators, the business of private investigation, security 48168  
guard providers, or the business of security services. 48169

**Sec. 4749.05.** (A) Each class A, B, or C licensee shall report 48170  
the location of branch offices to the department of ~~commerce~~ 48171  
public safety, and to the sheriff of the county and the police 48172  
chief of any municipal corporation in which the office is located, 48173  
and shall post a branch office license conspicuously in that 48174  
office. Application for a branch office license shall be made on a 48175  
form prescribed by the director of ~~commerce~~ public safety, and a 48176  
license shall be issued upon receipt of the form and payment of a 48177  
fee fixed by the director, not exceeding one hundred dollars. If a 48178  
licensee moves an office, ~~he~~ the licensee shall notify, in 48179  
writing, the department of ~~commerce~~ public safety and any affected 48180  
sheriff and chief of police within forty-eight hours of the 48181  
change. 48182

This division does not apply to a licensed private investigator who is engaging in the business of private investigation as a registered employee of a licensed private investigator.

(B) No class A, B, or C licensee, or any of ~~his~~ such a licensee's employees, shall engage in the business of private investigation or the business of security services unless, within twelve hours ~~of his arrival~~ after arriving, he the licensee or employee reports ~~his~~ the licensee's or employee's presence and length of stay to the sheriff and police chief of any county or municipal corporation in which ~~he~~ the licensee or employee operates.

**Sec. 4749.06.** (A) Each class A, B, or C licensee shall register the licensee's investigator or security guard employees, with the department of ~~commerce~~ public safety, which shall maintain a record of each licensee and registered employee and make it available, upon request, to any law enforcement agency. The class A, B, or C licensee shall file an application to register a new employee no sooner than three days nor later than seven calendar days after the date on which the employee is hired.

(B)(1) Each employee's registration application shall be accompanied by one complete set of the employee's fingerprints, one recent photograph of the employee, the employee's physical description, and an eighteen-dollar registration fee.

(2) If the director of public safety requests the bureau of criminal identification and investigation to conduct an investigation of a licensee's employee and if the bureau assesses the director a fee for the investigation, the director, in addition to any other fee assessed pursuant to this chapter, may assess the licensee a fee that is equal to the fee assessed by the bureau. If, after investigation, the bureau finds that the

employee has not been convicted of a felony within the last twenty 48214  
years, the director shall issue to the employee an identification 48215  
card bearing the license number and signature of the licensee, 48216  
which in the case of a corporation shall be the signature of its 48217  
president or its qualifying agent, and containing the employee's 48218  
name, address, age, physical description, and right thumb print or 48219  
other identifying mark as the director prescribes, a recent 48220  
photograph of the employee, and the employee's signature. The 48221  
director may issue a duplicate of a lost, spoliated, or destroyed 48222  
identification card issued under this section, upon payment of a 48223  
fee fixed by the director, not exceeding five dollars. 48224

(C) Except as provided in division (E) of this section, no 48225  
class A, B, or C licensee shall permit an employee, other than an 48226  
individual who qualified a corporation for licensure, to engage in 48227  
the business of private investigation, the business of security 48228  
services, or both businesses until the employee receives an 48229  
identification card from the department, except that pending the 48230  
issuance of an identification card, a class A, B, or C licensee 48231  
may offer for hire security guard or investigator employees 48232  
provided the licensee obtains a waiver from the person who 48233  
receives, for hire, security guard or investigative services, 48234  
acknowledging that the person is aware the employees have not 48235  
completed their registration and agreeing to their employment. 48236

(D) If a class A, B, or C licensee, or a registered employee 48237  
of a class A, B, or C licensee, intends to carry a firearm, as 48238  
defined in section 2923.11 of the Revised Code, in the course of 48239  
engaging in the business or employment, the licensee or registered 48240  
employee shall satisfactorily complete a firearms basic training 48241  
program that includes twenty hours of handgun training and five 48242  
hours of training in the use of other firearms, if any other 48243  
firearm is to be used, or equivalency training, if authorized, or 48244  
shall be a former peace officer who previously had successfully 48245

completed a firearms training course, shall receive a certificate 48246  
of satisfactory completion of that program or written evidence of 48247  
approval of the equivalency training, shall file an application 48248  
for registration, shall receive a firearm-bearer notation on the 48249  
licensee's or registered employee's identification card, and shall 48250  
annually requalify on a firearms range, all as described in 48251  
division (A) of section 4749.10 of the Revised Code. A private 48252  
investigator, security guard provider, or employee is authorized 48253  
to carry a firearm only in accordance with that division. 48254

(E) This section does not apply to commissioned peace 48255  
officers, as defined in division (B) of section 2935.01 of the 48256  
Revised Code, working for, either as an employee or independent 48257  
contractor, a class A, B, or C licensee. For purposes of this 48258  
chapter, a commissioned peace officer is an employee exempt from 48259  
registration. 48260

**Sec. 4749.07.** (A) After refund of any license fees as 48261  
required by section 4749.03 of the Revised Code, the department of 48262  
~~commerce~~ public safety shall pay all fees received pursuant to 48263  
this chapter to the treasurer of state, to be credited to the 48264  
private investigator and security guard provider fund, which is 48265  
hereby created. 48266

(B) Moneys received in payment of fines levied pursuant to 48267  
section 4749.99 of the Revised Code shall be distributed as 48268  
follows: 48269

(1) One-third to the general fund of the municipal 48270  
corporation or township in which the prosecution occurs; 48271

(2) One-third to the general fund of the county in which the 48272  
prosecution occurs; 48273

(3) One-third to the private investigator and security guard 48274  
provider fund. 48275



**Sec. 4749.08.** (A) No class A, B, or C licensee, or registered employee of a class A, B, or C licensee shall be considered, because of licensure or registration under this chapter, a law enforcement officer for any purpose. Nothing in this chapter shall be construed as granting the right to carry a concealed weapon.

(B) The rules of the department of ~~commerce~~ public safety adopted for the administration of this chapter shall include provisions to assure that any uniform or identification card shall be so designed as to avoid confusion of a private investigator, security guard provider, or registered employee with any law enforcement officer in this state.

**Sec. 4749.10.** (A) No class A, B, or C licensee and no registered employee of a class A, B, or C licensee shall carry a firearm, as defined in section 2923.11 of the Revised Code, in the course of engaging in the business of private investigation, the business of security services, or both businesses, unless all of the following apply:

(1) The licensee or employee either has successfully completed a basic firearm training program at a training school approved by the Ohio peace officer training commission, which program includes twenty hours of training in handgun use and, if any firearm other than a handgun is to be used, five hours of training in the use of other firearms, and has received a certificate of satisfactory completion of that program from the executive director of the commission; the licensee or employee has, within three years prior to the effective date of this section, satisfactorily completed firearms training that has been approved by the commission as being equivalent to such a program and has received written evidence of approval of that training

from the executive director of the commission; or the licensee or 48306  
employee is a former peace officer, as defined in section 109.71 48307  
of the Revised Code, who previously had successfully completed a 48308  
firearms training course at a training school approved by the Ohio 48309  
peace officer training commission and has received a certificate 48310  
or other evidence of satisfactory completion of that course from 48311  
the executive director of the commission. 48312

(2) The licensee or employee submits an application to the 48313  
director of ~~commerce~~ public safety, on a form prescribed by the 48314  
director, in which the licensee or employee requests registration 48315  
as a class A, B, or C licensee or employee who may carry a 48316  
firearm. The application shall be accompanied by a copy of the 48317  
certificate or the written evidence or other evidence described in 48318  
division (A)(1) of this section, the identification card issued 48319  
pursuant to section 4749.03 or 4749.06 of the Revised Code if one 48320  
has previously been issued, a statement of the duties that will be 48321  
performed while the licensee or employee is armed, and a fee of 48322  
ten dollars. In the case of a registered employee, the statement 48323  
shall be prepared by the employing class A, B, or C licensee. 48324

(3) The licensee or employee receives a notation on the 48325  
licensee's or employee's identification card that the licensee or 48326  
employee is a firearm-bearer and carries the identification card 48327  
whenever the licensee or employee carries a firearm in the course 48328  
of engaging in the business of private investigation, the business 48329  
of security services, or both businesses. 48330

(4) At any time within the immediately preceding twelve-month 48331  
period, the licensee or employee has requalified in firearms use 48332  
on a firearms training range at a firearms requalification program 48333  
certified by the Ohio peace officer training commission or on a 48334  
firearms training range under the supervision of an instructor 48335  
certified by the commission and has received a certificate of 48336  
satisfactory requalification from the certified program or 48337

certified instructor, provided that this division does not apply 48338  
to any licensee or employee prior to the expiration of eighteen 48339  
months after the licensee's or employee's completion of the 48340  
program described in division (A)(1) of this section. A 48341  
certificate of satisfactory requalification is valid and remains 48342  
in effect for twelve months from the date of the requalification. 48343

(5) If division (A)(4) of this section applies to the 48344  
licensee or employee, the licensee or employee carries the 48345  
certificate of satisfactory requalification that then is in effect 48346  
or any other evidence of requalification issued or provided by the 48347  
director. 48348

(B)(1) The director ~~of commerce~~ shall register an applicant 48349  
under division (A) of this section who satisfies divisions (A)(1) 48350  
and (2) of this section, and place a notation on the applicant's 48351  
identification card indicating that the applicant is a 48352  
firearm-bearer and the date on which the applicant completed the 48353  
program described in division (A)(1) of this section. 48354

(2) A firearms requalification training program or instructor 48355  
certified by the commission for the annual requalification of 48356  
class A, B, or C licensees or employees who are authorized to 48357  
carry a firearm under section 4749.10 of the Revised Code shall 48358  
award a certificate of satisfactory requalification to each class 48359  
A, B, or C licensee or registered employee of a class A, B, or C 48360  
licensee who satisfactorily requalifies in firearms training. The 48361  
certificate shall identify the licensee or employee and indicate 48362  
the date of the requalification. A licensee or employee who 48363  
receives such a certificate shall submit a copy of it to the 48364  
director ~~of commerce~~. A licensee shall submit the copy of the 48365  
requalification certificate at the same time that the licensee 48366  
makes application for renewal of the licensee's class A, B, or C 48367  
license. The director shall keep a record of all copies of 48368  
requalification certificates the director receives under this 48369

division and shall establish a procedure for the updating of 48370  
identification cards to provide evidence of compliance with the 48371  
annual requalification requirement. The procedure for the updating 48372  
of identification cards may provide for the issuance of a new card 48373  
containing the evidence, the entry of a new notation containing 48374  
the evidence on the existing card, the issuance of a separate card 48375  
or paper containing the evidence, or any other procedure 48376  
determined by the director to be reasonable. Each person who is 48377  
issued a requalification certificate under this division promptly 48378  
shall pay to the Ohio peace officer training commission 48379  
established by section 109.71 of the Revised Code a fee of five 48380  
dollars, which fee shall be transmitted to the treasurer of state 48381  
for deposit in the peace officer private security fund established 48382  
by section 109.78 of the Revised Code. 48383

**Sec. 4749.11.** (A) The director of ~~commerce~~ public safety may 48384  
investigate any applicant for a class A, B, or C license, any 48385  
principal officer or qualifying agent of a corporation who is 48386  
specified in an application for licensure as satisfying the 48387  
requirements of divisions (A)(1) and (F)(1) of section 4749.03 of 48388  
the Revised Code, and any employee of a class A, B, or C licensee 48389  
who seeks to be registered under section 4749.06 of the Revised 48390  
Code to determine whether the individual satisfies the applicable 48391  
requirements for licensure or registration. 48392

(B) The director of ~~commerce~~ may investigate, on ~~his~~ the 48393  
director's own initiative, the actions or proposed actions of a 48394  
class A, B, or C licensee, or registered employee of a class A, B, 48395  
or C licensee to determine whether the person is, has been, or 48396  
will be in violation of section 4749.13 of the Revised Code. The 48397  
director shall investigate any of these persons if a verified 48398  
written complaint is filed indicating that a person has violated, 48399  
or is or will be violating, section 4749.13 of the Revised Code, 48400  
the complaint is supported by evidence submitted with it, and the 48401

director determines that a prima-facie case exists that a 48402  
violation of that section is being, has been, or will be committed 48403  
by the person. 48404

(C) The director ~~of commerce~~ may investigate, on ~~his~~ the 48405  
director's own initiative, the actions or proposed actions of a 48406  
person who is not licensed or registered under this chapter and 48407  
who appears to be acting as a class A, B, or C licensee, or 48408  
employee of a class A, B, or C licensee. The director shall 48409  
investigate such a person if a verified written complaint is filed 48410  
indicating that a person was, is, or will be acting as a class A, 48411  
B, or C licensee or employee of a class A, B, or C licensee but is 48412  
not licensed or registered as such under this chapter, the 48413  
complaint is supported by evidence that is submitted with it, and 48414  
the director determines that a prima-facie case exists that the 48415  
person was, is, or will be acting in the alleged manner. 48416

(D) In connection with investigations under divisions (B) and 48417  
(C) of this section, the director ~~of commerce~~ may file an action 48418  
with the court of common pleas of Franklin county or the court of 48419  
common pleas of the county in which the person who is the subject 48420  
of the investigation resides, is engaging in actions, or proposing 48421  
to engage in actions, to obtain an injunction, restraining order, 48422  
or other appropriate relief. 48423

(E) The director ~~of commerce~~ may compel by subpoena witnesses 48424  
to appear and testify in relation to investigations under this 48425  
chapter and may require by subpoena duces tecum the production of 48426  
any book, paper, or document pertaining to an investigation. If a 48427  
person does not comply with a subpoena or subpoena duces tecum, 48428  
the director ~~of commerce~~ may apply to the court of common pleas of 48429  
Franklin county for an order compelling the person to comply with 48430  
the subpoena or subpoena duces tecum or, for failure to do so, to 48431  
be held in contempt of court. 48432

(F) If, in an investigation under division (C) of this 48433

section, the director determines that a person is not a class A, 48434  
B, or C licensee, or a registered employee of a class A, B, or C 48435  
licensee, and that the person was, is, or will be acting in the 48436  
alleged manner, the director may issue an order to the person to 48437  
show cause why ~~he~~ the person should not be subject to licensing or 48438  
registration under this chapter. The director shall hold a hearing 48439  
on the order, and if following the hearing ~~he~~ the director 48440  
determines that the person has engaged, or is or will be engaging, 48441  
in activities requiring licensure or registration under this 48442  
chapter, ~~he~~ the director may issue a cease and desist order that 48443  
shall describe the person and the activities that are the subject 48444  
of it. The cease and desist order is enforceable in and may be 48445  
appealed to a court of common pleas pursuant to Chapter 119. of 48446  
the Revised Code. 48447

(G) In any proceeding or action brought under this chapter, 48448  
the burden of proving an exemption from the licensure requirements 48449  
of this chapter is on the person claiming the benefit of the 48450  
exemption. 48451

**Sec. 4749.12.** (A) A person who is a resident of another 48452  
state, is licensed as a private investigator, security guard 48453  
provider, or as a private investigator and a security guard 48454  
provider in another state, and wishes to engage in the business of 48455  
private investigation, the business of security services, or both 48456  
businesses in this state, shall be licensed pursuant to section 48457  
4749.03 of the Revised Code, but the director of ~~commerce~~ public 48458  
safety may waive the examination requirement of that section and 48459  
issue a license to a nonresident under the circumstances described 48460  
in division (B) of this section. 48461

(B) If a nonresident private investigator, security guard 48462  
provider, or private investigator and security guard provider 48463  
seeking licensure under this chapter submits with the application 48464

and accompanying matter specified in section 4749.03 of the Revised Code proof of licensure in another state, and if the requirements of divisions (A)(1)(a), (b), and (d) and, if applicable, (F)(1) of section 4749.03 of the Revised Code are satisfied and the nonresident meets all current requirements of the laws of the other state regulating the business of private investigation, the business of security services, or both businesses, the director of ~~commerce~~ may waive the examination requirement and fee of that section. This waiver authority may be exercised only if the director determines that the other state has a law similar to this division and extends to residents of this state a similar waiver of examination privilege.

**Sec. 4749.13.** (A) No person shall engage in the business of private investigation, the business of security services, or both businesses in this state unless ~~he~~ the person is licensed pursuant to this chapter. Each day of continuing violation constitutes a separate offense. Nothing in this chapter shall be construed to require any employee of a class A, B, or C licensee to obtain a class A, B, or C license, provided that an employee shall be registered by a licensee when required by section 4749.06 of the Revised Code. Nothing in this chapter shall be construed to require a partner to be a class A, B, or C licensee except as provided in division (A)(3) of section 4749.03 of the Revised Code. Nothing in this chapter shall be construed to require a director, officer, or qualifying agent of a corporation to individually be a class A, B, or C licensee if the corporation is licensed pursuant to this chapter.

(B) No class A, B, or C licensee, or registered employee of a class A, B, or C licensee shall:

(1) Knowingly violate any provision of this chapter or any rule of the director of ~~commerce~~ public safety adopted for the

administration of this chapter;	48496
(2) Knowingly make a false report with respect to any matter with which <del>he</del> <u>the licensee or registered employee</u> is employed;	48497 48498
(3) Divulge any information acquired from or for a client to persons other than the client or <del>his</del> <u>the client's</u> authorized agent without express authorization to do so or unless required by law;	48499 48500 48501
(4) Knowingly accept employment which includes obtaining information intended for illegal purposes.	48502 48503
(C) No person shall knowingly authorize or permit another person to violate any provision of this chapter or any rule of the director of <del>commerce</del> adopted for the administration of this chapter.	48504 48505 48506 48507
(D) No person who is not licensed as a class A, B, or C licensee shall advertise that <del>he</del> <u>the person</u> is or otherwise hold <del>himself</del> <u>self</u> out as a class A, B, or C licensee. This division does not prohibit registered employees from indicating in the course of authorized employment for a class A, B, or C licensee that they are authorized to engage in investigatory, security services activities, or both activities.	48508 48509 48510 48511 48512 48513 48514
<b>Sec. 4749.14.</b> On receipt of a notice pursuant to section 3123.43 of the Revised Code, the director of <del>commerce</del> <u>public safety</u> shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license issued pursuant to this chapter.	48515 48516 48517 48518 48519 48520
<b>Sec. 4751.06.</b> (A) An applicant for licensure as a nursing home administrator who has successfully completed the requirements of section 4751.05 of the Revised Code, passed the examination administered by the board of examiners of nursing home administrators or a government or private entity under contract	48521 48522 48523 48524 48525



with the board, and paid to the board an original license fee of 48526  
two hundred ~~ten~~ fifty dollars shall be issued a license on a form 48527  
provided by the board. Such license shall certify that the 48528  
applicant has met the licensure requirements of Chapter 4751. of 48529  
the Revised Code and is entitled to practice as a licensed nursing 48530  
home administrator. 48531

(B) A temporary license for a period not to exceed one 48532  
hundred eighty days may be issued to an individual temporarily 48533  
filling the position of a nursing home administrator vacated by 48534  
reason of death, illness, or other unexpected cause, pursuant to 48535  
regulations adopted by the board. 48536

(C) The fee for a temporary license is one hundred dollars. 48537  
Said fee must accompany the application for the temporary license. 48538

(D) Any license or temporary license issued by the board 48539  
pursuant to this section shall be under the hand of the 48540  
chairperson and the secretary of the board. 48541

(E) A duplicate of the original certificate of registration 48542  
or license may be secured to replace one that has been lost or 48543  
destroyed by submitting to the board a notarized statement 48544  
explaining the conditions of the loss, mutilation, or destruction 48545  
of the certificate or license and by paying a fee of twenty-five 48546  
dollars. 48547

(F) A duplicate certificate of registration and license may 48548  
be issued in the event of a legal change of name by submitting to 48549  
the board a certified copy of the court order or marriage license 48550  
establishing the change of name, by returning at the same time the 48551  
original license and certificate of registration, and by paying a 48552  
fee of twenty-five dollars. 48553

**Sec. 4751.07.** (A) Every individual who holds a valid license 48554  
as a nursing home administrator issued under division (A) of 48555

section 4751.06 of the Revised Code, shall immediately upon 48556  
issuance thereof be registered with the board of examiners of 48557  
nursing home administrators and be issued a certificate of 48558  
registration. Such individual shall annually apply to the board 48559  
for a new certificate of registration on forms provided for such 48560  
purpose prior to the expiration of the certificate of registration 48561  
and shall at the same time submit satisfactory evidence to the 48562  
board of having attended such continuing education programs or 48563  
courses of study as may be prescribed in rules adopted by the 48564  
board. 48565

(B) Upon making an application for a new certificate of 48566  
registration such individual shall pay the annual registration fee 48567  
of two hundred ~~ten~~ fifty dollars. 48568

(C) Upon receipt of such application for registration and the 48569  
registration fee required by divisions (A) and (B) of this 48570  
section, the board shall issue a certificate of registration to 48571  
such nursing home administrator. 48572

(D) The license of a nursing home administrator who fails to 48573  
comply with this section shall automatically lapse. 48574

(E) A nursing home administrator who has been licensed and 48575  
registered in this state who determines to temporarily abandon the 48576  
practice of nursing home administration shall notify the board in 48577  
writing immediately; provided, that such individual may thereafter 48578  
register to resume the practice of nursing home administration 48579  
within the state upon complying with the requirements of this 48580  
section regarding annual registration. 48581

(F) Only an individual who has qualified as a licensed and 48582  
registered nursing home administrator under Chapter 4751. of the 48583  
Revised Code and the rules adopted thereunder, and who holds a 48584  
valid current registration certificate pursuant to this section, 48585  
may use the title "nursing home administrator," or the 48586

abbreviation "N.H.A." after the individual's name. No other person 48587  
shall use such title or such abbreviation or any other words, 48588  
letters, sign, card, or device tending to indicate or to imply 48589  
that the person is a licensed and registered nursing home 48590  
administrator. 48591

(G) Every person holding a valid license entitling the person 48592  
to practice nursing home administration in this state shall 48593  
display said license in the nursing home which is the person's 48594  
principal place of employment, and while engaged in the practice 48595  
of nursing home administration shall have at hand the current 48596  
registration certificate. 48597

(H) Every person holding a valid temporary license shall have 48598  
such license at hand while engaged in the practice of nursing home 48599  
administration. 48600

**Sec. 4755.03.** There is hereby created in the department of 48601  
health the Ohio occupational therapy, physical therapy, and 48602  
athletic trainers board ~~consisting~~. The board shall consist of 48603  
sixteen residents of this state, who shall be appointed by the 48604  
governor with the advice and consent of the senate. The board 48605  
shall be composed of a physical therapy section, an occupational 48606  
therapy section, and an athletic trainers section. 48607

Five members of the board shall be physical therapists who 48608  
are licensed to practice physical therapy and who have been 48609  
engaged in or actively associated with the practice of physical 48610  
therapy in this state for at least five years immediately 48611  
preceding appointment. Such members of the board shall sit on the 48612  
physical therapy section. The physical therapy section also shall 48613  
consist of four additional members, appointed by the governor with 48614  
the advice and consent of the senate, who satisfy the same 48615  
qualifications as the members of the board sitting on the physical 48616  
therapy section, but who are not members of the board. Such 48617

additional members of the physical therapy section are vested with 48618  
only such powers and shall perform only such duties as relate to 48619  
the affairs of that section, shall serve for the same terms as do 48620  
members of the board sitting on the physical therapy section, and 48621  
shall subscribe to and file with the secretary of state the 48622  
constitutional oath of office. 48623

Five members of the board shall be occupational therapists 48624  
who have been engaged in or actively associated with the practice 48625  
of occupational therapy in this state for at least five years 48626  
immediately preceding appointment. Such members of the board shall 48627  
sit on the occupational therapy section. 48628

Four members of the board shall be athletic trainers who have 48629  
been engaged in the practice of athletic training in Ohio for at 48630  
least five years immediately preceding appointment. One member of 48631  
the board shall be a physician licensed to practice medicine and 48632  
surgery in this state. Such members of the board shall sit on the 48633  
athletic trainers section. 48634

One member of the board shall represent the public and shall 48635  
be at least sixty years of age. This member shall sit on the 48636  
board. 48637

Terms of office are for three years, each term commencing on 48638  
the twenty-eighth day of August and ending on the twenty-seventh 48639  
day of August. Each member shall serve subsequent to the 48640  
expiration of ~~his~~ the member's term until ~~his~~ the member's 48641  
successor is appointed and qualifies, or until a period of sixty 48642  
days has elapsed, whichever occurs first. Each member, before 48643  
entering upon ~~the~~ official duties ~~of his office~~, shall subscribe 48644  
to and file with the secretary of state the constitutional oath of 48645  
office. All vacancies shall be filled in the manner prescribed for 48646  
the regular appointments to the board and are limited to the 48647  
unexpired terms. 48648

Annually, upon the qualification of the member or members 48649  
appointed in that year, the board shall organize by selecting from 48650  
its members a president and secretary. Each section of the board 48651  
shall organize by selecting from its members a ~~chairman~~ 48652  
chairperson and secretary. 48653

The majority of the members of the board constitutes a quorum 48654  
to transact and vote on the business of the board. A majority of 48655  
the members of each section constitutes a quorum to transact and 48656  
vote on the affairs of that section. 48657

Each member of the board and each additional member of the 48658  
physical therapy section shall receive an amount fixed pursuant to 48659  
division (J) of section 124.15 of the Revised Code for each day 48660  
employed in the discharge of ~~his~~ official duties. In addition, 48661  
each member of the board and each additional member of the 48662  
physical therapy section shall receive ~~his~~ the member's actual and 48663  
necessary expenses incurred in the performance of ~~his~~ official 48664  
duties. 48665

The board of trustees of the Ohio occupational therapy 48666  
association, inc., may recommend, after any term expires or 48667  
vacancy occurs in an occupational therapy position, at least three 48668  
persons to fill each such position or vacancy on the board, and 48669  
the governor may make ~~his~~ the appointment from the persons so 48670  
recommended. The executive board of the Ohio chapter, inc., of the 48671  
American physical therapy association may recommend, after any 48672  
term expires or vacancy occurs in a physical therapy position, at 48673  
least three persons to fill each such vacancy on the board, and 48674  
the governor may make ~~his~~ appointments from the persons so 48675  
recommended. The Ohio athletic trainers association shall 48676  
recommend to the governor at least three persons for each of the 48677  
initial appointments to an athletic trainer's position. The Ohio 48678  
athletic trainers association shall also recommend to the governor 48679  
at least three persons when any term expires or any vacancy occurs 48680

in such a position. The governor may select one of the 48681  
association's recommendations in making such an appointment. 48682

The board shall meet as a whole to determine all 48683  
administrative, personnel, and budgetary matters. The executive 48684  
director of the board appointed by the board shall not be a 48685  
physical therapist, an occupational therapist, or an athletic 48686  
trainer who has been licensed to practice physical therapy, 48687  
occupational therapy, or as an athletic trainer in this state 48688  
within three years immediately preceding appointment. The 48689  
executive director shall serve at the pleasure of the board. 48690

The occupational therapy section of the board shall have the 48691  
full authority to act on behalf of the board on all matters 48692  
concerning the practice of occupational therapy and, in 48693  
particular, the examination, licensure, and suspension or 48694  
revocation of licensure of applicants, occupational therapists, 48695  
and occupational therapy assistants. The physical therapy section 48696  
of the board shall have the full authority to act on behalf of the 48697  
board on all matters concerning the practice of physical therapy 48698  
and, in particular, the examination, licensure, and suspension or 48699  
revocation of licensure of applicants, physical therapists, and 48700  
physical therapist assistants. The athletic trainers section of 48701  
the board shall have the full authority to act on behalf of the 48702  
board on all matters concerning the practice of athletic training 48703  
and, in particular, the examination, licensure, and suspension or 48704  
revocation of licensure of applicants and athletic trainers. All 48705  
actions taken by any section of the board under this paragraph 48706  
shall be in accordance with Chapter 119. of the Revised Code. 48707

Sec. 4755.031. Notwithstanding any other section of this 48708  
chapter, any rules required to be adopted by any section of the 48709  
Ohio occupational therapy, physical therapy, and athletic trainers 48710  
board shall be adopted on behalf of that section of the board by 48711

the director of health. When adopting rules for a section of the 48712  
board, the director shall, to the extent the director considers 48713  
appropriate, consult with or accept comments from that section. 48714  
Any rules adopted prior to the effective date of this section 48715  
shall continue in force as rules of the department of health until 48716  
amended or rescinded by the director. 48717

**Sec. 4759.08.** (A) The Ohio board of dietetics shall charge 48718  
and collect fees as described in this section for issuing the 48719  
following: 48720

(1) An application for an initial dietitian license, or an 48721  
application for ~~reinstatement~~ reactivation of an inactive license, 48722  
one hundred ~~ten~~ twenty-five dollars, and for reinstatement of a 48723  
lapsed, revoked, or suspended license, one hundred ~~sixty-five~~ 48724  
eighty dollars; 48725

(2) License renewal, ~~eighty~~ ninety-five dollars; 48726

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ 48727  
sixty-five dollars; 48728

(4) A duplicate license or permit, twenty dollars; 48729

(5) For processing a late application for renewal of any 48730  
license or permit, an additional fee equal to fifty per cent of 48731  
the fee for the renewal. 48732

(B) The board shall not require a licensed dietitian holding 48733  
an inactive license to pay the renewal fee. 48734

(C) Subject to the approval of the controlling board, the 48735  
Ohio board of dietetics may establish fees in excess of the 48736  
amounts provided in division (A) of this section, provided that 48737  
the fees do not exceed the amounts by greater than fifty per cent. 48738

(D) The board may adopt rules pursuant to Chapter 119. of the 48739  
Revised Code to waive all or part of the fee for an initial 48740  
license if the license is issued within one hundred days of the 48741

date of expiration of the license. 48742

(E) All receipts of the board shall be deposited in the state 48743  
treasury to the credit of the occupational licensing and 48744  
regulatory fund. All vouchers of the board shall be approved by 48745  
the chairperson or secretary of the board, or both, as authorized 48746  
by the board. 48747

**Sec. 4771.22.** The Ohio athletic commission shall deposit all 48748  
money it receives under this chapter to the credit of the ~~athlete~~ 48749  
~~agents registration~~ occupational licensing and regulatory fund, 48750  
~~which is hereby created in the state treasury. The commission~~ 48751  
~~shall use the fund to administer and enforce this chapter under~~ 48752  
section 4743.05 of the Revised Code. 48753

**Sec. 4779.08.** (A) The state board of orthotics, prosthetics, 48754  
and pedorthics shall adopt rules in accordance with Chapter 119. 48755  
of the Revised Code to carry out the purposes of this chapter, 48756  
including rules prescribing all of the following: 48757

(1) The form and manner of filing of applications to be 48758  
admitted to examinations and for licensure and license renewal; 48759

(2) Standards and procedures for formulating, evaluating, 48760  
approving, and administering licensing examinations or recognizing 48761  
other entities that conduct examinations; 48762

(3) The form, scoring, and scheduling of licensing 48763  
examinations; 48764

(4) Fees for examinations and applications for licensure and 48765  
license renewal; 48766

(5) Fees for approval of continuing education courses; 48767

(6) Procedures for issuance, renewal, suspension, and 48768  
revocation of licenses and the conduct of disciplinary hearings; 48769

(7) Standards of ethical and professional conduct in the 48770



practice of orthotics, prosthetics, and pedorthics;	48771
(8) Standards for approving national certification organizations in orthotics, prosthetics, and pedorthics;	48772 48773
(9) Fines for violations of this chapter;	48774
(10) Standards for the recognition and approval of educational programs required for licensure, including standards for approving foreign educational credentials;	48775 48776 48777
(11) Standards for continuing education programs required for license renewal;	48778 48779
(12) Provisions for making available the information described in section 4779.22 of the Revised Code.	48780 48781
(B) The board may adopt any other rules necessary for the administration of this chapter.	48782 48783
(C) The fees prescribed by this section shall be paid to the treasurer of state, who shall <del>from the effective date of this section until December 31, 2004,</del> deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.	48784 48785 48786 48787 48788
<b>Sec. 4779.17.</b> 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:	48789 48790 48791 48792 48793
(A) Applies to the board in accordance with section 4779.09 of the Revised Code;	48794 48795
(B) Holds a license to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics issued by the appropriate authority of another state;	48796 48797 48798
(C) One of the following applies:	48799

(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.	48800 48801 48802
(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.	48803 48804 48805
(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.	48806 48807 48808
(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.	48809 48810 48811
(D) The fees prescribed by this section shall be paid to the treasurer of state, who shall <del>from the effective date of this section until December 31, 2004,</del> deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.	48812 48813 48814 48815 48816
<b>Sec. 4779.18.</b> (A) The state board of orthotics, prosthetics, and pedorthics shall issue a temporary license to an individual who meets all of the following requirements:	48817 48818 48819
(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;	48820 48821 48822
(2) Is eighteen years of age or older;	48823
(3) Is of good moral character;	48824
(4) One of the following applies:	48825
(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.	48826 48827 48828

(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.

(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.

(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.

(B) A temporary license issued under this section is valid for one year and may be renewed once in accordance with rules adopted by the board under section 4779.08 of the Revised Code.

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

(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.

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

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

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

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

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

(A) The public utilities commission shall:

(1) Adopt, and may amend or rescind, rules to carry out sections 4905.90 to 4905.96 of the Revised Code, including rules concerning pipe-line safety, drug testing, and enforcement procedures. The commission shall adopt these rules only after

notice and opportunity for public comment. The rules adopted under 48889  
this division and any orders issued under sections 4905.90 to 48890  
4905.96 of the Revised Code constitute the pipe-line safety code. 48891  
The commission shall administer and enforce that code. 48892

(2) Make certifications and reports to the United States 48893  
department of transportation as required under the Natural Gas 48894  
Pipeline Safety Act. 48895

(B) The commission may: 48896

(1) Investigate any service, act, practice, policy, or 48897  
omission by any operator to determine its compliance with sections 48898  
4905.90 to 4905.96 of the Revised Code and the pipe-line safety 48899  
code; 48900

(2) Investigate any intrastate pipe-line transportation 48901  
facility to determine if it is hazardous to life or property, as 48902  
provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 48903  
(3); 48904

(3) Investigate the existence or report of any safety-related 48905  
condition that involves any intrastate pipe-line transportation 48906  
facility; 48907

(4) Enter into and perform contracts or agreements with the 48908  
United States department of transportation to inspect interstate 48909  
transmission facilities pursuant to the Natural Gas Pipeline 48910  
Safety Act; 48911

(5) Accept grants-in-aid, ~~fund~~ cash, and reimbursements 48912  
provided for or made available to this state by the federal 48913  
government to carry out the Natural Gas Pipeline Safety Act or to 48914  
enforce sections 4905.90 to 4905.96 of the Revised Code and the 48915  
pipe-line safety code. All such grants-in-aid, cash, and 48916  
reimbursements shall be deposited to the credit of the gas 48917  
pipe-line safety fund, which is hereby created in the state 48918  
treasury, to be used by the commission for the purpose of carrying 48919

out this section. 48920

(C) The commission's regulation of gathering lines shall 48921  
conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 48922  
192 and 199, as amended, and the commission's annual certification 48923  
agreements with the United States department of transportation, 48924  
except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, 48925  
and rule 4901:1-16-06 of the Ohio Administrative Code shall also 48926  
apply to gathering lines. The procedural rules under chapter 48927  
4901:1-16 of the Ohio Administrative Code shall also apply to 48928  
operators of gathering lines. 48929

**Sec. 4919.79.** (A) The public utilities commission may adopt 48930  
safety rules applicable to the highway transportation and offering 48931  
for transportation of hazardous materials in interstate commerce, 48932  
which highway transportation takes place into or through this 48933  
state. 48934

(B) The commission may adopt safety rules applicable to the 48935  
highway transportation of persons or property in interstate 48936  
commerce, which transportation takes place into or through this 48937  
state. 48938

(C) Rules adopted under divisions (A) and (B) of this section 48939  
shall be consistent with, and equivalent in scope, coverage, and 48940  
content to, the "Hazardous Materials Transportation Act," 88 Stat. 48941  
2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted 48942  
under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 48943  
2832, 49 U.S.C.A. 2501, and regulations adopted under it, 48944  
respectively. No person shall violate a rule adopted under 48945  
division (A) or (B) of this section or any order of the commission 48946  
issued to secure compliance with any such rule. 48947

(D) The commission shall cooperate with, and permit the use 48948  
of, the services, records, and facilities of the commission as 48949  
fully as practicable by appropriate officers of the interstate 48950

commerce commission, the United States department of 48951  
transportation, and other federal agencies or commissions and 48952  
appropriate commissions of other states in the enforcement and 48953  
administration of state and federal laws relating to highway 48954  
transportation by motor vehicles. The commission may enter into 48955  
cooperative agreements with the interstate commerce commission, 48956  
the United States department of transportation, and any other 48957  
federal agency or commission to enforce the economic and safety 48958  
laws and rules of this state and of the United States concerning 48959  
highway transportation by motor vehicles. All grants-in-aid, cash, 48960  
and reimbursements received by the commission pursuant to those 48961  
cooperative agreements shall be deposited to the credit of the 48962  
motor carrier safety fund, which is hereby created in the state 48963  
treasury, to be used by the commission for the purpose of carrying 48964  
out this section. 48965

(E) To achieve the purposes of this section, the commission 48966  
may, through its inspectors or other authorized employees, inspect 48967  
any vehicles of carriers of persons or property in interstate 48968  
commerce subject to the safety rules prescribed by this section 48969  
and may enter upon the premises and vehicles of such carriers to 48970  
examine any of the carriers' records or documents that relate to 48971  
the safety of operation of such carriers. In order to assist the 48972  
commission in the performance of its duties under this section, 48973  
authorized employees of the commercial motor vehicle safety 48974  
enforcement unit, division of state highway patrol, of the 48975  
department of public safety may enter in or upon, for purposes of 48976  
inspection, any vehicle of any such carrier. 48977

In order to inspect motor vehicles owned or operated by 48978  
private motor carriers of persons, authorized employees of the 48979  
commercial motor vehicle safety enforcement unit, division of 48980  
state highway patrol, of the department of public safety may enter 48981  
in or upon the premises of any private carrier of persons in 48982

interstate commerce, subject to the safety rules prescribed by 48983  
this section. 48984

**Sec. 4928.62.** (A) Beginning on the starting date of 48985  
competitive retail electric service, there is hereby created the 48986  
energy efficiency revolving loan program, which shall be 48987  
administered by the director of development. Under the program, 48988  
the director may authorize the use of moneys in the energy 48989  
efficiency revolving loan fund for financial assistance for 48990  
projects in this state. To the extent feasible given approved 48991  
applications for assistance, the assistance shall be distributed 48992  
among the certified territories of electric distribution utilities 48993  
and participating electric cooperatives, and among the service 48994  
areas of participating municipal electric utilities, in amounts 48995  
proportionate to the remittances of each utility and cooperative 48996  
under divisions (B)(1) and (3) of section 4928.61 of the Revised 48997  
Code. The assistance ~~shall~~ may be ~~made or~~ provided through 48998  
~~approved lending institutions~~ by the director of development in 48999  
the form of direct loans, or grants, or through lending 49000  
institutions in the form of loan participation agreements at below 49001  
market rates, ~~loan guarantees for such loans, and or~~ linked 49002  
deposits ~~for such loans~~. The total of all grants provided in any 49003  
one fiscal year shall not exceed ten per cent of the revenues paid 49004  
into the energy efficiency revolving loan fund during the previous 49005  
fiscal year. 49006

The director shall not authorize financial assistance under 49007  
the program unless the director first determines all of the 49008  
following: 49009

(1) The project will include an investment in products, 49010  
technologies, or services, including energy efficiency or 49011  
renewable energy for low-income housing, for residential, ~~small~~ 49012  
commercial and ~~small~~ industrial business, local government, 49013



educational institution, nonprofit entity, or agricultural 49014  
customers of an electric distribution utility in this state or a 49015  
participating municipal electric utility or electric cooperative 49016  
in this state. 49017

(2) The project will improve energy efficiency, provide for 49018  
the use of renewable energy, or monitor energy usage in a 49019  
cost-efficient manner by using both the most appropriate national, 49020  
federal, or other standards for products as determined by the 49021  
director, and the best practices for use of technology, products, 49022  
or services in the context of the total facility or building. 49023

(3) The project will benefit the economic and environmental 49024  
welfare of the citizens of this state. 49025

(4) The receipt of financial assistance is a major factor in 49026  
the applicant's decision to proceed with or invest in the project. 49027

(B) In carrying out sections 4928.61 to 4928.63 of the 49028  
Revised Code, the director may do all of the following for the 49029  
purpose of the energy efficiency revolving loan program: 49030

(1) Acquire in the name of the director any property of any 49031  
kind or character in accordance with this section, by purchase, 49032  
purchase at foreclosure, or exchange, on such terms and in such 49033  
manner as the director considers proper; 49034

(2) Make and enter into all contracts and agreements 49035  
necessary or incidental to the performance of the director's 49036  
duties and the exercise of the director's powers under those 49037  
sections; 49038

(3) Employ or enter into contracts with financial 49039  
consultants, marketing consultants, consulting engineers, 49040  
architects, managers, construction experts, attorneys, technical 49041  
monitors, energy evaluators, or other employees or agents as the 49042  
director considers necessary, and ~~shall~~ fix their compensation; 49043

(4) Adopt rules prescribing the application procedures for 49044  
financial assistance under the program; the terms and conditions 49045  
of any loans, loan guarantees, grants, linked deposits, and 49046  
contracts; criteria pertaining to the eligibility of participating 49047  
lending institutions; and any other matters necessary for the 49048  
implementation of the program; 49049

(5) Do all things necessary and appropriate for the operation 49050  
of the program. 49051

(C) Financial statements, financial data, and trade secrets 49052  
submitted to or received by the director from an applicant or 49053  
recipient of financial assistance under sections 4928.61 to 49054  
4928.63 of the Revised Code, or any information taken from those 49055  
statements, data, or trade secrets for any purpose, are not public 49056  
records for the purpose of section 149.43 of the Revised Code. 49057

**Sec. 4928.63.** The director of development and the public 49058  
benefits advisory board have the powers and duties provided in 49059  
sections 4928.61 and 4928.62 of the Revised Code, in order to 49060  
promote the welfare of the people of this state, to stabilize the 49061  
economy, to assist in the improvement and development within this 49062  
state of not-for-profit entity, industrial, commercial, 49063  
distribution, residential, and research buildings and activities 49064  
required for the people of this state, to improve the economic 49065  
welfare of the people of this state, and also to assist in the 49066  
improvement of air, water, or thermal pollution control facilities 49067  
and solid waste disposal facilities. It is hereby determined that 49068  
the accomplishment of those purposes is essential so that the 49069  
people of this state may maintain their present high standards in 49070  
comparison with the people of other states and so that 49071  
opportunities for improving the economic welfare of the people of 49072  
this state, for improving the housing of residents of this state, 49073  
and for favorable markets for the products of this state's natural 49074

resources, agriculture, and manufacturing shall be improved; and 49075  
that it is necessary for this state to establish the program 49076  
authorized pursuant to sections 4928.61 and 4928.62 of the Revised 49077  
Code, ~~to establish the energy efficiency revolving loan program~~ 49078  
~~and program fund and the energy efficiency revolving loan program~~ 49079  
~~advisory board, and to vest the director and the board with the~~ 49080  
~~powers and duties provided in sections 4928.61 and 4928.62 of the~~ 49081  
Revised Code. 49082

**Sec. 4931.45.** (A) A final plan may be amended to expand the 49083  
territory included in the countywide 9-1-1 system, to upgrade any 49084  
part or all of a system from basic 9-1-1 to enhanced 9-1-1 49085  
service, to adjust the territory served by a public safety 49086  
answering point, to represcribe the funding of public safety 49087  
answering points as between the alternatives set forth in division 49088  
(B)(5) of section 4931.43 of the Revised Code, or to make any 49089  
other necessary adjustments to the plan only by convening a new 49090  
9-1-1 planning committee, and adopting an amended final plan. The 49091  
convening of a new 9-1-1 planning committee and the proposal and 49092  
adoption of an amended final plan shall be made in the same manner 49093  
required for the convening of an initial committee and adoption of 49094  
an original proposed and final plan under sections 4931.42 to 49095  
4931.44 of the Revised Code. Adoption of any resolution under 49096  
section 4931.51 of the Revised Code pursuant to a final plan that 49097  
both has been adopted and provides for funding through charges 49098  
imposed under that section is not an amendment of a final plan for 49099  
the purpose of this division. 49100

(B) When a final plan is amended to expand the territory that 49101  
receives 9-1-1 service or to upgrade a 9-1-1 system from basic to 49102  
enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and 49103  
~~5727.39~~ 5733.55 of the Revised Code apply with respect to the 49104  
telephone company's recovery of the nonrecurring and recurring 49105  
rates and charges for the telephone network portion of the system. 49106

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

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

(C)(1) Except as otherwise provided in division (C)(2) of this section, the total nonrecurring charges for the telephone network used in providing 9-1-1 service, as set forth in the

schedule filed by a telephone company in accordance with section 49138  
4905.30 of the Revised Code, on completion of the installation of 49139  
the network in accordance with the terms, conditions, 49140  
requirements, and specifications of the final plan or pursuant to 49141  
section 4931.48 of the Revised Code shall be recovered by the 49142  
company through the credit authorized by section ~~5727.39~~ 5733.55 49143  
of the Revised Code. 49144

(2) The credit shall not be allowed for upgrading of a system 49145  
from basic to enhanced 9-1-1 service when: 49146

(a) The telephone company received the credit for the 49147  
telephone network portion of the basic 9-1-1 system now proposed 49148  
to be upgraded; and 49149

(b) At the time the final plan or agreement pursuant to 49150  
section 4931.48 of the Revised Code calling for the basic 9-1-1 49151  
system was agreed to, the telephone company was capable of 49152  
reasonably meeting the technical and economic requirements of 49153  
providing the telephone network portion of an enhanced 9-1-1 49154  
system within the territory proposed to be upgraded, as determined 49155  
by the public utilities commission under division (A) or (H) of 49156  
section 4931.41 or division (C) of section 4931.48 of the Revised 49157  
Code. 49158

(3) When the credit is not allowed under division (C)(2) of 49159  
this section, the total nonrecurring charges for the telephone 49160  
network used in providing 9-1-1 service, as set forth in the 49161  
schedule filed by a telephone company in accordance with section 49162  
4905.30 of the Revised Code, on completion of the installation of 49163  
the network in accordance with the terms, conditions, 49164  
requirements, and specifications of the final plan or pursuant to 49165  
section 4931.48 of the Revised Code, shall be paid by the 49166  
municipal corporations and townships with any territory in the 49167  
area in which such upgrade from basic to enhanced 9-1-1 service is 49168  
made. 49169

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

**Sec. 4931.48.** (A) If a final plan is disapproved under division (B) of section 4931.44 of the Revised Code, by resolution, the legislative authority of a municipal corporation or township that contains at least thirty per cent of the county's population may establish within its boundaries, or the legislative authorities of a group of municipal corporations or townships each of which is contiguous with at least one other such municipal corporation or township in the group, together containing at least thirty per cent of the county's population, may jointly establish within their boundaries a 9-1-1 system. For this purpose, the municipal corporation or township may enter into an agreement, and the contiguous municipal corporations or townships may jointly enter into an agreement with a telephone company providing service in the municipal corporations or townships to provide for the telephone network portion of the system.

(B) If no resolution has been adopted to convene a 9-1-1 planning committee under section 4931.42 of the Revised Code, but not sooner than eighteen months after the effective date of such section, by resolution, the legislative authority of any municipal corporation in the county may establish within its boundaries, or the legislative authorities of a group of municipal corporations and townships each of which is contiguous to at least one of the other such municipal corporations or townships in the group may jointly establish within their boundaries, a 9-1-1 system. The

municipal corporation or contiguous municipal corporations and 49201  
townships, may enter into an agreement with a telephone company 49202  
serving ~~customers~~ customers within the boundaries of the municipal 49203  
corporation or contiguous municipal corporations and townships, to 49204  
provide for the telephone network portion of a 9-1-1 system. 49205

(C) Whenever a telephone company and one or more municipal 49206  
corporations and townships enter into an agreement under this 49207  
section to provide for the telephone network portion of a basic 49208  
9-1-1 system, the telephone company shall so notify the public 49209  
utilities commission, which shall determine whether the telephone 49210  
company is capable of reasonably meeting the technical and 49211  
economic requirements of providing the telephone network for an 49212  
enhanced system within the territory served by the company and 49213  
covered by the agreement. The determination shall be made solely 49214  
for the purposes of division (C)(2) of section 4931.47 of the 49215  
Revised Code. 49216

(D) Within three years from the date of entering into an 49217  
agreement under division (A) or (B) of this section, the telephone 49218  
company shall have installed the telephone network portion of the 49219  
9-1-1 system according to the terms, conditions, requirements, and 49220  
specifications set forth in the agreement. 49221

(E) The telephone company shall recover the cost of 49222  
installing the telephone network system pursuant to agreements 49223  
made under this section as provided in ~~sections~~ section 4931.47 49224  
~~and 5727.39~~ of the Revised Code, as authorized under section 49225  
5733.55 of the Revised Code. 49226

**Sec. 4973.17.** (A) Upon the application of any bank, building 49227  
and loan association, or association of banks or building and loan 49228  
associations in this state, the ~~governor~~ secretary of state may 49229  
appoint and commission any persons that the bank, building and 49230  
loan association, or association of banks or building and loan 49231

associations designates, or as many of those persons as the 49232  
~~governor~~ secretary of state considers proper, to act as police 49233  
officers for and on the premises of that bank, building and loan 49234  
association, or association of banks or building and loan 49235  
associations, or elsewhere, when directly in the discharge of 49236  
their duties. Police officers so appointed shall be citizens of 49237  
this state and of good character. They shall hold office for three 49238  
years, unless, for good cause shown, their commission is revoked 49239  
by the ~~governor~~ secretary of state, or by the bank, building and 49240  
loan association, or association of banks or building and loan 49241  
associations, as provided by law. 49242

(B) Upon the application of a company owning or using a 49243  
railroad in this state and subject to section 4973.171 of the 49244  
Revised Code, the ~~governor~~ secretary of state may appoint and 49245  
commission any persons that the railroad company designates, or as 49246  
many of those persons as the ~~governor~~ secretary of state considers 49247  
proper, to act as police officers for and on the premises of the 49248  
railroad company, its affiliates or subsidiaries, or elsewhere, 49249  
when directly in the discharge of their duties. Police officers so 49250  
appointed, within the time set by the Ohio peace officer training 49251  
commission, shall successfully complete a commission approved 49252  
training program and be certified by the commission. They shall 49253  
hold office for three years, unless, for good cause shown, their 49254  
commission is revoked by the ~~governor~~ secretary of state, or 49255  
railroad company, as provided by law. 49256

Any person holding a similar commission in another state may 49257  
be commissioned and may hold office in this state without 49258  
completing the approved training program required by this division 49259  
provided that ~~that~~ the person has completed a substantially 49260  
equivalent training program in the other state. The Ohio peace 49261  
officer training commission shall determine whether a training 49262  
program in another state meets the requirements of this division. 49263



(C) Upon the application of any company under contract with the United States atomic energy commission for the construction or operation of a plant at a site owned by ~~such~~ the commission, the ~~governor~~ secretary of state may appoint and commission ~~such~~ persons ~~as~~ the company designates, not to exceed one hundred fifty, to act as police officers for the company at the plant or site owned by ~~such~~ the commission. 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~~ secretary of state or by the company, as provided by law.

(D)(1) Upon the application of any hospital that is operated by a public hospital agency or a nonprofit hospital agency and that employs and maintains its own proprietary police department or security department and subject to section 4973.171 of the Revised Code, the ~~governor~~ secretary of state may appoint and commission any persons that the hospital designates, or as many of those persons as the ~~governor~~ secretary of state considers proper, to act as police officers for the hospital. No person who is appointed as a police officer under this division shall engage in any duties or activities as a police officer for the hospital or any affiliate or subsidiary of the hospital unless all of the following apply:

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

individual basis. 49296

(b) Subsequent to the grant of approval described in division 49297  
(D)(1)(a) of this section, the hospital has entered into a written 49298  
agreement with the chief of police of the municipal corporation in 49299  
which the hospital is located, or, if the hospital is located in 49300  
the unincorporated area of a county, with the sheriff of that 49301  
county, that sets forth the standards and criteria to govern the 49302  
interaction and cooperation between persons appointed as police 49303  
officers for the hospital under this division and law enforcement 49304  
officers serving the agency represented by the chief of police or 49305  
sheriff who signed the agreement in areas of their concurrent 49306  
jurisdiction. The written agreement shall be signed by the 49307  
appointing authority of the hospital and by the chief of police or 49308  
sheriff. The standards and criteria may include, but are not 49309  
limited to, provisions governing the reporting of offenses 49310  
discovered by hospital police officers to the agency represented 49311  
by the chief of police or sheriff, provisions governing 49312  
investigatory responsibilities relative to offenses committed on 49313  
hospital property, and provisions governing the processing and 49314  
confinement of persons arrested for offenses committed on hospital 49315  
property. The agreement required by this division is intended to 49316  
apply in the aggregate to all persons appointed as police officers 49317  
for the hospital under this division; a separate agreement is not 49318  
required for each appointee on an individual basis. 49319

(c) The person has successfully completed a training program 49320  
approved by the Ohio peace officer training commission and has 49321  
been certified by the commission. A person appointed as a police 49322  
officer under this division may attend a training program approved 49323  
by the commission and be certified by the commission regardless of 49324  
whether the appropriate chief of police or sheriff has granted the 49325  
approval described in division (D)(1)(a) of this section and 49326  
regardless of whether the hospital has entered into the written 49327

agreement described in division (D)(1)(b) of this section with the 49328  
appropriate chief of police or sheriff. 49329

(2)(a) A person who is appointed as a police officer under 49330  
division (D)(1) of this section is entitled, upon the grant of 49331  
approval described in division (D)(1)(a) of this section and upon 49332  
~~that~~ the person's and the hospital's compliance with the 49333  
requirements of divisions (D)(1)(b) and (c) of this section, to 49334  
act as a police officer for the hospital on the premises of the 49335  
hospital and of its affiliates and subsidiaries that are within 49336  
the territory of the municipal corporation served by the chief of 49337  
police or the unincorporated area of the county served by the 49338  
sheriff who signed the written agreement described in division 49339  
(D)(1)(b) of this section, whichever is applicable, and anywhere 49340  
else within the territory of that municipal corporation or within 49341  
the unincorporated area of that county. The authority to act as a 49342  
police officer as described in this division is granted only if 49343  
the person, when engaging in that activity, is directly in the 49344  
discharge of ~~that~~ the person's duties as a police officer for the 49345  
hospital. The authority to act as a police officer as described in 49346  
this division shall be exercised in accordance with the standards 49347  
and criteria set forth in the written agreement described in 49348  
division (D)(1)(b) of this section. 49349

(b) Additionally, a person appointed as a police officer 49350  
under division (D)(1) of this section is entitled, upon the grant 49351  
of approval described in division (D)(1)(a) of this section and 49352  
upon ~~that~~ the person's and the hospital's compliance with the 49353  
requirements of divisions (D)(1)(b) and (c) of this section, to 49354  
act as a police officer elsewhere, within the territory of a 49355  
municipal corporation or within the unincorporated area of a 49356  
county, if the chief of police of that municipal corporation or 49357  
the sheriff of that county, respectively, has granted approval for 49358  
that activity to the hospital, police department, or security 49359

department served by the person as a police officer and if the 49360  
person, when engaging in that activity, is directly in the 49361  
discharge of ~~that~~ the person's duties as a police officer for the 49362  
hospital. The approval described in this division may be general 49363  
in nature or may be limited in scope, duration, or applicability, 49364  
as determined by the chief of police or sheriff granting the 49365  
approval. 49366

(3) Police officers appointed under division (D)(1) of this 49367  
section shall hold office for three years, unless, for good cause 49368  
shown, their commission is revoked by the ~~governor~~ secretary of 49369  
state or by the hospital, as provided by law. As used in divisions 49370  
(D)(1) to (3) of this section, "public hospital agency" and 49371  
"nonprofit hospital agency" have the same ~~meaning~~ meanings as in 49372  
section 140.01 of the Revised Code. 49373

(E) A fee of ~~five~~ fifteen dollars for each commission applied 49374  
for under this section shall be paid at the time the application 49375  
is made, and this amount shall be returned if for any reason a 49376  
commission is not issued. 49377

**Sec. 4981.20.** (A) Any real or personal property, or both, of 49378  
the Ohio rail development commission that is acquired, 49379  
constructed, reconstructed, enlarged, improved, furnished, or 49380  
equipped, or any combination thereof, and leased or subleased 49381  
under authority of sections 4981.11 to 4981.26 of the Revised Code 49382  
shall be subject to ad valorem, sales, use, and franchise taxes 49383  
and to zoning, planning, and building regulations and fees, to the 49384  
same extent and in the same manner as if the lessee-user or 49385  
sublessee-user thereof, rather than the issuer, had acquired, 49386  
constructed, reconstructed, enlarged, improved, furnished, or 49387  
equipped, or any combination thereof, such real or personal 49388  
property, and title thereto was in the name of such lessee-user or 49389  
sublessee-user. 49390

The transfer of tangible personal property by lease or sublease under authority of sections 4981.11 to 4981.26 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code. The exemptions provided in divisions (B)(1) and ~~(14)~~(13) of section 5739.02 of the Revised Code shall not be applicable to purchases for a project under sections 4981.11 to 4981.26 of the Revised Code.

The issuer shall be exempt from all taxes on its real or personal property, or both, which has been acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, under sections 4981.11 to 4981.26 of the Revised Code so long as such property is used by the issuer for purposes which would otherwise exempt such property; has ceased to be used by a former lessee-user or sublessee-user and is not occupied or used; or has been acquired by the issuer but development has not yet commenced. The exemption shall be effective as of the date the exempt use begins. All taxes on the exempt real or personal property for the year should be prorated and the taxes for the exempt portion of the year shall be remitted by the county auditor.

(B) Bonds issued under sections 4981.11 to 4981.26 of the Revised Code, the transfer thereof, and the interest and other income from the bonds, including any profit made on the sale thereof, are free from taxation within the state.

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

(A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a

private, nonprofit entity; a school district; a private school; or 49421  
a public or private institution of higher education. 49422

(2) "Federal financial participation" means the federal 49423  
government's share of expenditures made by an entity in 49424  
implementing a program administered by the department of job and 49425  
family services. 49426

(B) At the request of any public entity having authority to 49427  
implement a program administered by the department of job and 49428  
family services or any private entity under contract with a public 49429  
entity to implement a program administered by the department, the 49430  
department may seek to obtain federal financial participation for 49431  
costs incurred by the entity. Federal financial participation may 49432  
be sought from programs operated pursuant to Title IV-A, Title 49433  
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 49434  
(1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 49435  
78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or 49436  
regulation under which federal financial participation may be 49437  
available, except that federal financial participation may be 49438  
sought only for expenditures made with funds for which federal 49439  
financial participation is available under federal law. 49440

(C) All funds collected by the department of job and family 49441  
services pursuant to division (B) of this section shall be 49442  
distributed to the entities that incurred the costs, except for 49443  
any amounts retained by the department pursuant to division (D)(3) 49444  
of this section. 49445

(D) In distributing federal financial participation pursuant 49446  
to this section, the department may either enter into an agreement 49447  
with the entity that is to receive the funds or distribute the 49448  
funds in accordance with rules adopted under division (F) of this 49449  
section. If the department decides to enter into an agreement to 49450  
distribute the funds, the agreement may include terms that do any 49451  
of the following: 49452

(1) Provide for the whole or partial reimbursement of any	49453
cost incurred by the entity in implementing the program;	49454
(2) In the event that federal financial participation is	49455
disallowed or otherwise unavailable for any expenditure, require	49456
the department of job and family services or the entity, whichever	49457
party caused the disallowance or unavailability of federal	49458
financial participation, to assume responsibility for the	49459
expenditures;	49460
(3) Permit the department to retain not more than five per	49461
cent of the amount of the federal financial participation to be	49462
distributed to the entity;	49463
(4) Require the public entity to certify the availability of	49464
sufficient unencumbered funds to match the federal financial	49465
participation it receives under this section;	49466
(5) Establish the length of the agreement, which may be for a	49467
fixed or a continuing period of time;	49468
(6) Establish any other requirements determined by the	49469
department to be necessary for the efficient administration of the	49470
agreement.	49471
(E) An entity that receives federal financial participation	49472
pursuant to this section for a program aiding children and their	49473
families shall establish a process for collaborative planning with	49474
the department of job and family services for the use of the funds	49475
to improve and expand the program.	49476
(F) The director of job and family services shall adopt rules	49477
as necessary to implement this section, including rules for the	49478
distribution of federal financial participation pursuant to this	49479
section. The rules shall be adopted in accordance with Chapter	49480
119. of the Revised Code. The director may adopt or amend any	49481
statewide plan required by the federal government for a program	49482

administered by the department, as necessary to implement this 49483  
section. 49484

(G) Federal financial participation received pursuant to this 49485  
section shall not be included in any calculation made under 49486  
section 5101.16 or 5101.161 of the Revised Code. 49487

Sec. 5101.12. The department of job and family services shall 49488  
maximize its receipt of federal revenue. In fulfilling this duty, 49489  
the department may enter into contracts to maximize federal 49490  
revenue without the expenditure of state money. In selecting 49491  
entities with which to contract, the department shall engage in a 49492  
request for proposals process. The department may also enter into 49493  
contracts with public entities providing revenue maximization 49494  
services. 49495

Each year in January and July, the department shall submit a 49496  
report to the office of budget and management outlining the 49497  
department's success in maximizing federal revenue. The office of 49498  
budget and management shall establish procedures and requirements 49499  
for preparing and submitting the reports and shall compile data 49500  
concerning the amount of federal revenue received by the 49501  
department. The department shall submit a copy of each of its 49502  
reports to the speaker and minority leader of the house of 49503  
representatives, the president and minority leader of the senate, 49504  
and the legislative service commission. 49505

Sec. 5101.14. (A) As used in this section and section 49506  
5101.144 of the Revised Code, "children services" means services 49507  
provided to children pursuant to Chapter 5153. of the Revised 49508  
Code. 49509

(B) Within available funds, the department of job and family 49510  
services shall ~~make payments~~ distribute funds to the counties 49511  
within thirty days after the beginning of each calendar quarter 49512



for a part of ~~their~~ the counties' costs for children services ~~to~~ 49513  
~~children performed pursuant to Chapter 5153. of the Revised Code.~~ 49514

Funds provided to the county under this section shall be 49515  
deposited into the children services fund created pursuant to 49516  
section 5101.144 of the Revised Code. 49517

~~(B)(1) The funds distributed under this section shall be used 49518  
for the following:~~ 49519

~~(a) Home based services to children and families;~~ 49520

~~(b) Protective services to children;~~ 49521

~~(c) To find, develop, and approve adoptive homes;~~ 49522

~~(d) Short term, out of home care and treatment for children;~~ 49523

~~(e) Costs for the care of a child who resides with a 49524  
caretaker relative, other than the child's parent, and is in the 49525  
legal custody of a public children services agency pursuant to a 49526  
voluntary temporary custody agreement entered into under division 49527  
(A) of section 5103.15 of the Revised Code or in the legal custody 49528  
of a public children services agency or the caretaker relative 49529  
pursuant to an allegation or adjudication of abuse, neglect, or 49530  
dependency made under Chapter 2151. of the Revised Code;~~ 49531

~~(f) Other services a public children services agency 49532  
considers necessary to protect children from abuse, neglect, or 49533  
dependency.~~ 49534

~~(2) No funds distributed under this section shall be used for 49535  
the costs of maintaining a child in a children's home owned and 49536  
operated by the county.~~ 49537

(C) In each fiscal year, the amount of funds available for 49538  
distribution under this section shall be allocated to counties as 49539  
follows: 49540

(1) If the amount is less than the amount initially 49541  
appropriated for the immediately preceding fiscal year, each 49542

county shall receive an amount equal to the percentage of the 49543  
funding it received in the immediately preceding fiscal year, 49544  
exclusive of any releases from or additions to the allocation or 49545  
any sanctions imposed under this section; 49546

(2) If the amount is equal to the amount initially 49547  
appropriated for the immediately preceding fiscal year, each 49548  
county shall receive an amount equal to the amount it received in 49549  
the preceding fiscal year, exclusive of any releases from or 49550  
additions to the allocation or any sanctions imposed under this 49551  
section; 49552

(3) If the amount is greater than the amount initially 49553  
appropriated for the immediately preceding fiscal year, each 49554  
county shall receive the amount determined under division (C)(2) 49555  
of this section as a base allocation, plus a percentage of the 49556  
amount that exceeds the amount initially appropriated for the 49557  
immediately preceding fiscal year. The amount exceeding the amount 49558  
initially appropriated in the immediately preceding fiscal year 49559  
shall be allocated to the counties as follows: 49560

(a) Twelve per cent divided equally among all counties; 49561

(b) Forty-eight per cent in the ratio that the number of 49562  
residents of the county under the age of eighteen bears to the 49563  
total number of such persons residing in this state; 49564

(c) Forty per cent in the ratio that the number of residents 49565  
of the county with incomes under the federal poverty guideline 49566  
bears to the total number of such persons in this state. 49567

As used in division (C)(3)(c) of this section, "federal 49568  
poverty guideline" means the poverty guideline as defined by the 49569  
United States office of management and budget and revised by the 49570  
United States secretary of health and human services in accordance 49571  
with section 673 of the "Community Services Block Grant Act," 95 49572  
Stat. 511 (1981), 42 U.S.C.A. 9902, as amended. 49573

~~(D) The director of job and family services may adopt rules as necessary for the allocation of funds under this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code.~~ 49574  
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~~(E)(1) As used in this division, "services to children" means children's protective services, home based services to children and families, foster home services, residential treatment services, adoptive services, and independent living services.~~ 49578  
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~~(2) Except as otherwise provided in this section, the allocation of funds for a fiscal year to a county under this section shall be reduced by the department if in the preceding calendar year the total amount expended for services to children from local funds was less than the total expended from that source in the second preceding calendar year. The reduction shall be equal to the difference between the total expended in the preceding calendar year and the total expended in the second preceding calendar year.~~ 49582  
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~~The determination of whether the amount expended for services to children was less in the preceding calendar year than in the second preceding calendar year shall not include a difference due to any of the following factors to the extent that the difference does not exceed the amount attributable to that factor:~~ 49591  
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~~(a) An across the board reduction in the county budget as a whole;~~ 49596  
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~~(b) A reduced or failed levy specifically earmarked for children services;~~ 49598  
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~~(c) The closure of, or a reduction in the operating capacity of, a children's home owned and operated by the county.~~ 49600  
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~~(3) Funds withheld under this division may be reallocated by the department to other counties. The department may grant whole~~ 49602  
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~~or partial waivers of the provisions of this division.~~ 49604

~~(F) Children who are in the temporary or permanent custody of  
a certified public or private nonprofit agency or institution, or  
who are in adoptions subsidized under division (B) of section  
5153.163 of the Revised Code are eligible for medical assistance  
through the medical assistance program established under section  
5111.01 of the Revised Code.~~ 49605  
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~~(G) Within ninety days after the end of each state fiscal  
year biennium, each county shall return any unspent funds to the  
department.~~ 49611  
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~~(H) In accordance with Chapter 119. of the Revised Code, the  
(E) The director shall of job and family services may adopt, and  
may amend and rescind, the following rules in accordance with  
section 111.15 of the Revised Code:~~ 49614  
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~~(1) Rules that are necessary for the allocation of funds  
under this section;~~ 49618  
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~~(2) Rules prescribing reports on expenditures to be submitted  
by the counties as necessary for the implementation of this  
section.~~ 49620  
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**Sec. 5101.141.** ~~(A) As used in sections 5101.141 to 5101.1410  
of the Revised Code, "Title IV-E" means Title IV-E of the "Social  
Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.~~ 49623  
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~~(B) The department of job and family services shall act as  
the single state agency to administer federal payments for foster  
care and adoption assistance made pursuant to Title IV-E ~~of the  
"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as  
amended.~~ The director of job and family services shall adopt rules  
to implement this authority. ~~Internal management rules~~ Rules  
governing financial and administrative requirements applicable to  
public children services agencies, ~~private child placing agencies,~~~~ 49626  
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and ~~private noncustodial agencies~~ government entities that provide 49634  
Title IV-E reimbursable placement services to children shall be 49635  
adopted in accordance with section 111.15 of the Revised Code, as 49636  
if they were internal management rules. Rules governing 49637  
requirements applicable to private child placing agencies and 49638  
private noncustodial agencies and rules establishing eligibility, 49639  
program participation, and other requirements concerning Title 49640  
IV-E shall be adopted in accordance with Chapter 119. of the 49641  
Revised Code. A public children services agency to which the 49642  
department distributes Title IV-E funds shall administer the funds 49643  
in accordance with those rules. 49644

~~(B)~~(C)(1) The county, on behalf of each child eligible for 49645  
foster care maintenance payments under Title IV-E ~~of the "Social~~ 49646  
~~Security Act,"~~ shall make payments to cover the cost of providing 49647  
all of the following: 49648

(a) The child's food, clothing, shelter, daily supervision, 49649  
and school supplies; 49650

(b) The child's personal incidentals; 49651

(c) Reasonable travel to the child's home for visitation. 49652

(2) In addition to payments made under division ~~(B)~~(C)(1) of 49653  
this section, the county may, on behalf of each child eligible for 49654  
foster care maintenance payments under Title IV-E ~~of the "Social~~ 49655  
~~Security Act,"~~ make payments to cover the cost of providing the 49656  
following: 49657

(a) Liability insurance with respect to the child; 49658

(b) If the county is participating in the demonstration 49659  
project established under division (A) of section 5101.142 of the 49660  
Revised Code, services provided under the project. 49661

(3) With respect to a child who is in a child-care 49662  
institution, including any type of group home designed for the 49663

care of children or any privately operated program consisting of 49664  
two or more certified foster homes operated by a common 49665  
administrative unit, the foster care maintenance payments made by 49666  
the county on behalf of the child shall include the reasonable 49667  
cost of the administration and operation of the institution, group 49668  
home, or program, as necessary to provide the items described in 49669  
divisions ~~(B)~~(C)(1) and (2) of this section. 49670

~~(C)~~(D) To the extent that either foster care maintenance 49671  
payments under division ~~(B)~~ (C) of this section or Title IV-E 49672  
adoption assistance payments for maintenance costs require the 49673  
expenditure of county funds, the board of county commissioners 49674  
shall report the nature and amount of each expenditure of county 49675  
funds to the department. 49676

~~(D)~~(E) The department shall distribute to public children 49677  
services agencies that incur and report such expenditures federal 49678  
financial participation received for administrative and training 49679  
costs incurred in the operation of foster care maintenance and 49680  
adoption assistance programs. The department may withhold not more 49681  
than three per cent of the federal financial participation 49682  
received. The funds withheld may be used only to fund the Ohio 49683  
child welfare training program established under section 5153.60 49684  
of the Revised Code and the university partnership program for 49685  
college and university students majoring in social work who have 49686  
committed to work for a public children services agency upon 49687  
graduation. The funds withheld shall be in addition to any 49688  
administration and training cost for which the department is 49689  
reimbursed through its own cost allocation plan. 49690

~~(E)~~(F) All federal financial participation funds received by 49691  
a county pursuant to this section shall be deposited into the 49692  
county's children services fund created pursuant to section 49693  
5101.144 of the Revised Code. 49694

~~(F)~~(G) The department shall periodically publish and 49695

distribute the maximum amounts that the department will reimburse 49696  
public children services agencies for making payments on behalf of 49697  
children eligible for foster care maintenance payments. 49698

~~(G)~~(H) The department, by and through its director, is hereby 49699  
authorized to develop, participate in the development of, 49700  
negotiate, and enter into one or more interstate compacts on 49701  
behalf of this state with agencies of any other states, for the 49702  
provision of medical assistance and other social services to 49703  
children in relation to whom all of the following apply: 49704

(1) They have special needs. 49705

(2) This state or another state that is a party to the 49706  
interstate compact is providing adoption assistance on their 49707  
behalf. 49708

(3) They move into this state from another state or move out 49709  
of this state to another state. 49710

**Sec. 5101.142.** (A) The department of job and family services 49711  
may apply to the United States secretary of health and human 49712  
services for a waiver of requirements established under Title IV-E 49713  
~~of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670~~ 49714  
~~(1980)~~, or regulations adopted thereunder, to conduct a 49715  
demonstration project expanding eligibility for and services 49716  
provided under Title IV-E. The department may enter into 49717  
agreements with the secretary necessary to implement the 49718  
demonstration project, including agreements establishing the terms 49719  
and conditions of the waiver authorizing the project. If a 49720  
demonstration project is to be established, the department shall 49721  
do all of the following: 49722

(1) Have the director of job and family services adopt rules 49723  
in accordance with Chapter 119. of the Revised Code governing the 49724  
project. The rules shall be consistent with the agreements the 49725

department enters into with the secretary. 49726

(2) Enter into agreements with public children services 49727  
agencies that the department selects for participation in the 49728  
project. The department shall not select an agency that objects to 49729  
participation or refuses to be bound by the terms and conditions 49730  
of the project. 49731

(3) Contract with persons or governmental agencies providing 49732  
services under the project; 49733

(4) Amend the state plan required by section 471 of the 49734  
"Social Security Act," 42 U.S.C.A. 671, as amended, as needed to 49735  
implement the project; 49736

(5) Conduct ongoing evaluations of the project; 49737

(6) Perform other administrative and operational activities 49738  
required by the agreement with the secretary. 49739

(B) The department may apply to the United States secretary 49740  
of health and human services for a waiver of the requirements 49741  
established under Title IV-B of the "Social Security Act of 1967," 49742  
81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder 49743  
and established under any other federal law or regulations that 49744  
affect the children services functions prescribed by Chapter 5153. 49745  
of the Revised Code, to conduct demonstration projects or 49746  
otherwise improve the effectiveness and efficiency of the children 49747  
services function. 49748

~~Sec. 5101.144. As used in this section, "children services" 49749  
means services provided to children pursuant to Chapter 5153. of 49750  
the Revised Code. 49751~~

Each county shall deposit all funds its public children 49752  
services agency receives from appropriations made by the board of 49753  
county commissioners or any other source for the purpose of 49754  
providing children services into a special fund in the county 49755



treasury known as the children services fund. A county shall use 49756  
money in the fund only for the purposes of meeting the expenses of 49757  
providing children services. 49758

**Sec. 5101.145.** (A) ~~For the purposes of this section, "Title 49759  
IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 49760  
42 U.S.C.A. 670 (1980).~~ 49761

~~(B)~~ In adopting rules under section 5101.141 of the Revised 49762  
Code regarding financial requirements applicable to public 49763  
children services agencies, private child placing agencies, ~~and~~ 49764  
private noncustodial agencies, and government entities that 49765  
provide Title IV-E reimbursable placement services to children, 49766  
the department of job and family services shall establish both of 49767  
the following: 49768

(1) A single form for the agencies or entities to report 49769  
costs reimbursable under Title IV-E and costs reimbursable under 49770  
medicaid; 49771

(2) Procedures to monitor cost reports submitted by the 49772  
agencies or entities. 49773

~~(C)~~(B) The procedures established under division ~~(B)~~(A)(2) of 49774  
this section shall be implemented not later than October 1, 2003. 49775  
The procedures shall be used to do both of the following: 49776

(1) Determine which of the costs are reimbursable under Title 49777  
IV-E; 49778

(2) Ensure that costs reimbursable under medicaid are 49779  
excluded from determinations made under division ~~(C)~~(B)(1) of this 49780  
section. 49781

**Sec. 5101.146.** The department of job and family services 49782  
shall establish the following penalties, which shall be enforced 49783  
at the discretion of the department, for the failure of a public 49784

children services agency, private child placing agency, ~~or~~ private 49785  
noncustodial agency, or government entity that provides Title IV-E 49786  
reimbursable placement services to children to comply with 49787  
procedures the department establishes to ensure fiscal 49788  
accountability: 49789

(A) For initial failure, the department and the agency or 49790  
entity involved shall jointly develop and implement a corrective 49791  
action plan according to a specific schedule. If requested by the 49792  
agency or entity involved, the department shall provide technical 49793  
assistance to the agency or entity to ensure the fiscal 49794  
accountability procedures and goals of the plan are met. 49795

(B) For subsequent failures or failure to achieve the goals 49796  
of the plan described in division (A) of this section, ~~either one~~ 49797  
of the following: 49798

(1) For public children services agencies, the department may 49799  
take any action permitted under division ~~(B)(3)(C)(2)~~, (4), ~~or~~ 49800  
(5), or (6) of section 5101.24 of the Revised Code. 49801

(2) For private child placing agencies or private 49802  
noncustodial agencies, cancellation of any Title IV-E allowability 49803  
rates for the agency involved pursuant to section 5101.141 of the 49804  
Revised Code or revocation pursuant to Chapter 119. of the Revised 49805  
Code of that agency's certificate issued under section 5103.03 of 49806  
the Revised Code; 49807

(3) For government entities, other than public children 49808  
services agencies, that provide Title IV-E reimbursable placement 49809  
services to children, cancellation of any Title IV-E allowability 49810  
rates for the entity involved pursuant to section 5101.141 of the 49811  
Revised Code. 49812

Sec. 5101.1410. In addition to the remedies available under 49813  
sections 5101.146 and 5101.24 of the Revised Code, the department 49814

of job and family services may certify a claim to the attorney 49815  
general under section 131.02 of the Revised Code for the attorney 49816  
general to take action under that section against a public 49817  
children services agency, private child placing agency, private 49818  
noncustodial agency, or government entity that provides Title IV-E 49819  
reimbursable placement services to children if all of the 49820  
following are the case: 49821

(A) The agency or entity files a cost report with the 49822  
department pursuant to rules adopted under division (B) of section 49823  
5101.141 of the Revised Code. 49824

(B) The department receives and distributes federal Title 49825  
IV-E reimbursement funds based on the cost report. 49826

(C) The agency's or entity's misstatement, misclassification, 49827  
overstatement, understatement, or other inclusion or omission of 49828  
any cost included in the cost report causes the United States 49829  
department of health and human services to disallow all or part of 49830  
the federal Title IV-E reimbursement funds the department received 49831  
and distributed. 49832

(D) The agency's or entity's misstatement, misclassification, 49833  
overstatement, understatement, or other inclusion or omission of 49834  
any cost included in the cost report is not the result of 49835  
directives the department gave to the agency or entity. 49836

**Sec. 5101.16.** (A) As used in this section and sections 49837  
5101.161 and 5101.162 of the Revised Code: 49838

(1) "Disability financial assistance" means the financial and 49839  
medical assistance provided program established under Chapter 49840  
5115. of the Revised Code. 49841

(2) "Disability medical assistance" means the medical 49842  
assistance program established under Chapter 5115. of the Revised 49843  
Code. 49844

(3) "Food stamps" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

~~(3)~~(4) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

~~(4)~~(5) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

~~(5)~~(6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

~~(6)~~(7) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

(c) Prevention, retention, and contingency;

(d) County administration of prevention, retention, and contingency;

(e) Disability financial assistance;

(f) Disability medical assistance;

(g) County administration of disability financial assistance;

~~(g)~~(h) County administration of disability medical assistance;

(i) County administration of food stamps;

~~(h)~~(j) County administration of medicaid.

(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(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) 49873  
of this section, a county's share of public assistance 49874  
expenditures is the sum of all of the following for state fiscal 49875  
year 1998 and each state fiscal year thereafter: 49876

(1) The amount that is twenty-five per cent of the county's 49877  
total expenditures for disability financial assistance and 49878  
disability medical assistance and county administration of 49879  
~~disability assistance~~ those programs during the state fiscal year 49880  
ending in the previous calendar year that the department of job 49881  
and family services determines are allowable. 49882

(2) The amount that is ten per cent, or other percentage 49883  
determined under division (D) of this section, of the county's 49884  
total expenditures for county administration of food stamps and 49885  
medicaid during the state fiscal year ending in the previous 49886  
calendar year that the department determines are allowable, less 49887  
the amount of federal reimbursement credited to the county under 49888  
division (E) of this section for the state fiscal year ending in 49889  
the previous calendar year; 49890

~~(3)(a) Except as provided in division (B)(3)(b) of this~~ 49891  
~~section, A percentage of the actual amount, as determined by the~~ 49892  
~~department of job and family services from expenditure reports~~ 49893  
~~submitted to the United States department of health and human~~ 49894  
~~services, of the county share of program and administrative~~ 49895  
expenditures during federal fiscal year 1994 for assistance and 49896  
services, other than child day-care, provided under Titles IV-A 49897  
and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 49898  
U.S.C. 301, as those titles existed prior to the enactment of the 49899  
"Personal Responsibility and Work Opportunity Reconciliation Act 49900  
of 1996," 110 Stat. 2105. The department of job and family 49901  
services shall determine the actual amount of the county share 49902  
from expenditure reports submitted to the United States department 49903  
of health and human services. The percentage shall be the 49904

percentage established in rules adopted under division (F) of this section. 49905  
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~~(b) For state fiscal years 2000 and 2001, seventy seven per cent of the amount determined under division (B)(3)(a) of this section.~~ 49907  
49908  
49909

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year. 49910  
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(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to a sanction under section 5101.24 of the Revised Code. 49920  
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(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development. 49923  
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(2) If the percentage of families in a county with an annual 49935

income of less than three thousand dollars is greater than the 49936  
percentage of such families in the state and division (D)(1) of 49937  
this section does not apply to the county, the percentage to be 49938  
used for the purpose of division (B)(2) of this section is the 49939  
product of ten multiplied by a fraction of which the numerator is 49940  
the percentage of families in the state with an annual income of 49941  
less than three thousand dollars a year and the denominator is the 49942  
percentage of such families in the county. The department of job 49943  
and family services shall compute the percentage of families with 49944  
an annual income of less than three thousand dollars for the state 49945  
and for each county by multiplying the most recent estimate of 49946  
such families published by the department of development, by a 49947  
fraction, the numerator of which is the estimate of average annual 49948  
personal income published by the bureau of economic analysis of 49949  
the United States department of commerce for the year on which the 49950  
census estimate is based and the denominator of which is the most 49951  
recent such estimate published by the bureau. 49952

(3) If the per capita tax duplicate of a county is less than 49953  
the per capita tax duplicate of the state as a whole and the 49954  
percentage of families in the county with an annual income of less 49955  
than three thousand dollars is greater than the percentage of such 49956  
families in the state, the percentage to be used for the purpose 49957  
of division (B)(2) of this section shall be determined as follows: 49958

(a) Multiply ten by the fraction determined under division 49959  
(D)(1) of this section; 49960

(b) Multiply the product determined under division (D)(3)(a) 49961  
of this section by the fraction determined under division (D)(2) 49962  
of this section. 49963

(4) The department of job and family services shall 49964  
determine, for each county, the percentage to be used for the 49965  
purpose of division (B)(2) of this section not later than the 49966  
first day of July of the year preceding the state fiscal year for 49967

which the percentage is used. 49968

(E) The department of job and family services shall credit to 49969  
a county the amount of federal reimbursement the department 49970  
receives from the United States departments of agriculture and 49971  
health and human services for the county's expenditures for 49972  
administration of food stamps and medicaid that the department 49973  
determines are allowable administrative expenditures. 49974

(F)(1) The director of job and family services shall adopt 49975  
rules in accordance with section 111.15 of the Revised Code to 49976  
establish all of the following: 49977

~~(1)~~(a) The method the department is to use to change a 49978  
county's share of public assistance expenditures determined under 49979  
division (B) of this section as provided in division (C) of this 49980  
section; 49981

~~(2)~~(b) The allocation methodology and formula the department 49982  
will use to determine the amount of funds to credit to a county 49983  
under this section; 49984

~~(3)~~(c) The method the department will use to change the 49985  
payment of the county share of public assistance expenditures from 49986  
a calendar-year basis to a state fiscal year basis; 49987

~~(4)~~(d) The percentage to be used for the purpose of division 49988  
(B)(3) of this section, which shall meet both of the following 49989  
requirements: 49990

(i) The percentage shall not be less than seventy-five per 49991  
cent nor more than eighty-two per cent; 49992

(ii) The percentage shall not exceed the percentage that the 49993  
state's qualified state expenditures is of the state's historic 49994  
state expenditures as those terms are defined in 42 U.S.C. 49995  
609(a)(7). 49996

(e) Other procedures and requirements necessary to implement 49997



this section. 49998

(2) The director of job and family services may amend the 49999  
rule adopted under division (F)(1)(d) of this section to modify 50000  
the percentage on determination that the amount the general 50001  
assembly appropriates for Title IV-A programs makes the 50002  
modification necessary. The rule shall be adopted and amended as 50003  
if an internal management rule and in consultation with the 50004  
director of budget and management. 50005

**Sec. 5101.162.** The Subject to available federal funds and 50006  
appropriations made by the general assembly, the department of job 50007  
and family services may, at its sole discretion, use available 50008  
federal funds to reimburse county expenditures for county 50009  
administration of food stamps or medicaid even though the county 50010  
expenditures meet or exceed the maximum allowable reimbursement 50011  
amount established by rules adopted under section 5101.161 of the 50012  
Revised Code if the board of county commissioners has ~~not~~ entered 50013  
into a ~~partnership~~ fiscal agreement with the director of job and 50014  
family services under section 5101.21 of the Revised Code. The 50015  
director may adopt internal management rules in accordance with 50016  
section 111.15 of the Revised Code to implement this section. 50017

**Sec. 5101.18.** (A) When the director of job and family 50018  
services adopts rules under section 5107.05 regarding income 50019  
requirements for the Ohio works first program and under section 50020  
~~5115.05~~ 5115.03 of the Revised Code regarding income and resource 50021  
requirements for the disability financial assistance program, the 50022  
director shall determine what payments shall be regarded or 50023  
disregarded. In making this determination, the director shall 50024  
consider: 50025

(1) The source of the payment; 50026

(2) The amount of the payment; 50027

(3) The purpose for which the payment was made;	50028
(4) Whether regarding the payment as income would be in the public interest;	50029 50030
(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.	50031 50032 50033 50034 50035 50036
(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.	50037 50038 50039 50040 50041 50042 50043
<b>Sec. 5101.181.</b> (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first; <del>prevention</del> , <u>all of the following:</u>	50044 50045 50046
<u>(1) Prevention</u> retention, and contingency; <del>medicaid</del>	50047
<u>(2) Medicaid</u> ; <del>and disability</del>	50048
<u>(3) Disability financial</u> assistance, <del>general</del> ;	50049
<u>(4) Disability medical</u> assistance;	50050
<u>(5) General</u> assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.	50051 50052
(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	50053 50054 50055 50056

social security number of each individual who receives public 50057  
assistance to the director of administrative services, the 50058  
administrator of the bureau of workers' compensation, and each of 50059  
the state's retirement boards. Within fourteen days after 50060  
receiving the name and social security number of an individual who 50061  
receives public assistance, the director of administrative 50062  
services, administrator, or board shall inform the auditor of 50063  
state as to whether such individual is receiving wages or 50064  
benefits, the amount of any wages or benefits being received, the 50065  
social security number, and the address of the individual. The 50066  
director of administrative services, administrator, boards, and 50067  
any agent or employee of those officials and boards shall comply 50068  
with the rules of the director of job and family services 50069  
restricting the disclosure of information regarding recipients of 50070  
public assistance. Any person who violates this provision shall 50071  
thereafter be disqualified from acting as an agent or employee or 50072  
in any other capacity under appointment or employment of any state 50073  
board, commission, or agency. 50074

(C) The auditor of state may enter into a reciprocal 50075  
agreement with the director of job and family services or 50076  
comparable officer of any other state for the exchange of names, 50077  
current or most recent addresses, or social security numbers of 50078  
persons receiving public assistance under Title IV-A or under 50079  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 50080  
U.S.C. 301, as amended. 50081

(D)(1) The auditor of state shall retain, for not less than 50082  
two years, at least one copy of all information received under 50083  
this section and sections 145.27, 742.41, 3307.20, 3309.22, 50084  
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 50085  
shall review the information to determine whether overpayments 50086  
were made to recipients of public assistance under Chapters 5107., 50087  
5108., 5111., and 5115. of the Revised Code. The auditor of state 50088

shall initiate action leading to prosecution, where warranted, of 50089  
recipients who received overpayments by forwarding the name of 50090  
each recipient who received overpayment, together with other 50091  
pertinent information, to the director of job and family services 50092  
and the attorney general, to the district director of job and 50093  
family services of the district through which public assistance 50094  
was received, and to the county director of job and family 50095  
services and county prosecutor of the county through which public 50096  
assistance was received. 50097

(2) The auditor of state and the attorney general or their 50098  
designees may examine any records, whether in computer or printed 50099  
format, in the possession of the director of job and family 50100  
services or any county director of job and family services. They 50101  
shall provide safeguards which restrict access to such records to 50102  
purposes directly connected with an audit or investigation, 50103  
prosecution, or criminal or civil proceeding conducted in 50104  
connection with the administration of the programs and shall 50105  
comply with the rules of the director of job and family services 50106  
restricting the disclosure of information regarding recipients of 50107  
public assistance. Any person who violates this provision shall 50108  
thereafter be disqualified from acting as an agent or employee or 50109  
in any other capacity under appointment or employment of any state 50110  
board, commission, or agency. 50111

(3) Costs incurred by the auditor of state in carrying out 50112  
the auditor of state's duties under this division shall be borne 50113  
by the auditor of state. 50114

**Sec. 5101.20.** (A) As used in this section of the Revised 50115  
Code: 50116

(1) "Local area" has the same meaning as in section 101 of 50117  
the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 50118  
2801, as amended, and division (A) of section 6301.01 of the 50119

Revised Code; 50120

(2) "Chief elected official" has the same meaning as in 50121  
section 101 of the "Workforce Investment Act of 1998," 112 Stat. 50122  
936, 29 U.S.C. 2801, as amended, and division (F) of section 50123  
6301.01 of the Revised Code; 50124

(3) "Grantee" means the chief elected officials of a local 50125  
area. 50126

(B) The director of job and family services shall enter into 50127  
one or more written grant agreements with each local area under 50128  
which financial assistance is awarded for workforce development 50129  
activities included in the agreements. A grant agreement shall 50130  
establish the terms and conditions governing the accountability 50131  
for and use of grants provided by the department of job and family 50132  
services to the grantee for the administration of workforce 50133  
development activities funded under the "Workforce Investment Act 50134  
of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended. 50135

(C) In the case of a local area comprised of multiple 50136  
political subdivisions, nothing in this section shall preclude the 50137  
chief elected officials of a local area from entering into an 50138  
agreement among themselves to distribute any liability for 50139  
activities of the local area, but such an agreement shall not be 50140  
binding on the department of job and family services. 50141

(D) The written grant agreement entered into under division 50142  
(B) of this section shall comply with all applicable federal and 50143  
state laws governing workforce development activities. All federal 50144  
conditions and restrictions that apply to the use of grants 50145  
received by the department of job and family services shall apply 50146  
to the use of the grants received by the local areas from the 50147  
department. 50148

(E) A written grant agreement entered into under division (B) 50149  
of this section shall: 50150

<u>(1) Identify the chief elected officials for the local area;</u>	50151
<u>(2) Provide for the incorporation of the local workforce development plan;</u>	50152 50153
<u>(3) Include the chief elected officials' assurance that the local area and any subgrantee or contractor of the local area will do all of the following:</u>	50154 50155 50156
<u>(a) Ensure that the financial assistance awarded under the grant agreement is used, and the workforce development duties included in the agreement are performed, in accordance with requirements established by the department or any of the following: federal or state law, the state plan for receipt of federal financial participation, grant agreements between the department and a federal agency, or executive orders.</u>	50157 50158 50159 50160 50161 50162 50163
<u>(b) Ensure that the chief elected officials and any subgrantee or contractor of the local area utilize a financial management system and other accountability mechanisms that meet requirements the department establishes;</u>	50164 50165 50166 50167
<u>(c) Require the chief elected officials and any subgrantee or contractor of the local area to do both of the following:</u>	50168 50169
<u>(i) Monitor all private and government entities that receive a payment from financial assistance awarded under the grant agreement to ensure that each entity uses the payment in accordance with requirements for the workforce development duties included in the agreement;</u>	50170 50171 50172 50173 50174
<u>(ii) Take action to recover payments that are not used in accordance with the requirements for the workforce development duties that are included in the agreement.</u>	50175 50176 50177
<u>(d) Require the chief elected officials of a local area to promptly reimburse the department the amount that represents the amount a local area is responsible for of funds the department</u>	50178 50179 50180

pays to any entity because of an adverse audit finding, adverse 50181  
quality control finding, final disallowance of federal financial 50182  
participation, or other sanction or penalty; 50183

(e) Require chief elected officials of a local area to take 50184  
prompt corrective action if the department, auditor of state, 50185  
federal agency, or other entity authorized by federal or state law 50186  
to determine compliance with requirements for a workforce 50187  
development duty included in the agreement determines compliance 50188  
has not been achieved; 50189

(4) Provide that the award of financial assistance is subject 50190  
to the availability of federal funds and appropriations made by 50191  
the general assembly; 50192

(5) Provide for annual financial, administrative, or other 50193  
incentive awards, if any, to be provided in accordance with 50194  
section 5101.23 of the Revised Code. 50195

(6) Establish the method of amending or terminating the grant 50196  
agreement and an expedited process for correcting terms or 50197  
conditions of the agreement that the director and the chief 50198  
elected officials agree are erroneous. 50199

(7) Provide for the department of job and family services to 50200  
award financial assistance for the workforce development duties 50201  
included in the agreement in accordance with a methodology for 50202  
determining the amount of the award established by rules adopted 50203  
under division (F) of this section. 50204

(8) Determine the dates that the grant agreement begins and 50205  
ends. 50206

(F)(1) The director shall adopt rules in accordance with 50207  
section 111.15 of the Revised Code governing grant agreements. The 50208  
director shall adopt the rules as if they were internal management 50209  
rules. The rules shall establish methodologies to be used to 50210  
determine the amount of financial assistance to be awarded under 50211

<u>the agreements and may do any of the following:</u>	50212
<u>(a) Govern the establishment of consolidated funding allocations and other allocations;</u>	50213
<u>(b) Specify allowable uses of financial assistance awarded under the agreements;</u>	50214
<u>(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.</u>	50215
<u>(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.</u>	50216
<u>(3) 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.</u>	50217
<u>(4) 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.</u>	50218
<u>(5) 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.</u>	50219
<u>(6) 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.</u>	50220
<u>(7) 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.</u>	50221
<u>(8) 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.</u>	50222
<u>(9) 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.</u>	50223
<u>(10) 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.</u>	50224
<u>(11) 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.</u>	50225
<u>(12) 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.</u>	50226
<u>(13) 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.</u>	50227
<u>(14) 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.</u>	50228
<u>(15) 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.</u>	50229
<u>(16) 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.</u>	50230
<u>(17) 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.</u>	50231
<u>(18) 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.</u>	50232
<u>(19) 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.</u>	50233
<u>(20) 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.</u>	50234
<u>(21) 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.</u>	50235
<u>(22) 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.</u>	50236
<u>(23) 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.</u>	50237
<u>(24) 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.</u>	50238
<u>(25) 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.</u>	50239
<u>(26) 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.</u>	50240



<u>section to enter into a fiscal agreement;</u>	50241
<u>(3) A county elected official that is a child support enforcement agency if required by division (B) of this section to enter into a fiscal agreement.</u>	50242
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	50244
(B) The director of job and family services <del>shall</del> <u>may</u> enter into a <u>one or more</u> written <del>partnership agreement</del> <u>fiscal agreements</u> with <del>each board</del> <u>boards</u> of county commissioners.	50245
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	50247
<del>(C)(1) Each partnership agreement shall include provisions regarding the administration and design of all of the following:</del>	50248
	50249
<del>(a) The Ohio works first program established under Chapter 5107. of the Revised Code;</del>	50250
	50251
<del>(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;</del>	50252
	50253
<del>(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;</del>	50254
	50255
	50256
<del>(d) Any other county department of job and family services' duties that the director and board mutually agree to include in the agreement;</del>	50257
	50258
	50259
<del>(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.</del>	50260
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	50264
<del>(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.</del>	50265
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~~(D) Family services duties and workforce development 50271  
activities included in a partnership agreement shall be vested in 50272  
the board of county commissioners. The agreement shall comply with 50273  
federal statutes and regulations, state statutes, and, except as 50274  
provided in division (D)(9) of this section, state rules governing 50275  
the family services duties or workforce development activities 50276  
included in the agreement. 50277~~

~~A partnership under which financial assistance is awarded for 50278  
family services duties included in the agreements. Boards of 50279  
county commissioners shall select which family services duties to 50280  
include in a fiscal agreement. If a board of county commissioners 50281  
elects to include family services duties of a public children 50282  
services agency and a county children services board appointed 50283  
under section 5153.03 of the Revised Code serves as the county's 50284  
public children services agency, the board of county commissioners 50285  
and county children services board shall jointly enter into the 50286  
fiscal agreement with the director. If a board of county 50287  
commissioners elects to include family services duties of a child 50288  
support enforcement agency and the entity designated under former 50289  
section 2301.35 of the Revised Code prior to October 1, 1997, or 50290  
designated under section 307.981 of the Revised Code as the 50291  
county's child support enforcement agency is an elected official 50292  
of the county, the board of county commissioners and county 50293  
elected official shall jointly enter into the fiscal agreement 50294  
with the director. A fiscal agreement shall include 50295  
responsibilities that the state department of job and family 50296  
services, county family services agencies administering family 50297  
services duties included in the agreement, and workforce 50298  
development agencies administering workforce development 50299  
activities included in the agreement must satisfy. The agreement 50300  
shall establish, specify, or provide for do all of the following: 50301~~

~~(1) Requirements governing the administration and design of, 50302~~

~~and county family services agencies' or workforce development~~ 50303  
~~agencies' cooperation to enhance, family services duties or~~ 50304  
~~workforce development activities included in the agreement~~ Specify 50305  
the family services duties included in the agreement and the 50306  
private and government entities designated under section 307.981 50307  
of the Revised Code to serve as the county family services 50308  
agencies performing the family services duties; 50309

(2) ~~Outcomes that county family services agencies or~~ 50310  
~~workforce development agencies are expected to achieve from the~~ 50311  
~~administration and design of family services duties or workforce~~ 50312  
~~development activities included in the agreement and assistance,~~ 50313  
~~services, and technical support the state department will provide~~ 50314  
~~the county family services agencies or workforce development~~ 50315  
~~agencies to aid the agencies in achieving the expected outcomes~~ 50316  
Provide for the department of job and family services to award 50317  
financial assistance for the family services duties included in 50318  
the agreement in accordance with a methodology for determining the 50319  
amount of the award established by rules adopted under division 50320  
(D) of this section; 50321

(3) ~~Performance and other administrative standards county~~ 50322  
~~family services agencies or workforce development agencies are~~ 50323  
~~required to meet in the design, administration, and outcomes of~~ 50324  
~~family services duties or workforce development activities~~ 50325  
~~included in the agreement and assistance, services, and technical~~ 50326  
~~support the state department will provide the county family~~ 50327  
~~services agencies or workforce development agencies to aid the~~ 50328  
~~agencies in meeting the performance and other administrative~~ 50329  
~~standards~~ Specify the form of the award of financial assistance 50330  
which may be an allocation, cash draw, reimbursement, property, 50331  
or, to the extent authorized by an appropriation made by the 50332  
general assembly and to the extent practicable and not in conflict 50333  
with a federal or state law, a consolidated funding allocation for 50334

two or more family services duties included in the agreement; 50335

~~(4) Criteria and methodology the state department will use to~~ 50336  
~~evaluate whether expected outcomes are achieved and performance~~ 50337  
~~and other administrative standards are met and county family~~ 50338  
~~services agencies or workforce development agencies will use to~~ 50339  
~~evaluate whether the state department is providing agreed upon~~ 50340  
~~assistance, services, and technical support~~ Provide that the award 50341  
of financial assistance is subject to the availability of federal 50342  
funds and appropriations made by the general assembly; 50343

(5) ~~Annual~~ Specify annual financial, administrative, or other 50344  
incentive awards, if any, to be provided in accordance with 50345  
section 5101.23 of the Revised Code; 50346

(6) ~~The state~~ Include the assurance of each county signer 50347  
that the county signer will do all of the following: 50348

(a) Ensure that the financial assistance awarded under the 50349  
agreement is used, and the family services duties included in the 50350  
agreement are performed, in accordance with requirements for the 50351  
duties established by the department, a federal or state law, or 50352  
any of the following that concern the family services duties 50353  
included in the fiscal agreement and are published under section 50354  
5101.212 of the Revised Code: state plans for receipt of federal 50355  
financial participation, grant agreements between the department 50356  
and a federal agency, and executive orders issued by the governor; 50357

(b) Ensure that the board and county family services agencies 50358  
utilize a financial management system and other accountability 50359  
mechanisms for the financial assistance awarded under the 50360  
agreement that meet requirements the department establishes; 50361

(c) Require the county family services agencies to do both of 50362  
the following: 50363

(i) Monitor all private and government entities that receive 50364  
a payment from financial assistance awarded under the agreement to 50365

ensure that each entity uses the payment in accordance with requirements for the family services duties included in the agreement; 50366  
50367  
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(ii) Take action to recover payments that are not used in accordance with the requirements for the family services duties included in the agreement. 50369  
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(d) Require county family services agencies to promptly reimburse the department the amount that represents the amount an agency is responsible for, pursuant to action the department takes under division (C) of section 5101.24 of the Revised Code, of funds the department pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty; 50372  
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(e) Require county family services agencies to take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, 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; 50379  
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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. 50386  
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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; 50391  
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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~~ 50394  
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~~under division (E) of this section. The agreement shall either~~ 50397  
~~specify the amount of payments to be made for the family services~~ 50398  
~~duties or workforce development activities included in the~~ 50399  
~~agreement or the method that will be used to determine the amount~~ 50400  
~~of payments.~~ 50401

(8) ~~Audits~~ Provide for timely audits required by federal 50402  
~~statutes and regulations~~ and state law and ~~requirements for~~ 50403  
require prompt release of audit findings and prompt action to 50404  
correct problems identified in an audit; 50405

(9) ~~Which, if any, of the state department's rules will be~~ 50406  
~~waived so that a policy provided for in the agreement may be~~ 50407  
~~implemented~~ Comply with all of the requirements for the family 50408  
services duties that are included in the agreement and have been 50409  
established by the department, federal or state law, or any of the 50410  
following that concern the family services duties included in the 50411  
fiscal agreement and are published under section 5101.212 of the 50412  
Revised Code: state plans for receipt of federal financial 50413  
participation, grant agreements between the department and a 50414  
federal agency, and executive orders issued by the governor; 50415

(10) ~~The~~ Provide for dispute resolution procedures in 50416  
accordance with section 5101.24 of the Revised Code; 50417

(11) Establish the method of amending or terminating the 50418  
agreement and an expedited process for correcting terms or 50419  
conditions of the agreement that the director and ~~board of each~~ 50420  
county ~~commissioners~~ signer agree are erroneous; 50421

~~(11) Dispute resolution procedures for anticipated and~~ 50422  
~~unanticipated disputes. The agreement may establish different~~ 50423  
~~dispute resolution procedures for different types of disputes.~~ 50424  
~~Dispute resolution procedures may include negotiation, mediation,~~ 50425  
~~arbitration, adjudication conducted by a hearing officer or~~ 50426  
~~fact-finding panel, and other procedures.~~ 50427

~~(12) The date the agreement is to commence or Except as provided in rules adopted under division (D) of this section, begin on the first day of July of an odd-numbered year and end on the last day of June of the next odd-numbered year. An agreement may not commence before it is entered into nor end later than the last day of the state fiscal biennium for which it is entered into.~~

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

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

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

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

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

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

~~(14) Other provisions determined necessary by the state department, board, county family services agency, and workforce development agency.~~ 50459  
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50461

~~(E)(C) The state department shall make payments authorized by a partnership fiscal agreement on vouchers it prepares and may include any funds appropriated or allocated to it for carrying out family services duties or workforce development activities vested in the board of county commissioners under included in the agreement, including funds for personal services and maintenance.~~ 50462  
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~~(F)(1) To the extent practicable and not in conflict with federal statutes or regulations, state law, or an appropriation made by the general assembly, the director may establish a consolidated funding allocation for any of the following:~~ 50468  
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~~(a) Two or more family services duties included in the agreement;~~ 50472  
50473

~~(b) Two or more workforce development activities included in the agreement;~~ 50474  
50475

~~(c) One or more family services duties and workforce development activities included in the agreement.~~ 50476  
50477

~~(2) The consolidated funding allocation may be for either of the following:~~ 50478  
50479

~~(a) A county that is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code;~~ 50480  
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~~(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.~~ 50482  
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~~(3) A county family services agency or workforce development agency shall use funds available in a consolidated funding~~ 50487  
50488



~~allocation only for the purpose for which the funds were~~ 50489  
~~appropriated.~~ 50490

(D)(1) The director shall adopt rules in accordance with 50491  
section 111.15 of the Revised Code governing fiscal agreements. 50492  
The director shall adopt the rules as if they were internal 50493  
management rules. Before adopting the rules, the director shall 50494  
give the public an opportunity to review and comment on the 50495  
proposed rules. The rules shall establish methodologies to be used 50496  
to determine the amount of financial assistance to be awarded 50497  
under the agreements. The rules also shall establish terms and 50498  
conditions under which an agreement may be entered into after the 50499  
first day of July of an odd-numbered year. The rules may do any or 50500  
all of the following: 50501

(a) Govern the establishment of consolidated funding 50502  
allocations and specify the time period for which a consolidated 50503  
funding allocation is to be provided if the effective date of the 50504  
agreement is after the first day of July of an odd-numbered year, 50505  
which may include a time period before the effective date of the 50506  
agreement; 50507

(b) Govern the establishment of other allocations; 50508

(c) Specify allowable uses of financial assistance awarded 50509  
under the agreements; 50510

(d) Establish reporting, cash management, audit, and other 50511  
requirements the director determines are necessary to provide 50512  
accountability for the use of financial assistance awarded under 50513  
the agreements and determine compliance with requirements 50514  
established by the department, a federal or state law, or any of 50515  
the following that concern the family services duties included in 50516  
the agreements and are published under section 5101.212 of the 50517  
Revised Code: state plans for receipt of federal financial 50518  
participation, grant agreements between the department and a 50519

federal entity, and executive orders issued by the governor. 50520

(2) A requirement of a fiscal agreement established by a rule 50521  
adopted under this division is applicable to a fiscal agreement 50522  
without having to be restated in the fiscal agreement. 50523

**Sec. 5101.211.** (A) Except as provided in division (B) of this 50524  
section, the director of job and family services may provide for a 50525  
fiscal agreement entered into under section 5101.21 of the Revised 50526  
Code to have a retroactive effective date of the first day of July 50527  
of an odd-numbered year if both of the following are the case: 50528

(1) The agreement is entered into after that date and before 50530  
the last day of that July. 50531

(2) The board of county commissioners requests the 50532  
retroactive effective date and provides the director good cause 50533  
satisfactory to the director for the reason the agreement was not 50534  
entered into on or before the first day of that July. 50535

(B) The director may provide for a fiscal agreement to have a 50536  
retroactive effective date of July 1, 2003, if both of the 50537  
following are the case: 50538

(1) The agreement is entered into after July 1, 2003, and 50539  
before August 29, 2003. 50540

(2) The board of county commissioners requests the 50541  
retroactive effective date. 50542

**Sec. 5101.212.** The department of job and family services 50543  
shall publish in a manner accessible to the public all of the 50544  
following that concern family services duties included in fiscal 50545  
agreements entered into under section 5101.21 of the Revised Code: 50546  
state plans for receipt of federal financial participation, grant 50547  
agreements between the department and a federal agency, and 50548

executive orders issued by the governor. The department may 50549  
publish the materials electronically or otherwise. 50550

Sec. 5101.213. (A) Except as provided in section 5101.211 of 50551  
the Revised Code, if a fiscal agreement under section 5101.21 of 50552  
the Revised Code between the director of job and family services 50553  
and a board of county commissioners is not in effect, all of the 50554  
following apply: 50555

(1) The department of job and family services shall award to 50556  
the county the board serves financial assistance for family 50557  
services duties in accordance with a methodology for determining 50558  
the amount of the award established by rules adopted under 50559  
division (B) of this section. 50560

(2) The financial assistance may be provided in the form of 50561  
allocations, cash draws, reimbursements, and property but may not 50562  
be made in the form of a consolidated funding allocation. 50563

(3) The award of the financial assistance is subject to the 50564  
availability of federal funds and appropriations made by the 50565  
general assembly. 50566

(4) The county family services agencies performing the family 50567  
services duties for which the financial assistance is awarded 50568  
shall do all of the following: 50569

(a) Use the financial assistance, and perform the family 50570  
services duties, in accordance with requirements for the duties 50571  
established by the department, a federal or state law, or any of 50572  
the following that concern the duties: state plans for receipt of 50573  
federal financial participation, grant agreements between the 50574  
department and a federal agency, and executive orders issued by 50575  
the governor; 50576

(b) Utilize a financial management system and other 50577  
accountability mechanisms for the financial assistance that meet 50578

requirements the department establishes; 50579

(c) Monitor all private and government entities that receive 50580  
a payment from the financial assistance to ensure that each entity 50581  
uses the payment in accordance with requirements for the family 50582  
services duties and take action to recover payments that are not 50583  
used in accordance with the requirements for the family services 50584  
duties; 50585

(d) Promptly reimburse the department the amount that 50586  
represents the amount an agency is responsible for, pursuant to 50587  
action the department takes under division (C) of section 5101.24 50588  
of the Revised Code, of funds the department pays to any entity 50589  
because of an adverse audit finding, adverse quality control 50590  
finding, final disallowance of federal financial participation, or 50591  
other sanction or penalty; 50592

(e) Take prompt corrective action, including paying amounts 50593  
resulting from an adverse finding, sanction, or penalty, if the 50594  
department, auditor of state, federal agency, or other entity 50595  
authorized by federal or state law to determine compliance with 50596  
requirements for a family services duty determines compliance has 50597  
not been achieved. 50598

(B) The director shall adopt rules in accordance with section 50599  
111.15 of the Revised Code as necessary to implement this section. 50600  
The director shall adopt the rules as if they were internal 50601  
management rules. Before adopting the rules, the director shall 50602  
give the public an opportunity to review and comment on the 50603  
proposed rules. The rules shall establish methodologies to be used 50604  
to determine the amount of financial assistance to be awarded and 50605  
may do any or all of the following: 50606

(1) Govern the establishment of funding allocations; 50607

(2) Specify allowable uses of financial assistance the 50608  
department awards under this section; 50609

(3) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of the financial assistance and determine compliance with requirements established by the department, a federal or state law, or any of the following that concern the family services duties for which the financial assistance is awarded: state plans for receipt of federal financial participation, grant agreements between the department and a federal entity, and executive orders issued by the governor.

**Sec. ~~5101.211~~ 5101.214.** The director of job and family services may enter into a written agreement with one or more state agencies, as defined in section 117.01 of the Revised Code, and state universities and colleges to assist in the coordination, provision, or enhancement of the family services duties of a county family services agency or the workforce development activities of a workforce development agency. The director also may enter into written agreements or contracts with, or issue grants to, private and government entities under which funds are provided for the enhancement or innovation of family services duties or workforce development activities on the state or local level. ~~The terms of an agreement, contract, or grant under this section may be incorporated into a partnership agreement the director enters into with a board of county commissioners under section 5101.21 or with the chief elected official of a municipal corporation under section 5101.213 of the Revised Code, if the director and board or chief elected official and state agency, state university or college, or private or government entity agree.~~

The director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.

**Sec. ~~5101.212~~ 5101.215.** If the director of job and family services enters into an agreement or contracts with, or issues a grant to, a religious organization under section ~~5101.211~~ 5101.214 of the Revised Code, the religious organization shall comply with section 104 of the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996 (P.L. 104-193).

**Sec. 5101.216.** The director of job and family services may enter into one or more written operational agreements with boards of county commissioners to do one or more of the following regarding family services duties:

(A) Provide for the director to amend or rescind a rule the director previously adopted;

(B) Provide for the director to modify procedures or establish alternative procedures to accommodate special circumstances in a county;

(C) Provide for the director and board to jointly identify operational problems of mutual concern and develop a joint plan to address the problems;

(D) Establish a framework for the director and board to modify the use of existing resources in a manner that is beneficial to the department of job and family services and the county that the board serves and improves family services duties for the recipients of the services.

**Sec. 5101.22.** The department of job and family services may establish performance and other administrative standards for the administration and outcomes of family services duties ~~and workforce development activities~~ and determine at intervals the department decides the degree to which a county family services agency ~~or workforce development agency~~ complies with a performance

or other administrative standard. The department may use 50670  
statistical sampling, performance audits, case reviews, or other 50671  
methods it determines necessary and appropriate to determine 50672  
compliance with performance and administrative standards. 50673

~~A performance or other administrative standard established 50674  
under this section for a family service duty or workforce 50675  
development activity does not apply to a county family services 50676  
agency or workforce development agency administering the duty if a 50677  
different performance or administrative standard is specified for 50678  
the agency's administration of the duty or activity pursuant to a 50679  
partnership agreement entered into under section 5101.21 or 50680  
5101.213 of the Revised Code. 50681~~

Sec. 5101.221. (A) Except as provided by division (C) of this 50682  
section, if the department of job and family services determines 50683  
that a county family services agency has failed to comply with a 50684  
performance or other administrative standard established under 50685  
section 5101.22 of the Revised Code for the administration or 50686  
outcome of a family services duty, the department shall require 50687  
the agency to develop, submit to the department for approval, and 50688  
comply with a corrective action plan. 50689

(B) If a county family services agency fails to develop, 50690  
submit to the department, or comply with a corrective action plan 50691  
under division (A) of this section, or the department disapproves 50692  
the agency's corrective action plan, the department may require 50693  
the agency to develop, submit to the department for approval, and 50694  
comply with a corrective action plan that requires the agency to 50695  
commit existing resources to the plan. 50696

(C) The department may not require a county family services 50697  
agency to take action under this section for failure to comply 50698  
with a performance or other administrative standard if either of 50699  
the following is the case: 50700

(1) Federal law requires the department to establish the standard. 50701  
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(2) The standard is established for an incentive. 50703

Sec. 5101.222. The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code to implement sections 5111.22 to 5111.222 of the Revised Code. If the director adopts the rules, the director shall adopt the rules as if they were internal management rules. 50704  
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Sec. 5101.24. (A) As used in this section, "responsible entity" means the following: 50709  
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~~(1) If the family services duty or workforce development activity involved is included in a partnership agreement a board of county commissioners and the director of job and family services enters into under section 5101.21 of the Revised Code, the board regardless of the fact that or a county family services agency performs the family services duty or a workforce development agency performs the workforce development activity.~~ 50711  
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~~(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.~~ 50718  
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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 50724  
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responsible entity if the department determines any of the 50731  
following ~~apply to the county family services agency performing~~ 50732  
~~the family services duty or workforce development agency providing~~ 50733  
~~the workforce development activity are the case:~~ 50734

(1) ~~The agency fails to meet a performance standard specified~~ 50735  
~~in a partnership agreement entered into under section 5101.21 or~~ 50736  
~~established A requirement of a fiscal agreement entered into under~~ 50737  
~~section 5101.21 of the Revised Code that includes the family~~ 50738  
~~services duty, including a requirement for fiscal agreements~~ 50739  
~~established by rules adopted under that section, is not complied~~ 50740  
~~with;~~ 50741

(2) ~~A county family services agency fails to develop, submit~~ 50742  
~~to the department, or comply with a corrective action plan under~~ 50743  
~~division (B) of section 5101.221 of the Revised Code, or the~~ 50744  
~~department disapproves the agency's corrective action plan~~ 50745  
~~developed under division (B) of section 5101.22 5101.221 of the~~ 50746  
~~Revised Code for the duty or activity;~~ 50747

~~(2) The agency fails to comply with a~~ (3) ~~A requirement for~~ 50748  
~~the family services duty established by the department or any of~~ 50749  
~~the following is not complied with: a federal statute or~~ 50750  
~~regulations, state statute, or a department rule for the duty or~~ 50751  
~~activity law, state plan for receipt of federal financial~~ 50752  
~~participation, grant agreement between the department and a~~ 50753  
~~federal agency, or executive order issued by the governor;~~ 50754

~~(3)(4) The agency responsible entity is solely or partially~~ 50755  
~~responsible, as determined by the director of job and family~~ 50756  
~~services, for an adverse audit or finding, adverse quality control~~ 50757  
~~finding, final disallowance of federal financial participation, or~~ 50758  
~~other sanction or penalty regarding the family services duty or~~ 50759  
~~activity.~~ 50760

(C) The department may take one or more of the following 50761

actions against the responsible entity ~~if~~ when authorized by 50762  
division (B)(1), (2), ~~or~~ (3), or (4) of this section ~~applies:~~ 50763

(1) Require the responsible entity to ~~submit to and~~ comply 50764  
with a corrective action plan pursuant to a time schedule 50765  
specified by the department. The corrective action plan shall be 50766  
established or approved by the department and shall not require a 50767  
county family services agency to commit resources to the plan. 50768

(2) Require the responsible entity to comply with a 50769  
corrective action plan pursuant to a time schedule specified by 50770  
the department. The corrective action plan shall be established or 50771  
approved by the department and require a county family services 50772  
agency to commit to the plan existing resources identified by the 50773  
agency. 50774

(3) Require the responsible entity to do one of the 50775  
following: 50776

(a) Share with the department a final disallowance of federal 50777  
financial participation or other sanction or penalty; 50778

(b) Reimburse the department the final amount the department 50779  
pays to the federal government or another entity that represents 50780  
the amount the ~~agency~~ responsible entity is responsible for of an 50781  
adverse audit ~~or~~ finding, adverse quality control finding, final 50782  
disallowance of federal financial participation, or other sanction 50783  
or penalty issued by the federal government, auditor of state, or 50784  
other entity; 50785

(c) Pay the federal government or another entity the final 50786  
amount that represents the amount the ~~agency~~ responsible entity is 50787  
responsible for of an adverse audit ~~or~~ finding, adverse quality 50788  
control finding, final disallowance of federal financial 50789  
participation, or other sanction or penalty issued by the federal 50790  
government, auditor of state, or other entity; 50791

(d) Pay the department the final amount that represents the 50792

amount the responsible entity is responsible for of an adverse 50793  
audit finding or adverse quality control finding. 50794

~~(3)~~(4) Impose ~~a financial or~~ an administrative sanction ~~or~~ 50795  
~~adverse audit~~ issued by the department against the responsible 50796  
entity. A sanction may be increased if the department has 50797  
previously taken action against the responsible entity under this 50798  
division. 50799

~~(4)~~(5) Perform, or contract with a government or private 50800  
entity for the entity to perform, the family services duty ~~or~~ 50801  
~~workforce development activity~~ until the department is satisfied 50802  
that the responsible entity ensures that the duty ~~or activity~~ will 50803  
be performed satisfactorily. If the department performs or 50804  
contracts with an entity to perform a family services duty ~~or~~ 50805  
~~workforce development activity~~ under division (C)~~(4)~~(5) of this 50806  
section, the department may do either or both of the following: 50807

(a) Spend funds in the county treasury appropriated by the 50808  
board of county commissioners for the duty ~~or activity~~; 50809

(b) Withhold funds allocated or reimbursements due to the 50810  
responsible entity for the duty ~~or activity~~ and spend the funds 50811  
for the duty ~~or activity~~. 50812

~~(5)~~(6) Request that the attorney general bring mandamus 50813  
proceedings to compel the responsible entity to take or cease the 50814  
action that causes division (B)(1), (2), ~~or~~ (3), or (4) of this 50815  
section to apply. The attorney general shall bring mandamus 50816  
proceedings in the Franklin county court of appeals at the 50817  
department's request. 50818

(7) If the department takes action under this division 50819  
because of division (B)(3) of this section, withhold funds 50820  
allocated or reimbursement due to the responsible entity until the 50821  
department determines that the responsible entity is in compliance 50822  
with the requirement. The department shall release the funds when 50823

the department determines that compliance has been achieved. 50824

(D) If the department ~~decides~~ proposes to take action against 50825  
the responsible entity under division (C) of this section, the 50826  
department shall notify the responsible entity and county auditor. 50827  
The notice shall be in writing and specify the action the 50828  
department proposes to take. The department shall send the notice 50829  
by regular United States mail. 50830

~~The~~ Except as provided by division (E) of this section, the 50831  
responsible entity may request an administrative review of a 50832  
proposed action, ~~other than a proposed action under division~~ 50833  
~~(C)(5) of this section, by sending a written request to the~~ 50834  
~~department not later than~~ in accordance with administrative review 50835  
procedures the department shall establish. The administrative 50836  
review procedures shall comply with all of the following: 50837

(1) A request for an administrative review shall state 50838  
specifically all of the following: 50839

(a) The proposed action specified in the notice from the 50840  
department for which the review is requested; 50841

(b) The reason why the responsible entity believes the 50842  
proposed action is inappropriate; 50843

(c) All facts and legal arguments that the responsible entity 50844  
wants the department to consider; 50845

(d) The name of the person who will serve as the responsible 50846  
entity's representative in the review. 50847

(2) If the department's notice specifies more than one 50848  
proposed action and the responsible entity does not specify all of 50849  
the proposed actions in its request pursuant to division (D)(1)(a) 50850  
of this section, the proposed actions not specified in the request 50851  
shall not be subject to administrative review and the parts of the 50852  
notice regarding those proposed actions shall be final and binding 50853

on the responsible entity. 50854

(3) In the case of a proposed action under division (C)(1) of 50855  
this section, the responsible entity shall have fifteen calendar 50856  
days after the department mails the notice to the responsible 50857  
entity to send a written request to the department for an 50858  
administrative review. If it receives such a request within the 50859  
required time, the department shall postpone taking action under 50860  
division (C)(1) of this section for fifteen calendar days 50861  
following the day it receives the request. ~~The or extended period~~ 50862  
~~of time provided for in division (D)(5) of this section to allow a~~ 50863  
~~representative of the department and a representative of the~~ 50864  
responsible entity ~~shall attempt~~ an informal opportunity to 50865  
resolve any dispute during that fifteen-day or extended period. 50866

~~(2)(4)~~ (4) In the case of a proposed action under division 50867  
(C)(2), (3), (4), (5), or (7) of this section, ~~forty five the~~ 50868  
responsible entity shall have thirty calendar days after the 50869  
department mails the notice to the responsible entity to send a 50870  
written request to the department for an administrative review. 50871  
~~The administrative review shall be limited solely to the issue of~~ 50872  
~~the amount the responsible entity shall share with the department,~~ 50873  
~~reimburse the department, or pay to the federal government or~~ 50874  
~~another entity under division (C)(2) of this section. The~~ If it 50875  
receives such a request within the required time, the department 50876  
shall postpone taking action under division (C)(2), (3), (4), (5), 50877  
or (7) of this section for thirty calendar days following the day 50878  
it receives the request or extended period of time provided for in 50879  
division (D)(5) of this section to allow a representative of the 50880  
department and a representative of the responsible entity ~~shall~~ 50881  
~~attempt~~ an informal opportunity to resolve any dispute ~~within~~ 50882  
~~sixty days~~ during that thirty-day or extended period. 50883

~~(3) In the case of a proposed action under division (C)(3) or~~ 50884  
~~(4) of this section, forty five days after the department mails~~ 50885

~~the notice to the responsible entity. The department and~~ 50886  
~~responsible entity shall attempt to resolve any dispute within~~ 50887  
~~sixty days.~~ 50888

~~If the department and responsible entity fail to resolve any~~ 50889  
~~dispute within the required time, the department shall conduct a~~ 50890  
~~hearing in accordance with Chapter 119. of the Revised Code,~~ 50891  
~~except that the department, notwithstanding section 119.07 of the~~ 50892  
~~Revised Code, is not required to schedule the hearing within~~ 50893  
~~fifteen days of the responsible entity's request.~~ 50894

~~(E)(5) If the informal opportunity provided in division~~ 50895  
~~(D)(3) or (4) of this section does not result in a written~~ 50896  
~~resolution to the dispute within the fifteen- or thirty-day~~ 50897  
~~period, the director of job and family services and representative~~ 50898  
~~of the responsible entity may enter into a written agreement~~ 50899  
~~extending the time period for attempting an informal resolution of~~ 50900  
~~the dispute under division (D)(3) or (4) of this section.~~ 50901

~~(6) In the case of a proposed action under division (C)(3) of~~ 50902  
~~this section, the responsible entity may not include in its~~ 50903  
~~request disputes over a finding, final disallowance of federal~~ 50904  
~~financial participation, or other sanction or penalty issued by~~ 50905  
~~the federal government, auditor of state, or entity other than the~~ 50906  
~~department.~~ 50907

~~(7) If the responsible entity fails to request an~~ 50908  
~~administrative review within the required time, the responsible~~ 50909  
~~entity loses the right to request an administrative review of the~~ 50910  
~~proposed actions specified in the notice and the notice becomes~~ 50911  
~~final and binding on the responsible entity.~~ 50912

~~(8) If the informal opportunity provided in division (D)(3)~~ 50913  
~~or (4) of this section does not result in a written resolution to~~ 50914  
~~the dispute within the time provided by division (D)(3), (4), or~~ 50915  
~~(5) of this section, the director shall appoint an administrative~~ 50916

review panel to conduct the administrative review. The review 50917  
panel shall consist of department employees and one director or 50918  
other representative of the type of county family services agency 50919  
that is responsible for the kind of family services duty that is 50920  
the subject of the dispute and serves a different county than the 50921  
county served by the responsible entity. No individual involved in 50922  
the department's proposal to take action against the responsible 50923  
entity may serve on the review panel. The review panel shall 50924  
review the responsible entity's request. The review panel may 50925  
require that the department or responsible entity submit 50926  
additional information and schedule and conduct an informal 50927  
hearing to obtain testimony or additional evidence. A review of a 50928  
proposal to take action under division (C)(3) of this section 50929  
shall be limited solely to the issue of the amount the responsible 50930  
entity shall share with the department, reimburse the department, 50931  
or pay to the federal government, department, or other entity 50932  
under division (C)(3) of this section. The review panel is not 50933  
required to make a stenographic record of its hearing or other 50934  
proceedings. 50935

(9) After finishing an administrative review, an 50936  
administrative review panel appointed under division (D)(8) of 50937  
this section shall submit a written report to the director setting 50938  
forth its findings of fact, conclusions of law, and 50939  
recommendations for action. The director may approve, modify, or 50940  
disapprove the recommendations. If the director modifies or 50941  
disapproves the recommendations, the director shall state the 50942  
reasons for the modification or disapproval and the actions to be 50943  
taken against the responsible entity. 50944

(10) The director's approval, modification, or disapproval 50945  
under division (D)(9) of this section shall be final and binding 50946  
on the responsible entity and shall not be subject to further 50947  
departmental review. 50948

<u>(E) The responsible entity is not entitled to an</u>	50949
<u>administrative review under division (D) of this section for any</u>	50950
<u>of the following:</u>	50951
<u>(1) An action taken under division (C)(6) of this section;</u>	50952
<u>(2) An action taken under section 5101.242 of the Revised</u>	50953
<u>Code;</u>	50954
<u>(3) An action taken under division (C)(3) of this section if</u>	50955
<u>the federal government, auditor of state, or entity other than the</u>	50956
<u>department has identified the county family services agency as</u>	50957
<u>being solely or partially responsible for an adverse audit</u>	50958
<u>finding, adverse quality control finding, final disallowance of</u>	50959
<u>federal financial participation, or other sanction or penalty;</u>	50960
<u>(4) An adjustment to an allocation, cash draw, advance, or</u>	50961
<u>reimbursement to a county family services agency that the</u>	50962
<u>department determines necessary for budgetary reasons;</u>	50963
<u>(5) Withholding of a cash draw or reimbursement due to</u>	50964
<u>noncompliance with a reporting requirement established in rules</u>	50965
<u>adopted under section 5101.243 of the Revised Code.</u>	50966
<u>(F) This section does not apply to other actions the</u>	50967
<u>department takes against the responsible entity pursuant to</u>	50968
<u>authority granted by another state law unless the other state law</u>	50969
<u>requires the department to take the action in accordance with this</u>	50970
<u>section.</u>	50971
<u>(G) The director of job and family services may adopt rules</u>	50972
<u>in accordance with Chapter 119. of the Revised Code as necessary</u>	50973
<u>to implement this section.</u>	50974
<b><u>Sec. 5101.241. (A) As used in this section:</u></b>	50975
<u>(1) "Local area" and "chief elected official" have the same</u>	50976
<u>meaning as in section 5101.20 of the Revised Code.</u>	50977



(2) "Responsible entity" means the chief elected officials of a local area. 50978  
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(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case: 50980  
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(1) A requirement of a grant agreement entered into under section 5101.20 of the Revised Code that includes the workforce development activity, including a requirement for grant agreements established by rules adopted under that section, is not complied with; 50984  
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(2) A performance standard for the workforce development activity established by the federal government or the department is not met; 50989  
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(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; 50992  
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(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. 50997  
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(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: 51003  
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(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the 51006  
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<u>department, pursuant to a time schedule specified by the</u>	51008
<u>department;</u>	51009
<u>(2) Require the responsible entity to do one of the</u>	51010
<u>following:</u>	51011
<u>(a) Share with the department a final disallowance of federal</u>	51012
<u>financial participation or other sanction or penalty;</u>	51013
<u>(b) Reimburse the department the amount the department pays</u>	51014
<u>to the federal government or another entity that represents the</u>	51015
<u>amount the responsible entity is responsible for of an adverse</u>	51016
<u>audit finding, adverse quality control finding, final disallowance</u>	51017
<u>of federal financial participation, or other sanction or penalty</u>	51018
<u>issued by the federal government, auditor of state, or other</u>	51019
<u>entity;</u>	51020
<u>(c) Pay the federal government or another entity the amount</u>	51021
<u>that represents the amount the responsible entity is responsible</u>	51022
<u>for of an adverse audit finding, adverse quality control finding,</u>	51023
<u>final disallowance of federal financial participation, or other</u>	51024
<u>sanction or penalty issued by the federal government, auditor of</u>	51025
<u>state, or other entity;</u>	51026
<u>(d) Pay the department the amount that represents the amount</u>	51027
<u>the responsible entity is responsible for of an adverse audit</u>	51028
<u>finding, adverse quality control finding, or other sanction or</u>	51029
<u>penalty issued by the department.</u>	51030
<u>(3) Impose a financial or administrative sanction or adverse</u>	51031
<u>audit finding issued by the department against the responsible</u>	51032
<u>entity, which may be increased with each subsequent action taken</u>	51033
<u>against the responsible entity.</u>	51034
<u>(4) Perform or contract with a government or private entity</u>	51035
<u>for the entity to perform the workforce development activity until</u>	51036
<u>the department is satisfied that the responsible entity ensures</u>	51037
<u>that the activity will be performed to the department's</u>	51038

satisfaction. If the department performs or contracts with an 51039  
entity to perform the workforce development activity under 51040  
division (C)(4) of this section, the department may withhold funds 51041  
allocated to or reimbursements due to the responsible entity for 51042  
the activity and use those funds to implement division (C)(4) of 51043  
this section. 51044

(5) Request the attorney general to bring mandamus 51045  
proceedings to compel the responsible entity to take or cease the 51046  
actions listed in division (B) of this section. The attorney 51047  
general shall bring any mandamus proceedings in the Franklin 51048  
county court of appeals at the department's request. 51049

(6) If the department takes action under this division 51050  
because of division (B)(3) of this section, withhold funds 51051  
allocated or reimbursement due to the responsible entity until the 51052  
department determines that the responsible entity is in compliance 51053  
with the requirement. The department shall release the funds when 51054  
the department determines that compliance has been achieved. 51055

(D) The department shall notify the responsible entity and 51056  
the appropriate county auditor when the department proposes to 51057  
take action under division (C) of this section. The notice shall 51058  
be in writing and specify the action the department proposes to 51059  
take. The department shall send the notice by regular United 51060  
States mail. Except as provided in division (E) of this section, 51061  
the responsible entity may request an administrative review of a 51062  
proposed action in accordance with administrative review 51063  
procedures the department shall establish. The administrative 51064  
review procedures shall comply with all of the following: 51065

(1) A request for an administrative review shall state 51066  
specifically all of the following: 51067

(a) The proposed action specified in the notice from the 51068  
department for which the review is requested; 51069

<u>(b) The reason why the responsible entity believes the proposed action is inappropriate;</u>	51070 51071
<u>(c) All facts and legal arguments that the responsible entity wants the department to consider;</u>	51072 51073
<u>(d) The name of the person who will serve as the responsible entity's representative in the review.</u>	51074 51075
<u>(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.</u>	51076 51077 51078 51079 51080 51081 51082
<u>(3) In the case of a proposed action under division (C)(1) of this section, the responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the day it receives the request to allow a representative of the department and a representative of the responsible entity an informal opportunity to resolve any dispute during that fifteen-day period.</u>	51083 51084 51085 51086 51087 51088 51089 51090 51091 51092 51093
<u>(4) In the case of a proposed action under division (C)(2), (3), or (4) of this section, the responsible entity shall have thirty calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), or (4) of this section for thirty calendar</u>	51094 51095 51096 51097 51098 51099 51100

days following the day it receives the request to allow a 51101  
representative of the department and a representative of the 51102  
responsible entity an informal opportunity to resolve any dispute 51103  
during that thirty-day period. 51104

(5) In the case of a proposed action under division (C)(2) of 51105  
this section, the responsible entity may not include in its 51106  
request disputes over a finding, final disallowance of federal 51107  
financial participation, or other sanction or penalty issued by 51108  
the federal government, auditor of state, or other entity other 51109  
than the department. 51110

(6) If the responsible entity fails to request an 51111  
administrative review within the required time, the responsible 51112  
entity loses the right to request an administrative review of the 51113  
proposed actions specified in the notice and the notice becomes 51114  
final and binding on the responsible entity. 51115

(7) If the informal opportunity provided in division (D)(3) 51116  
or (4) of this section does not result in a written resolution to 51117  
the dispute, the director of job and family services shall appoint 51118  
an administrative review panel to conduct the administrative 51119  
review. The review panel shall consist of department employees who 51120  
are not involved in the department's proposal to take action 51121  
against the responsible entity. The review panel shall review the 51122  
responsible entity's request. The review panel may require that 51123  
the department or responsible entity submit additional information 51124  
and schedule and conduct an informal hearing to obtain testimony 51125  
or additional evidence. A review of a proposal to take action 51126  
under division (C)(2) of this section shall be limited solely to 51127  
the issue of the amount the responsible entity shall share with 51128  
the department, reimburse the department, or pay to the federal 51129  
government, department, or other entity under division (C)(2) of 51130  
this section. The review panel is not required to make a 51131  
stenographic record of its hearing or other proceedings. 51132

(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. 51133  
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(9) The director's approval, modification, or disapproval under division (D)(8) of this section shall be final and binding on the responsible entity and shall not be subject to further departmental review. 51142  
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(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following: 51146  
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(1) An action taken under division (C)(5) or (6) of this section; 51149  
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(2) An action taken under section 5101.242 of the Revised Code; 51151  
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(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty; 51153  
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(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons; 51159  
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(5) Withholding of a cash draw or reimbursement due to 51162

noncompliance with a reporting requirement established in rules 51163  
adopted under section 5101.243 of the Revised Code. 51164

(F) This section does not apply to other actions the 51165  
department takes against the responsible entity pursuant to 51166  
authority granted by another state law unless the other state law 51167  
requires the department to take the action in accordance with this 51168  
section. 51169

(G) The director of job and family services may adopt rules 51170  
in accordance with Chapter 119. of the Revised Code as necessary 51171  
to implement this section. 51172

Sec. 5101.242. The department of job and family services may 51173  
certify a claim to the attorney general under section 131.02 of 51174  
the Revised Code for the attorney general to take action under 51175  
that section against a responsible entity to recover any funds 51176  
that the department determines the responsible entity owes the 51177  
department for actions taken under division (C)(2), (3), (4), or 51178  
(5) of section 5101.24 or 5101.241 of the Revised Code. 51179

Sec. 5101.243. The director of job and family services may 51180  
adopt rules in accordance with section 111.15 of the Revised Code 51181  
establishing reporting requirements for family services duties and 51182  
workforce development activities. If the director adopts the 51183  
rules, the director shall adopt the rules as if they were internal 51184  
management rules and, before adopting the rules, give the public 51185  
an opportunity to review and comment on the proposed rules. 51186

Sec. 5101.26. As used in this section and in sections 5101.27 51187  
to 5101.30 of the Revised Code: 51188

(A) "County agency" means a county department of job and 51189  
family services or a public children services agency. 51190

(B) "Fugitive felon" means an individual who is fleeing to 51191

avoid prosecution, or custody or confinement after conviction, 51192  
under the laws of the place from which the individual is fleeing, 51193  
for a crime or an attempt to commit a crime that is a felony under 51194  
the laws of the place from which the individual is fleeing or, in 51195  
the case of New Jersey, a high misdemeanor, regardless of whether 51196  
the individual has departed from the individual's usual place of 51197  
residence. 51198

(C) "Information" means records as defined in section 149.011 51199  
of the Revised Code, any other documents in any format, and data 51200  
derived from records and documents that are generated, acquired, 51201  
or maintained by the department of job and family services, a 51202  
county agency, or an entity performing duties on behalf of the 51203  
department or a county agency. 51204

(D) "Law enforcement agency" means the state highway patrol, 51205  
an agency that employs peace officers as defined in section 109.71 51206  
of the Revised Code, the adult parole authority, a county 51207  
department of probation, a prosecuting attorney, the attorney 51208  
general, similar agencies of other states, federal law enforcement 51209  
agencies, and postal inspectors. "Law enforcement agency" includes 51210  
the peace officers and other law enforcement officers employed by 51211  
the agency. 51212

(E) "Medical assistance provided under a public assistance 51213  
program" means medical assistance provided under the programs 51214  
established under sections 5101.49, 5101.50 to 5101.503, and 51215  
5101.51 to 5101.5110, Chapters 5111. and 5115., or any other 51216  
provision of the Revised Code. 51217

(F) "Public assistance" means financial assistance, medical 51218  
assistance, or social services provided under a program 51219  
administered by the department of job and family services or a 51220  
county agency pursuant to Chapter 329., 5101., 5104., 5107., 51221  
5108., 5111., or 5115. of the Revised Code or an executive order 51222  
issued under section 107.17 of the Revised Code. 51223



~~(F)~~(G) "Public assistance recipient" means an applicant for 51224  
or recipient or former recipient of public assistance. 51225

**Sec. 5101.27.** (A) Except as permitted by this section, 51226  
section 5101.28 or 5101.29 of the Revised Code, or the rules 51227  
adopted under division (A) of section 5101.30 of the Revised Code, 51228  
or required by federal law, no person or government entity shall 51229  
solicit, disclose, receive, use, or knowingly permit, or 51230  
participate in the use of any information regarding a public 51231  
assistance recipient for any purpose not directly connected with 51232  
the administration of a public assistance program. 51233

(B)~~(1)~~ To the extent permitted by federal law, the department 51234  
of job and family services and county agencies shall ~~release~~ do 51235  
both of the following: 51236

(1) Release information regarding a public assistance 51237  
recipient for purposes directly connected to the administration of 51238  
the program to a government entity responsible for administering a 51239  
that public assistance program ~~or any other state, federal, or~~ 51240  
~~federally assisted program that provides cash or in-kind~~ 51241  
~~assistance or services directly to individuals based on need or~~ 51242  
~~for the purpose of protecting children to a government entity~~ 51243  
~~responsible for administering a children's protective services~~ 51244  
~~program.~~i 51245

~~(2) To the extent permitted by federal law, the department~~ 51246  
~~and county agencies shall provide~~ Provide information regarding a 51247  
public assistance recipient to a law enforcement agency for the 51248  
purpose of any investigation, prosecution, or criminal or civil 51249  
proceeding relating to the administration of a that public 51250  
assistance program. 51251

(C) To the extent permitted by federal law and section 51252  
1347.08 of the Revised Code, the department and county agencies 51253

shall provide access to information regarding a public assistance recipient to all of the following:

(1) The recipient;

(2) The authorized representative, ~~as defined in rules adopted under section 5101.30 of the Revised Code, of the recipient;~~

(3) The ~~parent or~~ legal guardian of the recipient;

(4) The attorney of the recipient, if the attorney has written authorization that complies with section 5101.271 of the Revised Code from the recipient.

(D) To the extent permitted by federal law and subject to division (E) of this section, the department and county agencies may release do both of the following:

(1) Release information about a public assistance recipient if the recipient gives voluntary, written ~~consent that specifically identifies the persons or government entities to which the information may be released.~~

The authorization that complies with section 5101.271 of the Revised Code;

(2) Release information regarding a public assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.

(E) Except when the release is required by division (B), (C), or (D)(2) of this section, the department or county agency shall release the information only to the persons or government entities specified in the document evidencing consent. Consent may be time limited or ongoing, at the discretion of the individual

~~giving it, and may be rescinded at any time; however, an~~ 51284  
~~individual cannot rescind consent retroactively. The document~~ 51285  
~~evidencing consent must state that consent may be rescinded in~~ 51286  
~~accordance with the authorization. The department or county agency~~ 51287  
~~shall provide, at no cost, a copy of each written authorization to~~ 51288  
~~the individual who signed it.~~ 51289

(F) The department or a county agency may release information 51290  
under this division (D) of this section concerning a the receipt 51291  
of medical assistance provided under Chapter 5111. of the Revised 51292  
Code a public assistance program only if both all of the following 51293  
conditions are the case met: 51294

(1) The release of information is for purposes directly 51295  
connected to the administration of ~~programs created under Chapter~~ 51296  
~~5111. of the Revised Code or services provision of medical~~ 51297  
~~assistance provided under programs created under that chapter a~~ 51298  
~~public assistance program;~~ 51299

(2) The information is released to persons or government 51300  
entities that are subject to standards of confidentiality and 51301  
safeguarding information substantially comparable to those 51302  
established for ~~programs created under Chapter 5111. of the~~ 51303  
~~Revised Code medical assistance provided under a public assistance~~ 51304  
~~program;~~ 51305

(3) The department or county agency has obtained an 51306  
authorization consistent with section 5101.271 of the Revised 51307  
Code. 51308

(G) Information concerning the receipt of medical assistance 51309  
provided under a public assistance program may be released only if 51310  
the release complies with this section and rules adopted by the 51311  
department pursuant to section 5101.30 of the Revised Code or, if 51312  
more restrictive, the Health Insurance Portability and 51313  
Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 51314

42 U.S.C. 1320d, et seq., as amended, and regulations adopted by 51315  
the United States department of health and human services to 51316  
implement the act. 51317

(H) The department of job and family services may adopt rules 51318  
defining "authorized representative" for purposes of division 51319  
(C)(2) of this section. 51320

Sec. 5101.271. (A) For the purposes of section 5101.27 of the 51321  
Revised Code, an authorization shall be made on a form that uses 51322  
language understandable to the average person and contains all of 51323  
the following: 51324

(1) A description of the information to be used or disclosed 51325  
that identifies the information in a specific and meaningful 51326  
fashion; 51327

(2) The name or other specific identification of the person 51328  
or class of persons authorized to make the requested use or 51329  
disclosure; 51330

(3) The name or other specific identification of the person 51331  
or governmental entity to which the information may be released; 51332

(4) A description of each purpose of the requested use or 51333  
disclosure of the information; 51334

(5) The date on which the authorization expires or an event 51335  
related either to the individual who is the subject of the request 51336  
or to the purposes of the requested use or disclosure, the 51337  
occurrence of which will cause the authorization to expire; 51338

(6) A statement that the information used or disclosed 51339  
pursuant to the authorization may be disclosed by the recipient of 51340  
the information and may no longer be protected from disclosure; 51341

(7) The signature of the individual or the individual's 51342  
authorized representative and the date on which the authorization 51343  
was signed; 51344

<u>(8) If signed by an authorized representative, a description</u>	51345
<u>of the representative's authority to act for the individual;</u>	51346
<u>(9) A statement of the individual or authorized</u>	51347
<u>representative's right to prospectively revoke the written</u>	51348
<u>authorization in writing, along with one of the following:</u>	51349
<u>(a) A description of how the individual or authorized</u>	51350
<u>representative may revoke the authorization;</u>	51351
<u>(b) If the department of job and family services' privacy</u>	51352
<u>notice contains a description of how the individual or authorized</u>	51353
<u>representative may revoke the authorization, a reference to that</u>	51354
<u>privacy notice.</u>	51355
<u>(10) A statement that treatment, payment, enrollment, or</u>	51356
<u>eligibility for public assistance cannot be conditioned on signing</u>	51357
<u>the authorization unless the authorization is necessary for</u>	51358
<u>determining eligibility for the public assistance program.</u>	51359
<u>(B) When an individual requests information pursuant to</u>	51360
<u>section 5101.27 of the Revised Code regarding the individual's</u>	51361
<u>receipt of public assistance and does not wish to provide a</u>	51362
<u>statement of purpose, the statement "at request of the individual"</u>	51363
<u>is a sufficient description for purposes of division (A)(4) of</u>	51364
<u>this section.</u>	51365
<b>Sec. 5101.28.</b> <del>(A) The department of job and family services</del>	51366
<del>shall enter into written agreements with law enforcement agencies</del>	51367
<del>to exchange, obtain, or share</del> <u>(1) On request of the department of</u>	51368
<u>job and family services or a county agency, a law enforcement</u>	51369
<u>agency shall provide</u> information regarding public assistance	51370
recipients to enable the department, <del>or county agencies, and law</del>	51371
<del>enforcement agencies</del> <u>agency</u> to determine, <u>for eligibility</u>	51372
<u>purposes</u> , whether a recipient or a member of a recipient's	51373
assistance group is <del>either of the following:</del>	51374

<del>(1) A a fugitive felon;</del>	51375
<del>(2) Violating felon or violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.</del>	51376 51377 51378
<u>(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.</u>	51379 51380 51381 51382
(B) <u>The To the extent permitted by federal law, the department and county agencies shall provide information, except information directly related to the receipt of medical assistance or medical services,</u> regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.	51383 51384 51385 51386 51387 51388 51389 51390 51391 51392
(C) Information about a recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.	51393 51394 51395 51396 51397 51398 51399 51400 51401 51402
(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of	51403 51404 51405

information in accordance with divisions (A), (B), and (C) of this 51406  
section. This section does not affect any immunity or defense that 51407  
the department and its officers and employees may be entitled to 51408  
under another section of the Revised Code or the common law of 51409  
this state, including section 9.86 of the Revised Code. 51410

(2) The county agencies and their employees are not liable in 51411  
damages in a civil action for any injury, death, or loss to person 51412  
or property that allegedly arises from the release of information 51413  
in accordance with divisions (A), (B), and (C) of this section. 51414  
"Employee" has the same meaning as in division (B) of section 51415  
2744.01 of the Revised Code. This section does not affect any 51416  
immunity or defense that the county agencies and their employees 51417  
may be entitled to under another section of the Revised Code or 51418  
the common law of this state, including section 2744.02 and 51419  
division (A)(6) of section 2744.03 of the Revised Code. 51420

(E) To the extent permitted by federal law, the department 51421  
and county agencies shall provide access to information to the 51422  
auditor of state acting pursuant to Chapter 117. or sections 51423  
5101.181 and 5101.182 of the Revised Code and to any other 51424  
government entity authorized by ~~or~~ federal law to conduct an audit 51425  
of or similar activity involving a public assistance program. 51426

(F) The auditor of state shall prepare an annual report on 51427  
the outcome of the agreements required under division (A) of this 51428  
section. The report shall include the number of fugitive felons 51429  
and probation and parole violators apprehended during the 51430  
immediately preceding year as a result of the exchange of 51431  
information pursuant to that division. The auditor of state shall 51432  
file the report with the governor, the president and minority 51433  
leader of the senate, and the speaker and minority leader of the 51434  
house of representatives. The state department, county agencies, 51435  
and law enforcement agencies shall cooperate with the auditor of 51436  
state's office in gathering the information required under this 51437

division. 51438

(G) To the extent permitted by federal law, the department of 51439  
job and family services, county departments of job and family 51440  
services, and employees of the departments may report to a public 51441  
children services agency or other appropriate agency information 51442  
on known or suspected physical or mental injury, sexual abuse or 51443  
exploitation, or negligent treatment or maltreatment, of a child 51444  
receiving public assistance, if circumstances indicate that the 51445  
child's health or welfare is threatened. 51446

**Sec. 5101.35.** (A) As used in this section: 51447

(1) "Agency" means the following entities that administer a 51448  
family services program: 51449

(a) The department of job and family services; 51450

(b) A county department of job and family services; 51451

(c) A public children services agency; 51452

(d) A private or government entity administering, in whole or 51453  
in part, a family services program for or on behalf of the 51454  
department of job and family services or a county department of 51455  
job and family services or public children services agency. 51456

(2) "Appellant" means an applicant, participant, former 51457  
participant, recipient, or former recipient of a family services 51458  
program who is entitled by federal or state law to a hearing 51459  
regarding a decision or order of the agency that administers the 51460  
program. 51461

(3) "Family services program" means assistance provided under 51462  
a Title IV-A program as defined in section 5101.80 of the Revised 51463  
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 51464  
5101.141, 5101.46, 5101.54, 5153.163, or 5153.165 of the Revised 51465  
Code, other than assistance provided under section 5101.46 of the 51466  
Revised Code by the department of mental health, the department of 51467



mental retardation and developmental disabilities, a board of 51468  
alcohol, drug addiction, and mental health services, or a county 51469  
board of mental retardation and developmental disabilities. 51470

(B) Except as provided ~~in~~ by division (G) of this section, an 51471  
appellant who appeals under federal or state law a decision or 51472  
order of an agency administering a family services program shall, 51473  
at the appellant's request, be granted a state hearing by the 51474  
department of job and family services. This state hearing shall be 51475  
conducted in accordance with rules adopted under this section. The 51476  
state hearing shall be tape-recorded, but neither the recording 51477  
nor a transcript of the recording shall be part of the official 51478  
record of the proceeding. A state hearing decision is binding upon 51479  
the agency and department, unless it is reversed or modified on 51480  
appeal to the director of job and family services or a court of 51481  
common pleas. 51482

(C) Except as provided by division (G) of this section, an 51483  
appellant who disagrees with a state hearing decision may make an 51484  
administrative appeal to the director of job and family services 51485  
in accordance with rules adopted under this section. This 51486  
administrative appeal does not require a hearing, but the director 51487  
or the director's designee shall review the state hearing decision 51488  
and previous administrative action and may affirm, modify, remand, 51489  
or reverse the state hearing decision. Any person designated to 51490  
make an administrative appeal decision on behalf of the director 51491  
shall have been admitted to the practice of law in this state. An 51492  
administrative appeal decision is the final decision of the 51493  
department and is binding upon the department and agency, unless 51494  
it is reversed or modified on appeal to the court of common pleas. 51495

(D) An agency shall comply with a decision issued pursuant to 51496  
division (B) or (C) of this section within the time limits 51497  
established by rules adopted under this section. If a county 51498  
department of job and family services or a public children 51499

services agency fails to comply within these time limits, the 51500  
department may take action pursuant to section 5101.24 of the 51501  
Revised Code. If another agency fails to comply within the time 51502  
limits, the department may force compliance by withholding funds 51503  
due the agency or imposing another sanction established by rules 51504  
adopted under this section. 51505

(E) An appellant who disagrees with an administrative appeal 51506  
decision of the director of job and family services or the 51507  
director's designee issued under division (C) of this section may 51508  
appeal from the decision to the court of common pleas pursuant to 51509  
section 119.12 of the Revised Code. The appeal shall be governed 51510  
by section 119.12 of the Revised Code except that: 51511

(1) The person may appeal to the court of common pleas of the 51512  
county in which the person resides, or to the court of common 51513  
pleas of Franklin county if the person does not reside in this 51514  
state. 51515

(2) The person may apply to the court for designation as an 51516  
indigent and, if the court grants this application, the appellant 51517  
shall not be required to furnish the costs of the appeal. 51518

(3) The appellant shall mail the notice of appeal to the 51519  
department of job and family services and file notice of appeal 51520  
with the court within thirty days after the department mails the 51521  
administrative appeal decision to the appellant. For good cause 51522  
shown, the court may extend the time for mailing and filing notice 51523  
of appeal, but such time shall not exceed six months from the date 51524  
the department mails the administrative appeal decision. Filing 51525  
notice of appeal with the court shall be the only act necessary to 51526  
vest jurisdiction in the court. 51527

(4) The department shall be required to file a transcript of 51528  
the testimony of the state hearing with the court only if the 51529  
court orders the department to file the transcript. The court 51530

shall make such an order only if it finds that the department and 51531  
the appellant are unable to stipulate to the facts of the case and 51532  
that the transcript is essential to a determination of the appeal. 51533  
The department shall file the transcript not later than thirty 51534  
days after the day such an order is issued. 51535

(5) Section 119.092 of the Revised Code does not apply to the 51536  
appeal. 51537

(F) The department of job and family services shall adopt 51538  
rules in accordance with Chapter 119. of the Revised Code to 51539  
implement this section, including rules governing the following: 51540

(1) State hearings under division (B) of this section. The 51541  
rules shall include provisions regarding notice of eligibility 51542  
termination and the opportunity of an appellant appealing a 51543  
decision or order of a county department of job and family 51544  
services to request a county conference with the county department 51545  
before the state hearing is held. 51546

(2) Administrative appeals under division (C) of this 51547  
section; 51548

(3) Time limits for complying with a decision issued under 51549  
division (B) or (C) of this section; 51550

(4) Sanctions that may be applied against an agency under 51551  
division (D) of this section. 51552

(G) The department of job and family services may adopt rules 51553  
in accordance with Chapter 119. of the Revised Code establishing 51554  
~~in~~ an appeals process for an appellant who appeals a decision or 51555  
order regarding a Title IV-A program identified under division 51556  
(A)(3)(c) or (d) of section 5101.80 of the Revised Code that is 51557  
different from the appeals process established by this section. 51558  
The different appeals process may include having a state agency 51559  
that administers the Title IV-A program pursuant to an interagency 51560  
agreement entered into under section 5101.801 of the Revised Code 51561

administer the appeals process. 51562

(H) The requirements of Chapter 119. of the Revised Code 51563  
apply to a state hearing or administrative appeal under this 51564  
section only to the extent, if any, specifically provided by rules 51565  
adopted under this section. 51566

**Sec. 5101.36.** Any application for public assistance gives a 51567  
right of subrogation to the department of job and family services 51568  
for any workers' compensation benefits payable to a person who is 51569  
subject to a support order, as defined in section 3119.01 of the 51570  
Revised Code, on behalf of the applicant, to the extent of any 51571  
public assistance payments made on the applicant's behalf. If the 51572  
director of job and family services, in consultation with a child 51573  
support enforcement agency and the administrator of the bureau of 51574  
workers' compensation, determines that a person responsible for 51575  
support payments to a recipient of public assistance is receiving 51576  
workers' compensation, the director shall notify the administrator 51577  
of the amount of the benefit to be paid to the department of job 51578  
and family services. 51579

For purposes of this section, "public assistance" means 51580  
medical assistance provided through the medical assistance program 51581  
established under section 5111.01 of the Revised Code; Ohio works 51582  
first provided under Chapter 5107. of the Revised Code; 51583  
prevention, retention, and contingency benefits and services 51584  
provided under Chapter 5108. of the Revised Code; ~~or~~ disability 51585  
financial assistance provided under Chapter 5115. of the Revised 51586  
Code; or disability medical assistance provided under Chapter 51587  
5115. of the Revised Code. 51588

**Sec. 5101.58.** As used in this section and section 5101.59 of 51589  
the Revised Code, "public assistance" means aid provided under 51590  
Chapter 5111. or 5115. of the Revised Code and participation in 51591

the Ohio works first program established under Chapter 5107. of 51592  
the Revised Code. 51593

The acceptance of public assistance gives a right of recovery 51594  
to the department of job and family services and a county 51595  
department of job and family services against the liability of a 51596  
third party for the cost of medical services and care arising out 51597  
of injury, disease, or disability of the public assistance 51598  
recipient or participant. When an action or claim is brought 51599  
against a third party by a public assistance recipient or 51600  
participant, the entire amount of any settlement or compromise of 51601  
the action or claim, or any court award or judgment, is subject to 51602  
the recovery right of the department of job and family services or 51603  
county department of job and family services. Except in the case 51604  
of a recipient or participant who receives medical services or 51605  
care through a managed care organization, the department's or 51606  
county department's claim shall not exceed the amount of medical 51607  
expenses paid by the departments on behalf of the recipient or 51608  
participant. In the case of a recipient or participant who 51609  
receives medical services or care through a managed care 51610  
organization, the amount of the department's or county 51611  
department's claim shall be the amount the managed care 51612  
organization pays for medical services or care rendered to the 51613  
recipient or participant, even if that amount is more than the 51614  
amount the departments pay to the managed care organization for 51615  
the recipient's or participant's medical services or care. Any 51616  
settlement, compromise, judgment, or award that excludes the cost 51617  
of medical services or care shall not preclude the departments 51618  
from enforcing their rights under this section. 51619

Prior to initiating any recovery action, the recipient or 51620  
participant, or the recipient's or participant's representative, 51621  
shall disclose the identity of any third party against whom the 51622  
recipient or participant has or may have a right of recovery. 51623

Disclosure shall be made to the department of job and family 51624  
services when medical expenses have been paid pursuant to Chapter 51625  
5111. or 5115. of the Revised Code. Disclosure shall be made to 51626  
both the department of job and family services and the appropriate 51627  
county department of job and family services when medical expenses 51628  
have been paid pursuant to Chapter 5115. of the Revised Code. No 51629  
settlement, compromise, judgment, or award or any recovery in any 51630  
action or claim by a recipient or participant where the 51631  
departments have a right of recovery shall be made final without 51632  
first giving the appropriate departments notice and a reasonable 51633  
opportunity to perfect their rights of recovery. If the 51634  
departments are not given appropriate notice, the recipient or 51635  
participant is liable to reimburse the departments for the 51636  
recovery received to the extent of medical payments made by the 51637  
departments. The departments shall be permitted to enforce their 51638  
recovery rights against the third party even though they accepted 51639  
prior payments in discharge of their rights under this section if, 51640  
at the time the departments received such payments, they were not 51641  
aware that additional medical expenses had been incurred but had 51642  
not yet been paid by the departments. The third party becomes 51643  
liable to the department of job and family services or county 51644  
department of job and family services as soon as the third party 51645  
is notified in writing of the valid claims for recovery under this 51646  
section. 51647

The right of recovery does not apply to that portion of any 51648  
judgment, award, settlement, or compromise of a claim, to the 51649  
extent of attorneys' fees, costs, or other expenses incurred by a 51650  
recipient or participant in securing the judgment, award, 51651  
settlement, or compromise, or to the extent of medical, surgical, 51652  
and hospital expenses paid by such recipient or participant from 51653  
the recipient's or participant's own resources. Attorney fees and 51654  
costs or other expenses in securing any recovery shall not be 51655  
assessed against any claims of the departments. 51656

To enforce their recovery rights, the departments may do any 51657  
of the following: 51658

(A) Intervene or join in any action or proceeding brought by 51659  
the recipient or participant or on the recipient's or 51660  
participant's behalf against any third party who may be liable for 51661  
the cost of medical services and care arising out of the 51662  
recipient's or participant's injury, disease, or disability; 51663

(B) Institute and pursue legal proceedings against any third 51664  
party who may be liable for the cost of medical services and care 51665  
arising out of the recipient's or participant's injury, disease, 51666  
or disability; 51667

(C) Initiate legal proceedings in conjunction with the 51668  
injured, diseased, or disabled recipient or participant or the 51669  
recipient's or participant's legal representative. 51670

Recovery rights created by this section may be enforced 51671  
separately or jointly by the department of job and family services 51672  
and the county department of job and family services. 51673

The right of recovery given to the department under this 51674  
section does not include rights to support from any other person 51675  
assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 51676  
of the Revised Code, but includes payments made by a third party 51677  
under contract with a person having a duty to support. 51678

The director of job and family services may adopt rules in 51679  
accordance with Chapter 119. of the Revised Code the department 51680  
considers necessary to implement this section. 51681

**Sec. 5101.59.** (A) The application for or acceptance of public 51682  
assistance constitutes an automatic assignment of certain rights 51683  
to the department of job and family services. This assignment 51684  
includes the rights of the applicant, recipient, or participant 51685  
and also the rights of any other member of the assistance group 51686

for whom the applicant, recipient, or participant can legally make an assignment. 51687  
51688

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. 51689  
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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. 51698  
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(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 person legally able to assign the individual's rights. 51702  
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If the applicant, recipient, or participant or any member of the assistance group becomes ineligible for public assistance, the department shall restore to the applicant, recipient, participant, or member of the assistance group any future rights to benefits assigned under this section. 51712  
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The rights of assignment given to the department under this 51717



section do not include rights to support assigned under section 51718  
5107.20 or ~~5115.13~~ 5115.07 of the Revised Code. 51719

(C) The director of job and family services may adopt rules 51720  
in accordance with Chapter 119. of the Revised Code to implement 51721  
this section, including rules that specify what constitutes 51722  
cooperating with efforts to obtain medical support and payments 51723  
and when the cooperation requirement may be waived. 51724

**Sec. 5101.75.** (A) As used in sections 5101.75, 5101.751, 51725  
5101.752, 5101.753, and 5101.754 of the Revised Code: 51726

(1) "Alternative source of long-term care" includes a 51727  
residential care facility licensed under Chapter 3721. of the 51728  
Revised Code, an adult care facility licensed under Chapter 3722. 51729  
of the Revised Code, home and community-based services, and a 51730  
nursing home licensed under Chapter 3721. of the Revised Code that 51731  
is not a nursing facility. 51732

(2) "Medicaid" means the medical assistance program 51733  
established under Chapter 5111. of the Revised Code. 51734

(3) "Nursing facility" has the same meaning as in section 51735  
5111.20 of the Revised Code. 51736

(4) "Representative" means a person acting on behalf of an 51737  
applicant for admission to a nursing facility. A representative 51738  
may be a family member, attorney, hospital social worker, or any 51739  
other person chosen to act on behalf of an applicant. 51740

(5) "Third-party payment source" means a third-party payer as 51741  
defined in section 3901.38 of the Revised Code or medicaid. 51742

(B) Effective July 1, 1994, the department of job and family 51743  
services may assess a person applying or intending to apply for 51744  
admission to a nursing facility who is not an applicant for or 51745  
recipient of medicaid to determine whether the person is in need 51746  
of nursing facility services and whether an alternative source of 51747

long-term care is more appropriate for the person in meeting the 51748  
person's physical, mental, and psychosocial needs than admission 51749  
to the facility to which the person has applied. 51750

Each assessment shall be performed by the department or an 51751  
agency designated by the department under section 5101.751 of the 51752  
Revised Code and shall be based on information provided by the 51753  
person or the person's representative. It shall consider the 51754  
person's physical, mental, and psychosocial needs and the 51755  
availability and effectiveness of informal support and care. The 51756  
department or designated agency shall determine the person's 51757  
physical, mental, and psychosocial needs by using, to the maximum 51758  
extent appropriate, information from the resident assessment 51759  
instrument specified in rules adopted by the department under 51760  
division (A) of section 5111.231 of the Revised Code. The 51761  
department or designated agency shall also use the criteria and 51762  
procedures established in rules adopted by the department under 51763  
division (I) of this section. Assessments may be performed only by 51764  
persons certified by the department under section 5101.752 of the 51765  
Revised Code. The department or designated agency shall make a 51766  
recommendation on the basis of the assessment and, not later than 51767  
the time the assessment is required to be performed under division 51768  
(D) of this section, give the person assessed written notice of 51769  
the recommendation, which shall explain the basis for the 51770  
recommendation. If the department or designated agency determines 51771  
pursuant to an assessment that an alternative source of long-term 51772  
care is more appropriate for the person than admission to the 51773  
facility to which the person has applied, the department or 51774  
designated agency shall include in the notice possible sources of 51775  
financial assistance for the alternative source of long-term care. 51776  
If the department or designated agency has been informed that the 51777  
person has a representative, it shall give the notice to the 51778  
representative. 51779

(C) A person is not required to be assessed under division	51780
(B) of this section if any of the following apply:	51781
(1) The circumstances specified by rules adopted under	51782
division (I) of this section exist.	51783
(2) The person is to receive care in a nursing facility under	51784
a contract for continuing care as defined in section 173.13 of the	51785
Revised Code.	51786
(3) The person has a contractual right to admission to a	51787
nursing facility operated as part of a system of continuing care	51788
in conjunction with one or more facilities that provide a less	51789
intensive level of services, including a residential care facility	51790
licensed under Chapter 3721. of the Revised Code, an adult-care	51791
facility licensed under Chapter 3722. of the Revised Code, or an	51792
independent living arrangement;	51793
(4) The person is to receive continual care in a home for the	51794
aged exempt from taxation under section 5701.13 of the Revised	51795
Code;	51796
(5) The person is to receive care in the nursing facility for	51797
not more than fourteen days in order to provide temporary relief	51798
to the person's primary caregiver and the nursing facility	51799
notifies the department of the person's admittance not later than	51800
twenty-four hours after admitting the person;	51801
(6) The person is to be transferred from another nursing	51802
facility, unless the nursing facility from which or to which the	51803
person is to be transferred determines that the person's medical	51804
condition has changed substantially since the person's admission	51805
to the nursing facility from which the person is to be transferred	51806
or a review is required by a third-party payment source;	51807
(7) The person is to be readmitted to a nursing facility	51808
following a period of hospitalization, unless the hospital or	51809

nursing facility determines that the person's medical condition 51810  
has changed substantially since the person's admission to the 51811  
hospital, or a review is required by a third-party payment source; 51812

(8) The department or designated agency fails to complete an 51813  
assessment within the time required by division (D) or (E) of this 51814  
section or determines after a partial assessment that the person 51815  
should be exempt from the assessment. 51816

(D) The department or designated agency shall perform a 51817  
complete assessment, or, if circumstances provided by rules 51818  
adopted under division (I) of this section exist, a partial 51819  
assessment, as follows: 51820

(1) In the case of a hospitalized person applying or 51821  
intending to apply to a nursing facility, not later than two 51822  
working days after the person or the person's representative is 51823  
notified that a bed is available in a nursing facility; 51824

(2) In the case of an emergency as determined in accordance 51825  
with rules adopted under division (I) of this section, not later 51826  
than one working day after the person or the person's 51827  
representative is notified that a bed is available in a nursing 51828  
facility; 51829

(3) In all other cases, not later than five calendar days 51830  
after the person or the person's representative who submits the 51831  
application is notified that a bed is available in a nursing 51832  
facility. 51833

(E) If the department or designated agency conducts a partial 51834  
assessment under division (D) of this section, it shall complete 51835  
the rest of the assessment not later than one hundred eighty days 51836  
after the date the person is admitted to the nursing facility 51837  
unless the assessment entity determines the person should be 51838  
exempt from the assessment. 51839

(F) A person assessed under this section or the person's 51840

representative may file a complaint with the department about the 51841  
assessment process. The department shall work to resolve the 51842  
complaint in accordance with rules adopted under division (I) of 51843  
this section. 51844

(G) A person is not required to seek an alternative source of 51845  
long-term care and may be admitted to or continue to reside in a 51846  
nursing facility even though an alternative source of long-term 51847  
care is available or the person is determined pursuant to an 51848  
assessment under this section not to need nursing facility 51849  
services. 51850

(H) No nursing facility ~~with~~ for which an operator has a 51851  
provider agreement with the department under section 5111.22 of 51852  
the Revised Code shall admit or retain any person, other than a 51853  
person exempt from the assessment requirement as provided by 51854  
division (C) of this section, as a resident unless the nursing 51855  
facility has received evidence that a complete or partial 51856  
assessment has been completed. 51857

(I) The director of job and family services shall adopt rules 51858  
in accordance with Chapter 119. of the Revised Code to implement 51859  
and administer this section. The rules shall include all of the 51860  
following: 51861

(1) The information a person being assessed or the person's 51862  
representative must provide to enable the department or designated 51863  
agency to do the assessment; 51864

(2) Criteria to be used to determine whether a person is in 51865  
need of nursing facility services; 51866

(3) Criteria to be used to determine whether an alternative 51867  
source of long-term care is appropriate for the person being 51868  
assessed; 51869

(4) Criteria and procedures to be used to determine a 51870  
person's physical, mental, and psychosocial needs; 51871

(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;	51872 51873 51874
(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;	51875 51876 51877
(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;	51878 51879 51880
(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;	51881 51882
(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section.	51883 51884
(J) The director of job and family services may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code in either of the following circumstances:	51885 51886 51887 51888
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	51889 51890 51891
(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.	51892 51893 51894 51895
The director shall deposit all fines collected under this division into the residents protection fund established by section 5111.62 of the Revised Code.	51896 51897 51898
<b>Sec. 5101.80.</b> (A) As used in this section and in section 5101.801 of the Revised Code:	51899 51900

(1) "County family services agency" has the same meaning as 51901  
in section 307.981 of the Revised Code. 51902

(2) "State agency" has the same meaning as in section 9.82 of 51903  
the Revised Code. 51904

(3) "Title IV-A program" means all of the following that are 51905  
funded in part with funds provided under the temporary assistance 51906  
for needy families block grant established by Title IV-A of the 51907  
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 51908  
amended: 51909

(a) The Ohio works first program established under Chapter 51910  
5107. of the Revised Code; 51911

(b) The prevention, retention, and contingency program 51912  
established under Chapter 5108. of the Revised Code; 51913

(c) A program established by the general assembly or an 51914  
executive order issued by the governor that is administered or 51915  
supervised by the department of job and family services pursuant 51916  
to section 5101.801 of the Revised Code; 51917

(d) A component of a Title IV-A program identified under 51918  
divisions (A)(3)(a) to (c) of this section that the Title IV-A 51919  
state plan prepared under division (C)(1) of this section 51920  
identifies as a component. 51921

(B) The department of job and family services shall act as 51922  
the single state agency to administer and supervise the 51923  
administration of Title IV-A programs. The Title IV-A state plan 51924  
and amendments to the plan prepared under division (C) of this 51925  
section are binding on county family services agencies and state 51926  
agencies that administer a Title IV-A program. No county family 51927  
services agency or state agency administering a Title IV-A program 51928  
may establish, by rule or otherwise, a policy governing the Title 51929  
IV-A program that is inconsistent with a Title IV-A program policy 51930

established, in rule or otherwise, by the director of job and family services. 51931  
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(C) The department of job and family services shall do all of the following: 51933  
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(1) Prepare and submit to the United States secretary of health and human services a Title IV-A state plan for Title IV-A programs; 51935  
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(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in division (A)(3)(c) and (d) of this section; 51938  
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(3) Prescribe forms for applications, certificates, reports, records, and accounts of county family services agencies and state agencies administering a Title IV-A program, and other matters related to Title IV-A programs; 51943  
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(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs; 51947  
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(5) Require reports and information from each county family services agency and state agency administering a Title IV-A program as may be necessary or advisable regarding the Title IV-A program; 51951  
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(6) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program; 51955  
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(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and section 5101.801 of the Revised 51959  
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Code, any sums appropriated by the general assembly for the 51961  
purpose of those chapters and section and all sums paid to the 51962  
state by the secretary of the treasury of the United States as 51963  
authorized by Title IV-A of the "Social Security Act," 110 Stat. 51964  
2113 (1996), 42 U.S.C. 601, as amended; 51965

(8) Conduct investigations and audits as are necessary 51966  
regarding Title IV-A programs; 51967

(9) Enter into reciprocal agreements with other states 51968  
relative to the provision of Ohio works first and prevention, 51969  
retention, and contingency to residents and nonresidents; 51970

(10) Contract with a private entity to conduct an independent 51971  
on-going evaluation of the Ohio works first program and the 51972  
prevention, retention, and contingency program. The contract must 51973  
require the private entity to do all of the following: 51974

(a) Examine issues of process, practice, impact, and 51975  
outcomes; 51976

(b) Study former participants of Ohio works first who have 51977  
not participated in Ohio works first for at least one year to 51978  
determine whether they are employed, the type of employment in 51979  
which they are engaged, the amount of compensation they are 51980  
receiving, whether their employer provides health insurance, 51981  
whether and how often they have received benefits or services 51982  
under the prevention, retention, and contingency program, and 51983  
whether they are successfully self sufficient; 51984

(c) Provide the department with reports at times the 51985  
department specifies. 51986

(11) Not later than January 1, 2001, and the first day of 51987  
each January and July thereafter, prepare a report containing 51988  
information on the following: 51989

(a) Individuals exhausting the time limits for participation 51990

in Ohio works first set forth in section 5107.18 of the Revised Code. 51991  
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(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption. 51993  
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(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered the workforce during the most recent previous quarter for which the information is known and includes information regarding the earnings of those former participants. The report shall include a county-by-county breakdown and shall not contain the names or social security numbers of former participants. 51996  
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(13) To the extent authorized by section 5101.801 of the Revised Code, enter into interagency agreements with state agencies for the administration of Title IV-A programs identified under division (A)(3)(c) and (d) of this section. 52006  
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(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under divisions (C)(11) and (12) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request. 52010  
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(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section. 52017  
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Sec. 5101.83. (A) As used in this section: 52022

(1) "Assistance group" has the same meaning as in ~~sections~~ 52023  
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it 52024  
also means a group provided benefits and services under the 52025  
prevention, retention, and contingency program ~~because the members~~ 52026  
~~of the group share a common need for benefits and services.~~ 52027

(2) "Fraudulent assistance" means assistance and service, 52028  
including cash assistance, provided under the Ohio works first 52029  
program established under Chapter 5107., or benefits and services 52030  
provided under the prevention, retention, and contingency program 52031  
established under Chapter 5108. of the Revised Code, to or on 52032  
behalf of an assistance group that is provided as a result of 52033  
fraud by a member of the assistance group, including an 52034  
intentional violation of the program's requirements. "Fraudulent 52035  
assistance" does not include assistance or services to or on 52036  
behalf of an assistance group that is provided as a result of an 52037  
error that is the fault of a county department of job and family 52038  
services or the state department of job and family services. 52039

(B) If a county director of job and family services 52040  
determines that an assistance group has received fraudulent 52041  
assistance, the assistance group is ineligible to participate in 52042  
the Ohio works first program or the prevention, retention, and 52043  
contingency program until a member of the assistance group repays 52044  
the cost of the fraudulent assistance. If a member repays the cost 52045  
of the fraudulent assistance and the assistance group otherwise 52046  
meets the eligibility requirements for the Ohio works first 52047  
program or the prevention, retention, and contingency program, the 52048  
assistance group shall not be denied the opportunity to 52049  
participate in the program. 52050

This section does not limit the ability of a county 52051  
department of job and family services to recover erroneous 52052

payments under section 5107.76 of the Revised Code. 52053

The state department of job and family services shall adopt 52054  
rules in accordance with Chapter 119. of the Revised Code to 52055  
implement this section. 52056

**Sec. 5101.97.** (A)(1) Not later than the ~~first~~ last day of 52057  
each July and January, the department of job and family services 52058  
shall complete a report on the characteristics of the individuals 52059  
who participate in or receive services through the programs 52060  
operated by the department and the outcomes of the individuals' 52061  
participation in or receipt of services through the programs. The 52062  
~~report reports shall be for the six-month periods ending on the~~ 52063  
last days of June and December and shall include information on 52064  
the following: 52065

(a) Work activities, developmental activities, and 52066  
alternative work activities established under sections 5107.40 to 52067  
5107.69 of the Revised Code; 52068

(b) Programs of publicly funded child day-care, as defined in 52069  
section 5104.01 of the Revised Code; 52070

(c) Child support enforcement programs; 52071

(d) Births to recipients of the medical assistance program 52072  
established under Chapter 5111. of the Revised Code. 52073

~~(2) Not later than the first day of each July, the department 52074  
shall complete a progress report on the partnership agreements 52075  
between the director of job and family services and boards of 52076  
county commissioners under section 5101.21 of the Revised Code. 52077  
The report shall include a review of whether the county family 52078  
services agencies and workforce development agencies satisfied 52079  
performance standards included in the agreements and whether the 52080  
department provided assistance, services, and technical support 52081  
specified in the agreements to aid the agencies in meeting the 52082~~

~~performance standards.~~ 52083

(3) The department shall submit the reports required under 52084  
~~divisions~~ division (A)(1) ~~and (2)~~ of this section to the speaker 52085  
and minority leader of the house of representatives, the president 52086  
and minority leader of the senate, the legislative budget officer, 52087  
the director of budget and management, and each board of county 52088  
commissioners. The department shall provide copies of ~~each report~~ 52089  
the reports to any person or government entity on request. 52090

In designing the format for ~~each report~~ the reports, the 52091  
department shall consult with individuals, organizations, and 52092  
government entities interested in the programs operated by the 52093  
department, so that the reports are designed to enable the general 52094  
assembly and the public to evaluate the effectiveness of the 52095  
programs and identify any needs that the programs are not meeting. 52096

(B) Whenever the federal government requires that the 52097  
department submit a report on a program that is operated by the 52098  
department or is otherwise under the department's jurisdiction, 52099  
the department shall prepare and submit the report in accordance 52100  
with the federal requirements applicable to that report. To the 52101  
extent possible, the department may coordinate the preparation and 52102  
submission of a particular report with any other report, plan, or 52103  
other document required to be submitted to the federal government, 52104  
as well as with any report required to be submitted to the general 52105  
assembly. The reports required by the Personal Responsibility and 52106  
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 52107  
submitted as an annual summary. 52108

**Sec. 5103.031.** (A) Except as provided in section 5103.033 of 52109  
the Revised Code, the department of job and family services may 52110  
not issue a certificate under section 5103.03 of the Revised Code 52111  
to a foster home unless the foster caregiver successfully 52112  
completes the following amount of preplacement training through 52113

~~the Ohio child welfare training program~~ or a preplacement training 52114  
program operated under section 5103.034 or 5153.60 of the Revised 52115  
Code: 52116

(1) If the foster home is a family foster home, at least 52117  
twelve hours; 52118

(2) If the foster home is a specialized foster home, at least 52119  
thirty-six hours. 52120

(B) No child may be placed in a family foster home unless the 52121  
foster caregiver completes at least twelve additional hours of 52122  
preplacement training through ~~the Ohio child welfare training~~ 52123  
~~program~~ or a preplacement training program operated under section 52124  
5103.034 or 5153.60 of the Revised Code. 52125

**Sec. 5103.033.** The department of job and family services may 52126  
issue or renew a certificate under section 5103.03 of the Revised 52127  
Code to a foster home for the care of a child who is in the 52128  
custody of a public children services agency or private child 52129  
placing agency pursuant to an agreement entered into under section 52130  
5103.15 of the Revised Code regarding a child who was less than 52131  
six months of age on the date the agreement was executed if the 52132  
foster caregiver successfully completes the following amount of 52133  
training: 52134

(A) For an initial certificate, at least twelve hours of 52135  
preplacement training through ~~the Ohio child welfare training~~ 52136  
~~program~~ or a preplacement training program operated under section 52137  
5103.034 or 5153.60 of the Revised Code; 52138

(B) For renewal of a certificate, at least twelve hours each 52139  
year of continuing training in accordance with the foster 52140  
caregiver's needs assessment and continuing training plan 52141  
developed and implemented under section 5103.035 of the Revised 52142  
Code. 52143

Sec. 5103.034. (A) A public children services agency, private 52144  
child placing agency, or private noncustodial agency operating a 52145  
preplacement training program or continuing training program 52146  
approved by the department of job and family services under 52147  
section 5103.038 of the Revised Code or the Ohio child welfare 52148  
training program operating a preplacement training program or 52149  
continuing training program pursuant to section 5153.60 of the 52150  
Revised Code shall make the program available to foster 52151  
caregivers. The agency or program shall make the programs 52152  
available without regard to the type of recommending agency from 52153  
which a foster caregiver seeks a recommendation and without charge 52154  
to the foster caregiver. 52155

(B) A private child placing agency or private noncustodial 52156  
agency operating a preplacement training program or continuing 52157  
training program approved by the department of job and family 52158  
services under section 5103.038 of the Revised Code may condition 52159  
the enrollment of a foster caregiver in a program on either or 52160  
both of the following: 52161

(1) Availability of space in the training program; 52162

(2) If applicable, payment of an instruction or registration 52163  
fee, if any, by the foster caregiver's recommending agency. 52164

(C) The Ohio child welfare training program operating a 52165  
preplacement training program or continuing training program 52166  
pursuant to section 5153.60 of the Revised Code may condition the 52167  
enrollment in a preplacement training program or continuing 52168  
training program of a foster caregiver whose recommending agency 52169  
is a private child placing agency or private noncustodial agency 52170  
on either or both of the following: 52171

(1) Availability of space in the training program; 52172

(2) Assignment to the program by the foster caregiver's 52173

recommending agency of the allowance payable under section 52174  
5103.0313 of the Revised Code. 52175

(D) A private child placing agency or private noncustodial 52176  
agency may contract with an individual or a public or private 52177  
entity to administer a preplacement training program or continuing 52178  
training program operated by the agency and approved by the 52179  
department of job and family services under section 5103.038 of 52180  
the Revised Code. 52181

**Sec. 5103.036.** For the purpose of determining whether a 52182  
foster caregiver has satisfied the requirement of section 5103.031 52183  
or 5103.032 of the Revised Code, a recommending agency shall 52184  
accept training obtained from ~~the Ohio child welfare training~~ 52185  
~~program or pursuant to~~ a preplacement training program or 52186  
continuing training program operated under section 5103.034 or 52187  
5153.60 of the Revised Code regardless of whether the program is 52188  
operated by the recommending agency ~~operated the preplacement~~ 52189  
~~training program or continuing training program.~~ The agency may 52190  
require that the foster caregiver successfully complete additional 52191  
training as a condition of the agency recommending that the 52192  
department of job and family services certify or recertify the 52193  
foster caregiver's foster home under section 5103.03 of the 52194  
Revised Code. 52195

**Sec. 5103.037.** The department of job and family services, in 52196  
consultation with the departments of youth services, mental 52197  
health, education, mental retardation and developmental 52198  
disabilities, and alcohol and drug addiction services, shall 52199  
develop a model design of a preplacement training program for 52200  
foster caregivers seeking an initial certificate under section 52201  
5103.03 of the Revised Code and a model design of a continuing 52202  
training program for foster caregivers seeking renewal of a 52203  
certificate under that section. The model design of a preplacement 52204



training program shall comply with section 5103.039 of the Revised Code. The model design of a continuing training program shall comply with section 5103.0310 of the Revised Code. The department of job and family services shall make the model designs available to ~~public children services agencies~~ the Ohio child welfare training program, private child placing agencies, and private noncustodial agencies.

**Sec. 5103.038.** (A) Every other year by a date specified in rules adopted under section 5103.0316 of the Revised Code, each ~~public children services agency~~, private child placing agency, and private noncustodial agency that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code shall submit to the department of job and family services a proposal outlining the program. The proposal may be the same as, a modification of, or different from, a model design developed under section 5103.037 of the Revised Code. ~~The proposal shall include a budget for the program regarding the cost associated with trainers, obtaining sites at which the training is provided, and the administration of the training. The budget shall be consistent with rules adopted under section 5103.0316 of the Revised Code governing the department of job and family services' reimbursement of public children services agencies, private child placing agencies, and private noncustodial agencies under section 5103.0313 of the Revised Code.~~

(B) Not later than thirty days after receiving a proposal under division (A) of this section, the department shall either approve or disapprove the proposed program. The department shall approve a proposed preplacement training program if it complies with section 5103.039 or 5103.0310 of the Revised Code, as appropriate, and, in the case of a proposal submitted by an agency operating a preplacement training program at the time the proposal is submitted, the department is satisfied with the agency's

operation of the program. The department shall approve a proposed 52237  
continuing training program if it complies with section 5103.0310 52238  
or 5103.0311 of the Revised Code, as appropriate, and, in the case 52239  
of a proposal submitted by an agency operating a continuing 52240  
training program at the time the proposal is submitted, the 52241  
department is satisfied with the agency's operation of the 52242  
program. ~~The department shall disapprove a proposed program if the~~ 52243  
~~program's budget is not consistent with rules adopted under~~ 52244  
~~section 5103.0316 of the Revised Code governing the department's~~ 52245  
~~reimbursement of public children services agencies, private child~~ 52246  
~~placing agencies, and private noncustodial agencies under section~~ 52247  
~~5103.0313 of the Revised Code.~~ If the department disapproves a 52248  
proposal, it shall provide the reason for disapproval to the 52249  
agency that submitted the proposal and advise the agency of how to 52250  
revise the proposal so that the department can approve it. 52251

(C) The department's approval under division (B) of this 52252  
section of a proposed preplacement training program or continuing 52253  
training program is valid only for two years following the year 52254  
the proposal for the program is submitted to the department under 52255  
division (A) of this section. 52256

**Sec. 5103.0312.** A public children services agency, private 52257  
child placing agency, or private noncustodial agency acting as a 52258  
recommending agency for foster caregivers who hold certificates 52259  
issued under section 5103.03 of the Revised Code shall pay those 52260  
foster caregivers ~~who have had at least one foster child placed in~~ 52261  
~~their home~~ a stipend to reimburse them for attending ~~training~~ 52262  
~~courses provided by the Ohio child welfare training program or~~ 52263  
~~pursuant to~~ a preplacement training program or continuing training 52264  
program operated under section 5103.034 or 5153.60 of the Revised 52265  
Code. The payment shall be based on a stipend rate established by 52266  
the department of job and family services. The stipend rate shall 52267  
be the same regardless of the type of recommending agency from 52268

which a foster caregiver seeks a recommendation. The department 52269  
shall, pursuant to rules adopted under section 5103.0316 of the 52270  
Revised Code, reimburse the recommending agency for stipend 52271  
payments it makes in accordance with this section. 52272

**Sec. 5103.0313.** The department of job and family services 52273  
shall ~~reimburse the following~~ compensate a private child placing 52274  
agency or private noncustodial agency for the cost of ~~providing~~ 52275  
procuring or operating preplacement and continuing training ~~to~~ 52276  
~~foster caregivers:~~ 52277

~~(A) The Ohio child welfare training program;~~ 52278

~~(B) A public children services agency, private child placing~~ 52279  
~~agency, or private noncustodial agency through a preplacement~~ 52280  
~~training program or continuing training program operated~~ programs 52281  
under section 5103.034 of the Revised Code for foster caregivers 52282  
who are recommended for initial certification or recertification 52283  
by the agency. 52284

The ~~reimbursement~~ compensation shall be ~~on a per diem basis~~ 52285  
and limited to the cost associated with the trainer, ~~obtaining a~~ 52286  
~~site at which the training is provided, and the administration of~~ 52287  
the training paid to the agency in the form of an allowance for 52288  
each hour of preplacement and continuing training provided or 52289  
received. A reimbursement rate shall be the same regardless of 52290  
whether the training program is operated by the Ohio child welfare 52291  
training program or a public children services agency, private 52292  
child placing agency, or private noncustodial agency. 52293

**Sec. 5103.0314.** The department of job and family services 52294  
shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ 52295  
~~of~~ any training the agency requires a foster caregiver to undergo 52296  
as a condition of the agency recommending the department certify 52297  
or recertify the foster caregiver's foster home under section 52298

5103.03 of the Revised Code if the training is in addition to the 52299  
minimum training required by section 5103.031 or 5103.032 of the 52300  
Revised Code. 52301

**Sec. 5103.0315.** The department of job and family services 52302  
shall seek federal financial participation for the cost of making 52303  
payments under section 5103.0312 of the Revised Code and 52304  
~~reimbursements~~ allowances under section 5103.0313 of the Revised 52305  
Code. The department shall notify the governor, president of the 52306  
senate, minority leader of the senate, speaker of the house of 52307  
representatives, and minority leader of the house of 52308  
representatives of any proposed federal legislation that endangers 52309  
the federal financial participation. 52310

**Sec. 5103.0316.** ~~Not later than ninety days after January 1,~~ 52311  
~~2001,~~ The department of job and family services shall adopt 52312  
rules in accordance with Chapter 119. of the Revised Code as 52313  
necessary for the efficient administration of sections 5103.031 to 52314  
5103.0316 of the Revised Code. The rules shall provide for all of 52315  
the following: 52316

(A) For the purpose of section 5103.038 of the Revised Code, 52317  
the date by which a ~~public children services agency,~~ private child 52318  
placing agency~~,~~ or private noncustodial agency that seeks to 52319  
operate a preplacement training program or continuing training 52320  
program under section 5103.034 of the Revised Code must submit to 52321  
the department a proposal outlining the program; 52322

(B) Requirements governing the department's ~~reimbursement~~ 52323  
compensation of ~~the Ohio child welfare training program and public~~ 52324  
~~children services agencies,~~ private child placing agencies~~,~~ and 52325  
private noncustodial agencies under sections 5103.0312 and 52326  
5103.0313 of the Revised Code; 52327

(C) Any other matter the department considers appropriate. 52328

Sec. 5103.154. (A) Information concerning all children who 52329  
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 52330  
in the permanent custody of an institution or association 52331  
certified by the department of job and family services under 52332  
section 5103.03 of the Revised Code shall be listed with the 52333  
department within ninety days after permanent custody is 52334  
effective, unless the child has been placed for adoption or unless 52335  
an application for placement was initiated under section 5103.16 52336  
of the Revised Code. 52337

(B) All persons who wish to adopt children, and are approved 52338  
by an agency so empowered under this chapter, shall be listed with 52339  
the department within ninety days of approval, unless a person 52340  
requests in writing that that person's name not be so listed, or 52341  
has had a child placed in that person's home in preparation for 52342  
adoption, or has filed a petition for adoption. 52343

(C) All persons who wish to adopt a child with special needs 52344  
as defined in rules adopted under section 5153.163 of the Revised 52345  
Code, and who are approved by an agency so empowered under this 52346  
chapter, shall be listed separately by the department within 52347  
ninety days of approval, unless a person requests in writing that 52348  
that person's name not be so listed, or has had a child with 52349  
special needs placed in that person's home in preparation for 52350  
adoption, or has filed a petition for adoption. 52351

(D) The department shall forward information on such children 52352  
and listed persons at least quarterly, to all public children 52353  
services agencies and all certified agencies. 52354

(E) The appropriate listed names shall be removed when a 52355  
child is placed in an adoptive home or when a person withdraws an 52356  
application for adoption. 52357

(F) No later than six months after the end of each fiscal 52358

year, the department shall compile a report of its conclusions 52359  
regarding the effectiveness of its actions pursuant to this 52360  
section and of the restrictions on placement under division ~~(E)~~(G) 52361  
of section 5153.163 of the Revised Code in increasing adoptive 52362  
placements of children with special needs, together with its 52363  
recommendations, and shall submit a copy of the report to the 52364  
chairpersons of the principal committees of the senate and the 52365  
house of representatives who consider welfare legislation. 52366

Sec. 5103.155. As used in this section, "children with 52367  
special needs" has the same meaning as in rules adopted under 52368  
section 5153.163 of the Revised Code. 52369

If the department of job and family services determines that 52370  
money in the putative father registry fund created under section 52371  
2101.16 of the Revised Code is more than is needed to perform its 52372  
duties related to the putative father registry, the department may 52373  
use surplus moneys in the fund to promote adoption of children 52374  
with special needs. 52375

**Sec. 5104.01.** As used in this chapter: 52376

(A) "Administrator" means the person responsible for the 52377  
daily operation of a center or type A home. The administrator and 52378  
the owner may be the same person. 52379

(B) "Approved child day camp" means a child day camp approved 52380  
pursuant to section 5104.22 of the Revised Code. 52381

(C) "Authorized provider" means a person authorized by a 52382  
county director of job and family services to operate a certified 52383  
type B family day-care home. 52384

(D) "Border state child day-care provider" means a child 52385  
day-care provider that is located in a state bordering Ohio and 52386  
that is licensed, certified, or otherwise approved by that state 52387  
to provide child day-care. 52388

(E) "Caretaker parent" means the father or mother of a child 52389  
whose presence in the home is needed as the caretaker of the 52390  
child, a person who has legal custody of a child and whose 52391  
presence in the home is needed as the caretaker of the child, a 52392  
guardian of a child whose presence in the home is needed as the 52393  
caretaker of the child, and any other person who stands in loco 52394  
parentis with respect to the child and whose presence in the home 52395  
is needed as the caretaker of the child. 52396

(F) "Certified type B family day-care home" and "certified 52397  
type B home" mean a type B family day-care home that is certified 52398  
by the director of the county department of job and family 52399  
services pursuant to section 5104.11 of the Revised Code to 52400  
receive public funds for providing child day-care pursuant to this 52401  
chapter and any rules adopted under it. 52402

(G) "Chartered nonpublic school" means a school that meets 52403  
standards for nonpublic schools prescribed by the state board of 52404  
education for nonpublic schools pursuant to section 3301.07 of the 52405  
Revised Code. 52406

(H) "Child" includes an infant, toddler, preschool child, or 52407  
school child. 52408

(I) "Child care block grant act" means the "Child Care and 52409  
Development Block Grant Act of 1990," established in section 5082 52410  
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 52411  
1388-236 (1990), 42 U.S.C. 9858, as amended. 52412

(J) "Child day camp" means a program in which only school 52413  
children attend or participate, that operates for no more than 52414  
seven hours per day, that operates only during one or more public 52415  
school district's regular vacation periods or for no more than 52416  
fifteen weeks during the summer, and that operates outdoor 52417  
activities for each child who attends or participates in the 52418  
program for a minimum of fifty per cent of each day that children 52419

attend or participate in the program, except for any day when 52420  
hazardous weather conditions prevent the program from operating 52421  
outdoor activities for a minimum of fifty per cent of that day. 52422  
For purposes of this division, the maximum seven hours of 52423  
operation time does not include transportation time from a child's 52424  
home to a child day camp and from a child day camp to a child's 52425  
home. 52426

(K) "Child day-care" means administering to the needs of 52427  
infants, toddlers, preschool children, and school children outside 52428  
of school hours by persons other than their parents or guardians, 52429  
custodians, or relatives by blood, marriage, or adoption for any 52430  
part of the twenty-four-hour day in a place or residence other 52431  
than a child's own home. 52432

(L) "Child day-care center" and "center" mean any place in 52433  
which child day-care or publicly funded child day-care is provided 52434  
for thirteen or more children at one time or any place that is not 52435  
the permanent residence of the licensee or administrator in which 52436  
child day-care or publicly funded child day-care is provided for 52437  
seven to twelve children at one time. In counting children for the 52438  
purposes of this division, any children under six years of age who 52439  
are related to a licensee, administrator, or employee and who are 52440  
on the premises of the center shall be counted. "Child day-care 52441  
center" and "center" do not include any of the following: 52442

(1) A place located in and operated by a hospital, as defined 52443  
in section 3727.01 of the Revised Code, in which the needs of 52444  
children are administered to, if all the children whose needs are 52445  
being administered to are monitored under the on-site supervision 52446  
of a physician licensed under Chapter 4731. of the Revised Code or 52447  
a registered nurse licensed under Chapter 4723. of the Revised 52448  
Code, and the services are provided only for children who, in the 52449  
opinion of the child's parent, guardian, or custodian, are 52450  
exhibiting symptoms of a communicable disease or other illness or 52451



are injured;	52452
(2) A child day camp;	52453
(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:	52454 52455
(a) An organized religious body provides the child day-care;	52456
(b) A parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times;	52457 52458 52459
(c) The child day-care is not provided for more than thirty days a year;	52460 52461
(d) The child day-care is provided only for preschool and school children.	52462 52463
(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.	52464 52465 52466 52467
(N) "Child day-care resource and referral services" means all of the following services:	52468 52469
(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;	52470 52471 52472
(2) Provision of individualized consumer education to families seeking child day-care;	52473 52474
(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;	52475 52476
(4) Recruitment of child day-care providers;	52477
(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	52478 52479 52480

providers, employers, and the community;	52481
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	52482 52483
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	52484 52485 52486
(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;	52487 52488 52489
(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;	52490 52491
(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of job and family services;	52492 52493 52494 52495 52496
(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.	52497 52498 52499 52500
(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.	52501 52502 52503 52504 52505
(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for children on a temporary, irregular basis.	52506 52507 52508 52509 52510

(Q) "Employee" means a person who either:	52511
(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;	52512 52513
(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.	52514 52515
(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.	52516 52517 52518 52519
(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	52520 52521 52522 52523 52524
(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, or under <del>section</del> <u>sections</u> 3301.31 to <u>3301.37</u> of the Revised Code.	52525 52526 52527 52528 52529
(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.	52530 52531 52532
(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.	52533 52534 52535 52536 52537 52538
(W) "Infant" means a child who is less than eighteen months of age.	52539 52540

(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for no more than four hours a day for any child.

(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(HH) "Preschool child" means a child who is three years old or older but is not a school child.

(II) "Protective day-care" means publicly funded child day-care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need

for protective day-care and the child resides with a parent, 52603  
stepparent, guardian, or another person who stands in loco 52604  
parentis as defined in rules adopted under section 5104.38 of the 52605  
Revised Code; 52606

(2) The child and the child's caretaker either temporarily 52607  
reside in a facility providing emergency shelter for homeless 52608  
families or are determined by the county department of job and 52609  
family services to be homeless, and are otherwise ineligible for 52610  
publicly funded child day-care. 52611

(JJ) "Publicly funded child day-care" means administering to 52612  
the needs of infants, toddlers, preschool children, and school 52613  
children under age thirteen during any part of the 52614  
twenty-four-hour day by persons other than their caretaker parents 52615  
for remuneration wholly or in part with federal or state funds, 52616  
including funds available under the child care block grant act 52617  
~~funds~~ Title IV-A, and Title XX, distributed by the department of 52618  
job and family services. 52619

(KK) "Religious activities" means any of the following: 52620  
worship or other religious services; religious instruction; Sunday 52621  
school classes or other religious classes conducted during or 52622  
prior to worship or other religious services; youth or adult 52623  
fellowship activities; choir or other musical group practices or 52624  
programs; meals; festivals; or meetings conducted by an organized 52625  
religious group. 52626

(LL) "School child" means a child who is enrolled in or is 52627  
eligible to be enrolled in a grade of kindergarten or above but is 52628  
less than fifteen years old. 52629

(MM) "School child day-care center," "school child center," 52630  
"school child type A family day-care home," and "school child type 52631  
A family home" mean a center or type A home that provides child 52632  
day-care for school children only and that does either or both of 52633

the following: 52634

(1) Operates only during that part of the day that 52635  
immediately precedes or follows the public school day of the 52636  
school district in which the center or type A home is located; 52637

(2) Operates only when the public schools in the school 52638  
district in which the center or type A home is located are not 52639  
open for instruction with pupils in attendance. 52640

(NN) "State median income" means the state median income 52641  
calculated by the department of development pursuant to division 52642  
(A)(1)(g) of section 5709.61 of the Revised Code. 52643

(OO) "Title IV-A" means Title IV-A of the "Social Security 52644  
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 52645

(PP) "Title XX" means Title XX of the "Social Security Act," 52646  
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 52647

(OO) "Toddler" means a child who is at least eighteen months 52648  
of age but less than three years of age. 52649

~~(PP)~~(RR) "Type A family day-care home" and "type A home" mean 52650  
a permanent residence of the administrator in which child day-care 52651  
or publicly funded child day-care is provided for seven to twelve 52652  
children at one time or a permanent residence of the administrator 52653  
in which child day-care is provided for four to twelve children at 52654  
one time if four or more children at one time are under two years 52655  
of age. In counting children for the purposes of this division, 52656  
any children under six years of age who are related to a licensee, 52657  
administrator, or employee and who are on the premises of the type 52658  
A home shall be counted. "Type A family day-care home" does not 52659  
include a residence in which the needs of children are 52660  
administered to, if all of the children whose needs are being 52661  
administered to are siblings of the same immediate family and the 52662  
residence is the home of the siblings. "Type A family day-care 52663  
home" and "type A home" do not include any child day camp. 52664

~~(SS)~~(SS) "Type B family day-care home" and "type B home" mean 52665  
a permanent residence of the provider in which child day-care is 52666  
provided for one to six children at one time and in which no more 52667  
than three children are under two years of age at one time. In 52668  
counting children for the purposes of this division, any children 52669  
under six years of age who are related to the provider and who are 52670  
on the premises of the type B home shall be counted. "Type B 52671  
family day-care home" does not include a residence in which the 52672  
needs of children are administered to, if all of the children 52673  
whose needs are being administered to are siblings of the same 52674  
immediate family and the residence is the home of the siblings. 52675  
"Type B family day-care home" and "type B home" do not include any 52676  
child day camp. 52677

**Sec. 5104.011.** (A) The director of job and family services 52678  
shall adopt rules pursuant to Chapter 119. of the Revised Code 52679  
governing the operation of child day-care centers, including, but 52680  
not limited to, parent cooperative centers, part-time centers, 52681  
drop-in centers, and school child centers, which rules shall 52682  
reflect the various forms of child day-care and the needs of 52683  
children receiving child day-care or publicly funded child 52684  
day-care and, ~~no later than January 1, 1992,~~ shall include 52685  
specific rules for school child day-care centers that are 52686  
developed in consultation with the department of education. The 52687  
rules shall not require an existing school facility that is in 52688  
compliance with applicable building codes to undergo an additional 52689  
building code inspection or to have structural modifications. The 52690  
rules shall include the following: 52691

(1) Submission of a site plan and descriptive plan of 52692  
operation to demonstrate how the center proposes to meet the 52693  
requirements of this chapter and rules adopted pursuant to this 52694  
chapter for the initial license application; 52695



(2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the center;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center

while under the care of a center employee;	52727
(8) Procedures for record keeping, organization, and administration;	52728 52729
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	52730 52731 52732
(10) Inspection procedures;	52733
(11) Procedures and standards for setting initial and renewal license application fees;	52734 52735
(12) Procedures for receiving, recording, and responding to complaints about centers;	52736 52737
(13) Procedures for enforcing section 5104.04 of the Revised Code;	52738 52739
(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;	52740 52741 52742 52743 52744
(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.	52745 52746 52747 52748 52749 52750
(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;	52751 52752 52753 52754
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions	52755 52756

while the child is receiving child day-care or publicly funded 52757  
child day-care in the center; 52758

(18) Any other procedures and standards necessary to carry 52759  
out this chapter. 52760

(B)(1) The child day-care center shall have, for each child 52761  
for whom the center is licensed, at least thirty-five square feet 52762  
of usable indoor floor space wall-to-wall regularly available for 52763  
the child day-care operation exclusive of any parts of the 52764  
structure in which the care of children is prohibited by law or by 52765  
rules adopted by the board of building standards. The minimum of 52766  
thirty-five square feet of usable indoor floor space shall not 52767  
include hallways, kitchens, storage areas, or any other areas that 52768  
are not available for the care of children, as determined by the 52769  
director, in meeting the space requirement of this division, and 52770  
bathrooms shall be counted in determining square footage only if 52771  
they are used exclusively by children enrolled in the center, 52772  
except that the exclusion of hallways, kitchens, storage areas, 52773  
bathrooms not used exclusively by children enrolled in the center, 52774  
and any other areas not available for the care of children from 52775  
the minimum of thirty-five square feet of usable indoor floor 52776  
space shall not apply to: 52777

(a) Centers licensed prior to or on September 1, 1986, that 52778  
continue under licensure after that date; 52779

(b) Centers licensed prior to or on September 1, 1986, that 52780  
are issued a new license after that date solely due to a change of 52781  
ownership of the center. 52782

(2) The child day-care center shall have on the site a safe 52783  
outdoor play space which is enclosed by a fence or otherwise 52784  
protected from traffic or other hazards. The play space shall 52785  
contain not less than sixty square feet per child using such space 52786  
at any one time, and shall provide an opportunity for supervised 52787

outdoor play each day in suitable weather. The director may exempt 52788  
a center from the requirement of this division, if an outdoor play 52789  
space is not available and if all of the following are met: 52790

(a) The center provides an indoor recreation area that has 52791  
not less than sixty square feet per child using the space at any 52792  
one time, that has a minimum of one thousand four hundred forty 52793  
square feet of space, and that is separate from the indoor space 52794  
required under division (B)(1) of this section. 52795

(b) The director has determined that there is regularly 52796  
available and scheduled for use a conveniently accessible and safe 52797  
park, playground, or similar outdoor play area for play or 52798  
recreation. 52799

(c) The children are closely supervised during play and while 52800  
traveling to and from the area. 52801

The director also shall exempt from the requirement of this 52802  
division a child day-care center that was licensed prior to 52803  
September 1, 1986, if the center received approval from the 52804  
director prior to September 1, 1986, to use a park, playground, or 52805  
similar area, not connected with the center, for play or 52806  
recreation in lieu of the outdoor space requirements of this 52807  
section and if the children are closely supervised both during 52808  
play and while traveling to and from the area and except if the 52809  
director determines upon investigation and inspection pursuant to 52810  
section 5104.04 of the Revised Code and rules adopted pursuant to 52811  
that section that the park, playground, or similar area, as well 52812  
as access to and from the area, is unsafe for the children. 52813

(3) The child day-care center shall have at least two 52814  
responsible adults available on the premises at all times when 52815  
seven or more children are in the center. The center shall 52816  
organize the children in the center in small groups, shall provide 52817  
child-care staff to give continuity of care and supervision to the 52818

children on a day-by-day basis, and shall ensure that no child is 52819  
left alone or unsupervised. Except as otherwise provided in 52820  
division (E) of this section, the maximum number of children per 52821  
child-care staff member and maximum group size, by age category of 52822  
children, are as follows: 52823

	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			52828
(i) Less than twelve			52829
months old	5:1, or		52830
	12:2 if two		52831
	child-care		52832
	staff members		52833
	are in the room	12	52834
(ii) At least twelve			52835
months old, but			52836
less than eighteen			52837
months old	6:1	12	52838
(b) Toddlers:			52839
(i) At least eighteen			52840
months old, but			52841
less than thirty			52842
months old	7:1	14	52843
(ii) At least thirty months			52844
old, but less than			52845
three years old	8:1	16	52846
(c) Preschool			52847
children:			52848
(i) Three years old	12:1	24	52849
(ii) Four years old and			52850
five years old who			52851

are not school			52852
children	14:1	28	52853
(d) School children:			52854
(i) A child who is			52855
enrolled in or is			52856
eligible to be			52857
enrolled in a grade			52858
of kindergarten			52859
or above, but			52860
is less than			52861
eleven years old	18:1	36	52862
(ii) Eleven through fourteen			52863
years old	20:1	40	52864
Except as otherwise provided in division (E) of this section,			52865
the maximum number of children per child-care staff member and			52866
maximum group size requirements of the younger age group shall			52867
apply when age groups are combined.			52868
(4)(a) The child day-care center administrator shall show the			52869
director both of the following:			52870
(i) Evidence of at least high school graduation or			52871
certification of high school equivalency by the state board of			52872
education or the appropriate agency of another state;			52873
(ii) Evidence of having completed at least two years of			52874
training in an accredited college, university, or technical			52875
college, including courses in child development or early childhood			52876
education, or at least two years of experience in supervising and			52877
giving daily care to children attending an organized group			52878
program.			52879
(b) In addition to the requirements of division (B)(4)(a) of			52880
this section, any administrator employed or designated on or after			52881
September 1, 1986, shall show evidence of, and any administrator			52882

employed or designated prior to September 1, 1986, shall show 52883  
evidence within six years after such date of, at least one of the 52884  
following: 52885

(i) Two years of experience working as a child-care staff 52886  
member in a center and at least four courses in child development 52887  
or early childhood education from an accredited college, 52888  
university, or technical college, except that a person who has two 52889  
years of experience working as a child-care staff member in a 52890  
particular center and who has been promoted to or designated as 52891  
administrator of that center shall have one year from the time the 52892  
person was promoted to or designated as administrator to complete 52893  
the required four courses; 52894

(ii) Two years of training, including at least four courses 52895  
in child development or early childhood education from an 52896  
accredited college, university, or technical college; 52897

(iii) A child development associate credential issued by the 52898  
national child development associate credentialing commission; 52899

(iv) An associate or higher degree in child development or 52900  
early childhood education from an accredited college, technical 52901  
college, or university, or a license designated for teaching in an 52902  
associate teaching position in a preschool setting issued by the 52903  
state board of education. 52904

(5) All child-care staff members of a child day-care center 52905  
shall be at least eighteen years of age, and shall furnish the 52906  
director evidence of at least high school graduation or 52907  
certification of high school equivalency by the state board of 52908  
education or the appropriate agency of another state or evidence 52909  
of completion of a training program approved by the department of 52910  
job and family services or state board of education, except as 52911  
follows: 52912

(a) A child-care staff member may be less than eighteen years 52913

of age if the staff member is either of the following:	52914
(i) A graduate of a two-year vocational child-care training program approved by the state board of education;	52915 52916
(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.	52917 52918 52919 52920 52921 52922 52923 52924 52925
(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:	52926 52927
(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; or	52928 52929 52930 52931
(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.	52932 52933 52934 52935 52936 52937 52938 52939 52940
(6) Every child day-care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention,	52941 52942 52943 52944



recognition, and management of communicable diseases, until a 52945  
total of forty-five hours of training has been completed, unless 52946  
the staff member furnishes one of the following to the director: 52947

(a) Evidence of an associate or higher degree in child 52948  
development or early childhood education from an accredited 52949  
college, university, or technical college; 52950

(b) A license designated for teaching in an associate 52951  
teaching position in a preschool setting issued by the state board 52952  
of education; 52953

(c) Evidence of a child development associate credential; 52954

(d) Evidence of a preprimary credential from the American 52955  
Montessori society or the association Montessori international. 52956  
For the purposes of division (B)(6) of this section, "hour" means 52957  
sixty minutes. 52958

(7) The administrator of each child day-care center shall 52959  
prepare at least once annually and for each group of children at 52960  
the center a roster of names and telephone numbers of parents, 52961  
custodians, or guardians of each group of children attending the 52962  
center and upon request shall furnish the roster for each group to 52963  
the parents, custodians, or guardians of the children in that 52964  
group. The administrator may prepare a roster of names and 52965  
telephone numbers of all parents, custodians, or guardians of 52966  
children attending the center and upon request shall furnish the 52967  
roster to the parents, custodians, or guardians of the children 52968  
who attend the center. The administrator shall not include in any 52969  
roster the name or telephone number of any parent, custodian, or 52970  
guardian who requests the administrator not to include the 52971  
parent's, custodian's, or guardian's name or number and shall not 52972  
furnish any roster to any person other than a parent, custodian, 52973  
or guardian of a child who attends the center. 52974

(C)(1) Each child day-care center shall have on the center 52975

premises and readily available at all times at least one 52976  
child-care staff member who has completed a course in first aid 52977  
and in prevention, recognition, and management of communicable 52978  
diseases which is approved by the state department of health and a 52979  
staff member who has completed a course in child abuse recognition 52980  
and prevention training which is approved by the department of job 52981  
and family services. 52982

(2) The administrator of each child day-care center shall 52983  
maintain enrollment, health, and attendance records for all 52984  
children attending the center and health and employment records 52985  
for all center employees. The records shall be confidential, 52986  
except as otherwise provided in division (B)(7) of this section 52987  
and except that they shall be disclosed by the administrator to 52988  
the director upon request for the purpose of administering and 52989  
enforcing this chapter and rules adopted pursuant to this chapter. 52990  
Neither the center nor the licensee, administrator, or employees 52991  
of the center shall be civilly or criminally liable in damages or 52992  
otherwise for records disclosed to the director by the 52993  
administrator pursuant to this division. It shall be a defense to 52994  
any civil or criminal charge based upon records disclosed by the 52995  
administrator to the director that the records were disclosed 52996  
pursuant to this division. 52997

(3)(a) Any parent who is the residential parent and legal 52998  
custodian of a child enrolled in a child day-care center and any 52999  
custodian or guardian of such a child shall be permitted unlimited 53000  
access to the center during its hours of operation for the 53001  
purposes of contacting their children, evaluating the care 53002  
provided by the center, evaluating the premises of the center, or 53003  
for other purposes approved by the director. A parent of a child 53004  
enrolled in a child day-care center who is not the child's 53005  
residential parent shall be permitted unlimited access to the 53006  
center during its hours of operation for those purposes under the 53007

same terms and conditions under which the residential parent of 53008  
that child is permitted access to the center for those purposes. 53009  
However, the access of the parent who is not the residential 53010  
parent is subject to any agreement between the parents and, to the 53011  
extent described in division (C)(3)(b) of this section, is subject 53012  
to any terms and conditions limiting the right of access of the 53013  
parent who is not the residential parent, as described in division 53014  
(I) of section 3109.051 of the Revised Code, that are contained in 53015  
a parenting time order or decree issued under that section, 53016  
section 3109.12 of the Revised Code, or any other provision of the 53017  
Revised Code. 53018

(b) If a parent who is the residential parent of a child has 53019  
presented the administrator or the administrator's designee with a 53020  
copy of a parenting time order that limits the terms and 53021  
conditions under which the parent who is not the residential 53022  
parent is to have access to the center, as described in division 53023  
(I) of section 3109.051 of the Revised Code, the parent who is not 53024  
the residential parent shall be provided access to the center only 53025  
to the extent authorized in the order. If the residential parent 53026  
has presented such an order, the parent who is not the residential 53027  
parent shall be permitted access to the center only in accordance 53028  
with the most recent order that has been presented to the 53029  
administrator or the administrator's designee by the residential 53030  
parent or the parent who is not the residential parent. 53031

(c) Upon entering the premises pursuant to division (C)(3)(a) 53032  
or (b) of this section, the parent who is the residential parent 53033  
and legal custodian, the parent who is not the residential parent, 53034  
or the custodian or guardian shall notify the administrator or the 53035  
administrator's designee of the parent's, custodian's, or 53036  
guardian's presence. 53037

(D) The director of job and family services, in addition to 53038  
the rules adopted under division (A) of this section, shall adopt 53039

rules establishing minimum requirements for child day-care 53040  
centers. The rules shall include, but not be limited to, the 53041  
requirements set forth in divisions (B) and (C) of this section. 53042  
Except as provided in section 5104.07 of the Revised Code, the 53043  
rules shall not change the square footage requirements of division 53044  
(B)(1) or (2) of this section; the maximum number of children per 53045  
child-care staff member and maximum group size requirements of 53046  
division (B)(3) of this section; the educational and experience 53047  
requirements of division (B)(4) of this section; the age, 53048  
educational, and experience requirements of division (B)(5) of 53049  
this section; the number of inservice training hours required 53050  
under division (B)(6) of this section; or the requirement for at 53051  
least annual preparation of a roster for each group of children of 53052  
names and telephone numbers of parents, custodians, or guardians 53053  
of each group of children attending the center that must be 53054  
furnished upon request to any parent, custodian, or guardian of 53055  
any child in that group required under division (B)(7) of this 53056  
section; however, the rules shall provide procedures for 53057  
determining compliance with those requirements. 53058

(E)(1) When age groups are combined, the maximum number of 53059  
children per child-care staff member shall be determined by the 53060  
age of the youngest child in the group, except that when no more 53061  
than one child thirty months of age or older receives services in 53062  
a group in which all the other children are in the next older age 53063  
group, the maximum number of children per child-care staff member 53064  
and maximum group size requirements of the older age group 53065  
established under division (B)(3) of this section shall apply. 53066

(2) The maximum number of toddlers or preschool children per 53067  
child-care staff member in a room where children are napping shall 53068  
be twice the maximum number of children per child-care staff 53069  
member established under division (B)(3) of this section if all 53070  
the following criteria are met: 53071

(a) At least one child-care staff member is present in the room.	53072 53073
(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.	53074 53075 53076 53077
(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.	53078 53079
(d) The maximum number established under division (E)(2) of this section is in effect for no more than one and one-half hours during a twenty-four-hour day.	53080 53081 53082
(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child day-care and the needs of children receiving child day-care. The rules shall include the following:	53083 53084 53085 53086 53087 53088 53089 53090
(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;	53091 53092 53093 53094
(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;	53095 53096 53097 53098
(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the type A home;	53099 53100 53101

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	53102 53103 53104 53105 53106 53107
(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;	53108 53109 53110 53111 53112 53113 53114 53115
(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;	53116 53117 53118 53119
(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;	53120 53121 53122
(8) Procedures for record keeping, organization, and administration;	53123 53124
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	53125 53126 53127
(10) Inspection procedures;	53128
(11) Procedures and standards for setting initial and renewal license application fees;	53129 53130
(12) Procedures for receiving, recording, and responding to	53131

complaints about type A homes;	53132
(13) Procedures for enforcing section 5104.04 of the Revised Code;	53133 53134
(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant this chapter;	53135 53136 53137 53138 53139 53140
(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;	53141 53142 53143 53144
(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;	53145 53146 53147 53148
(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 type A home;	53149 53150 53151 53152
(18) Standards for the maximum number of children per child-care staff member;	53153 53154
(19) Requirements for the amount of usable indoor floor space for each child;	53155 53156
(20) Requirements for safe outdoor play space;	53157
(21) Qualifications and training requirements for administrators and for child-care staff members;	53158 53159
(22) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to	53160 53161

the type A home during its hours of operation; 53162

(23) Standards for the preparation and distribution of a 53163  
roster of parents, custodians, and guardians; 53164

(24) Any other procedures and standards necessary to carry 53165  
out this chapter. 53166

(G) The director of job and family services shall adopt rules 53167  
pursuant to Chapter 119. of the Revised Code governing the 53168  
certification of type B family day-care homes. 53169

(1) The rules shall include procedures, standards, and other 53170  
necessary provisions for granting limited certification to type B 53171  
family day-care homes that are operated by the following adult 53172  
providers: 53173

(a) Persons who provide child day-care for eligible children 53174  
who are great-grandchildren, grandchildren, nieces, nephews, or 53175  
siblings of the provider or for eligible children whose caretaker 53176  
parent is a grandchild, child, niece, nephew, or sibling of the 53177  
provider; 53178

(b) Persons who provide child day-care for eligible children 53179  
all of whom are the children of the same caretaker parent. 53180

The rules shall require, and shall include procedures for the 53181  
director to ensure, that type B family day-care homes that receive 53182  
a limited certification provide child day-care to children in a 53183  
safe and sanitary manner. With regard to providers who apply for 53184  
limited certification, a provider shall be granted a provisional 53185  
limited certification on signing a declaration under oath 53186  
attesting that the provider meets the standards for limited 53187  
certification. Such provisional limited certifications shall 53188  
remain in effect for no more than sixty calendar days and shall 53189  
entitle the provider to offer publicly funded child day-care 53190  
during the provisional period. Except as otherwise provided in 53191  
division (G)(1) of this section, prior to the expiration of the 53192



provisional limited certificate, a county department of job and 53193  
family services shall inspect the home and shall grant limited 53194  
certification to the provider if the provider meets the 53195  
requirements of this division. Limited certificates remain valid 53196  
for two years unless earlier revoked. Except as otherwise provided 53197  
in division (G)(1) of this section, providers operating under 53198  
limited certification shall be inspected annually. 53199

If a provider is a person described in division (G)(1)(a) of 53200  
this section or a person described in division (G)(1)(b) of this 53201  
section who is a friend of the caretaker parent, the provider and 53202  
the caretaker parent may verify in writing to the county 53203  
department of job and family services that minimum health and 53204  
safety requirements are being met in the home. If such 53205  
verification is provided, the county shall waive any inspection 53206  
and any criminal records check required by this chapter and grant 53207  
limited certification to the provider. 53208

(2) The rules shall provide for safeguarding the health, 53209  
safety, and welfare of children receiving child day-care or 53210  
publicly funded child day-care in a certified type B home and 53211  
shall include the following: 53212

(a) Standards for ensuring that the type B home and the 53213  
physical surroundings of the type B home are safe and sanitary, 53214  
including, but not limited to, physical environment, physical 53215  
plant, and equipment; 53216

(b) Standards for the supervision, care, and discipline of 53217  
children receiving child day-care or publicly funded child 53218  
day-care in the home; 53219

(c) Standards for a program of activities, and for play 53220  
equipment, materials, and supplies to enhance the development of 53221  
each child; however, any educational curricula, philosophies, and 53222  
methodologies that are developmentally appropriate and that 53223

enhance the social, emotional, intellectual, and physical	53224
development of each child shall be permissible;	53225
(d) Admission policies and procedures, health care, first aid	53226
and emergency procedures, procedures for the care of sick	53227
children, procedures for discipline and supervision of children,	53228
nutritional standards, and procedures for screening children and	53229
authorized providers, including, but not limited to, any necessary	53230
physical examinations and immunizations;	53231
(e) Methods of encouraging parental participation and	53232
ensuring that the rights of children, parents, and authorized	53233
providers are protected and the responsibilities of parents and	53234
authorized providers are met;	53235
(f) Standards for the safe transport of children when under	53236
the care of authorized providers;	53237
(g) Procedures for issuing, renewing, denying, refusing to	53238
renew, or revoking certificates;	53239
(h) Procedures for the inspection of type B family day-care	53240
homes that require, at a minimum, that each type B family day-care	53241
home be inspected prior to certification to ensure that the home	53242
is safe and sanitary;	53243
(i) Procedures for record keeping and evaluation;	53244
(j) Procedures for receiving, recording, and responding to	53245
complaints;	53246
(k) Standards providing for the special needs of children who	53247
are handicapped or who receive treatment for health conditions	53248
while the child is receiving child day-care or publicly funded	53249
child day-care in the type B home;	53250
(l) Requirements for the amount of usable indoor floor space	53251
for each child;	53252
(m) Requirements for safe outdoor play space;	53253

(n) Qualification and training requirements for authorized providers;	53254 53255
(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;	53256 53257 53258
(p) Any other procedures and standards necessary to carry out this chapter.	53259 53260
(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 provisions for granting limited certification to in-home aides who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child day-care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child day-care in their own home and shall include the following:	53261 53262 53263 53264 53265 53266 53267 53268 53269 53270 53271 53272 53273 53274 53275
(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;	53276 53277 53278 53279
(2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;	53280 53281 53282
(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of	53283 53284

each child; however, any educational curricula, philosophies, and 53285  
methodologies that are developmentally appropriate and that 53286  
enhance the social, emotional, intellectual, and physical 53287  
development of each child shall be permissible; 53288

(4) Health care, first aid, and emergency procedures, 53289  
procedures for the care of sick children, procedures for 53290  
discipline and supervision of children, nutritional standards, and 53291  
procedures for screening children and in-home aides, including, 53292  
but not limited to, any necessary physical examinations and 53293  
immunizations; 53294

(5) Methods of encouraging parental participation and 53295  
ensuring that the rights of children, parents, and in-home aides 53296  
are protected and the responsibilities of parents and in-home 53297  
aides are met; 53298

(6) Standards for the safe transport of children when under 53299  
the care of in-home aides; 53300

(7) Procedures for issuing, renewing, denying, refusing to 53301  
renew, or revoking certificates; 53302

(8) Procedures for inspection of homes of children receiving 53303  
publicly funded child day-care in their own homes; 53304

(9) Procedures for record keeping and evaluation; 53305

(10) Procedures for receiving, recording, and responding to 53306  
complaints; 53307

(11) Qualifications and training requirements for in-home 53308  
aides; 53309

(12) Standards providing for the special needs of children 53310  
who are handicapped or who receive treatment for health conditions 53311  
while the child is receiving publicly funded child day-care in the 53312  
child's own home; 53313

(13) Any other procedures and standards necessary to carry 53314

out this chapter. 53315

(I) To the extent that any rules adopted for the purposes of 53316  
this section require a health care professional to perform a 53317  
physical examination, the rules shall include as a health care 53318  
professional a physician assistant, a clinical nurse specialist, a 53319  
certified nurse practitioner, or a certified nurse-midwife. 53320

(J)(1) The director of job and family services shall ~~send~~ 53321  
~~copies~~ do all of the following: 53322

(a) Send to each licensee notice of proposed rules to each 53323  
licensee and each county director of job and family services and 53324  
shall give governing the licensure of child day-care centers and 53325  
type A homes; 53326

(b) Give public notice of hearings regarding the rules to 53327  
each licensee and each county director of job and family services 53328  
at least thirty days prior to the date of the public hearing, in 53329  
accordance with section 119.03 of the Revised Code-; 53330

(c) Prior to the effective date of a rule, the director of 53331  
job and family services shall provide copies, in either paper or 53332  
electronic form, a copy of the adopted rule to each licensee and 53333  
each county director of job and family services. 53334

(2) The director shall do all of the following: 53335

(a) Send to each county director of job and family services a 53336  
notice of proposed rules governing the certification of type B 53337  
family homes and in-home aides that includes an internet web site 53338  
address where the proposed rules can be viewed; 53339

(b) Give public notice of hearings regarding the proposed 53340  
rules not less than thirty days in advance; 53341

(c) Provide to each county director of job and family 53342  
services an electronic copy of each adopted rule prior to the 53343  
rule's effective date. 53344

(3) The county director of job and family services shall send 53345  
copies of proposed rules to each authorized provider and in-home 53346  
aide and shall give public notice of hearings regarding the rules 53347  
to each authorized provider and in-home aide at least thirty days 53348  
prior to the date of the public hearing, in accordance with 53349  
section 119.03 of the Revised Code. Prior to the effective date of 53350  
a rule, the county director of job and family services shall 53351  
provide copies of the adopted rule to each authorized provider and 53352  
in-home aide. 53353

(4) Additional copies of proposed and adopted rules shall be 53354  
made available by the director of job and family services to the 53355  
public on request at no charge. 53356

(K) The director of job and family services shall review all 53357  
rules adopted pursuant to this chapter at least once every seven 53358  
years. 53359

(L) Notwithstanding any provision of the Revised Code, the 53360  
director of job and family services shall not regulate in any way 53361  
under this chapter or rules adopted pursuant to this chapter, 53362  
instruction in religious or moral doctrines, beliefs, or values. 53363

**Sec. 5104.02.** (A) The director of job and family services is 53364  
responsible for the licensing of child day-care centers and type A 53365  
family day-care homes, and for the enforcement of this chapter and 53366  
of rules promulgated pursuant to this chapter. No person, firm, 53367  
organization, institution, or agency shall operate, establish, 53368  
manage, conduct, or maintain a child day-care center or type A 53369  
family day-care home without a license issued under section 53370  
5104.03 of the Revised Code. The current license shall be posted 53371  
in a conspicuous place in the center or type A home that is 53372  
accessible to parents, custodians, or guardians and employees of 53373  
the center or type A home at all times when the center or type A 53374  
home is in operation. 53375

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:	53376 53377 53378
(1) A program of child day-care that operates for two or less consecutive weeks;	53379 53380
(2) Child day-care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;	53381 53382 53383 53384
(3) Religious activities which do not provide child day-care;	53385
(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;	53386 53387 53388 53389 53390 53391
(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;	53392 53393 53394 53395 53396 53397 53398
(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.	53399 53400 53401 53402 53403 53404
Notwithstanding any exemption from regulation under this	53405

chapter, each state department shall submit to the director of job 53406  
and family services a copy of the rules that govern programs that 53407  
provide child day-care and are regulated or operated and regulated 53408  
by the department. Annually, each state department shall submit to 53409  
the director a report for each such program it regulates or 53410  
operates and regulates that includes the following information: 53411

(i) The site location of the program; 53412

(ii) The maximum number of infants, toddlers, preschool 53413  
children, or school children served by the program at one time; 53414

(iii) The number of adults providing child day-care for the 53415  
number of infants, toddlers, preschool children, or school 53416  
children; 53417

(iv) Any changes in the rules made subsequent to the time 53418  
when the rules were initially submitted to the director. 53419

The director shall maintain a record of the child day-care 53420  
information submitted by other state departments and shall provide 53421  
this information upon request to the general assembly or the 53422  
public. 53423

(b) Child day-care programs conducted by boards of education 53424  
or by chartered nonpublic schools that are conducted in school 53425  
buildings and that provide child day-care to school children only 53426  
shall be exempt from meeting or exceeding rules promulgated 53427  
pursuant to this chapter. 53428

(7) Any preschool program or school child program, except a 53429  
head start program, that is subject to licensure by the department 53430  
of education under sections 3301.52 to 3301.59 of the Revised 53431  
Code. 53432

(8) Any program providing child day-care that meets all of 53433  
the following requirements and, on October 20, 1987, was being 53434  
operated by a nonpublic school that holds a charter issued by the 53435



state board of education for kindergarten only:	53436
(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;	53437 53438 53439 53440
(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;	53441 53442 53443
(c) The program is conducted in a school building;	53444
(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.	53445 53446 53447
(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:	53448 53449 53450
(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.	53451 53452 53453
(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.	53454 53455 53456
(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.	53457 53458 53459 53460
(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).	53461 53462 53463
<b>Sec. 5104.04.</b> (A) The department of job and family services	53464

shall establish procedures to be followed in investigating, 53465  
inspecting, and licensing child day-care centers and type A family 53466  
day-care homes. 53467

(B)(1) The department shall, at least twice during every 53468  
twelve-month period of operation of a center or type A home, 53469  
inspect the center or type A home. The department shall inspect a 53470  
part-time center or part-time type A home at least once during 53471  
every twelve-month period of operation. The department shall 53472  
provide a written inspection report to the licensee within a 53473  
reasonable time after each inspection. The licensee shall display 53474  
all written reports of inspections conducted during the current 53475  
licensing period in a conspicuous place in the center or type A 53476  
home. 53477

At least one inspection shall be unannounced and all 53478  
inspections may be unannounced. No person, firm, organization, 53479  
institution, or agency shall interfere with the inspection of a 53480  
center or type A home by any state or local official engaged in 53481  
performing duties required of the state or local official by 53482  
Chapter 5104. of the Revised Code or rules adopted pursuant to 53483  
Chapter 5104. of the Revised Code, including inspecting the center 53484  
or type A home, reviewing records, or interviewing licensees, 53485  
employees, children, or parents. 53486

Upon receipt of any complaint that a center or type A home is 53487  
out of compliance with the requirements of Chapter 5104. of the 53488  
Revised Code or rules adopted pursuant to Chapter 5104. of the 53489  
Revised Code, the department shall investigate and may inspect a 53490  
center or type A home. 53491

(2) If the department implements an instrument-based program 53492  
monitoring information system, it may use an indicator checklist 53493  
to comply with division (B)(1) of this section. 53494

(3) The department shall, at least once during every 53495

twelve-month period of operation of a center or type A home, 53496  
collect information concerning the amounts charged by the center 53497  
or home for providing child day-care services for use in 53498  
establishing rates of reimbursement and payment pursuant to 53499  
section 5104.30 of the Revised Code. 53500

(C) In the event a licensed center or type A home is 53501  
determined to be out of compliance with the requirements of 53502  
Chapter 5104. of the Revised Code or rules adopted pursuant to 53503  
Chapter 5104. of the Revised Code, the department shall notify the 53504  
licensee of the center or type A home in writing regarding the 53505  
nature of the violation, what must be done to correct the 53506  
violation, and by what date the correction must be made. If the 53507  
correction is not made by the date established by the department, 53508  
the department may commence action under Chapter 119. of the 53509  
Revised Code to revoke the license. 53510

(D) The department may deny or revoke a license, or refuse to 53511  
renew a license of a center or type A home, if the applicant 53512  
knowingly makes a false statement on the application, does not 53513  
comply with the requirements of Chapter 5104. or rules adopted 53514  
pursuant to Chapter 5104. of the Revised Code, or has pleaded 53515  
guilty to or been convicted of an offense described in section 53516  
5104.09 of the Revised Code. 53517

(E) If the department finds, after notice and hearing 53518  
pursuant to Chapter 119. of the Revised Code, that any person, 53519  
firm, organization, institution, or agency licensed under section 53520  
5104.03 of the Revised Code is in violation of any provision of 53521  
Chapter 5104. of the Revised Code or rules adopted pursuant to 53522  
Chapter 5104. of the Revised Code, the department may issue an 53523  
order of revocation to the center or type A home revoking the 53524  
license previously issued by the department. Upon the issuance of 53525  
any order of revocation, the person whose license is revoked may 53526  
appeal in accordance with section 119.12 of the Revised Code. 53527

(F) The surrender of a center or type A home license to the 53528  
department or the withdrawal of an application for licensure by 53529  
the owner or administrator of the center or type A home shall not 53530  
prohibit the department from instituting any of the actions set 53531  
forth in this section. 53532

(G) Whenever the department receives a complaint, is advised, 53533  
or otherwise has any reason to believe that a center or type A 53534  
home is providing child day-care without a license issued or 53535  
renewed pursuant to section 5104.03 and is not exempt from 53536  
licensing pursuant to section 5104.02 of the Revised Code, the 53537  
department shall investigate the center or type A home and may 53538  
inspect the areas children have access to or areas necessary for 53539  
the care of children in the center or type A home during suspected 53540  
hours of operation to determine whether the center or type A home 53541  
is subject to the requirements of Chapter 5104. or rules adopted 53542  
pursuant to Chapter 5104. of the Revised Code. 53543

(H) The department, upon determining that the center or type 53544  
A home is operating without a license, shall notify the attorney 53545  
general, the prosecuting attorney of the county in which the 53546  
center or type A home is located, or the city attorney, village 53547  
solicitor, or other chief legal officer of the municipal 53548  
corporation in which the center or type A home is located, that 53549  
the center or type A home is operating without a license. Upon 53550  
receipt of the notification, the attorney general, prosecuting 53551  
attorney, city attorney, village solicitor, or other chief legal 53552  
officer of a municipal corporation shall file a complaint in the 53553  
court of common pleas of the county in which the center or type A 53554  
home is located requesting that the court grant an order enjoining 53555  
the owner from operating the center or type A home. The court 53556  
shall grant such injunctive relief upon a showing that the 53557  
respondent named in the complaint is operating a center or type A 53558  
home and is doing so without a license. 53559

(I) The department shall prepare an annual report on 53560  
inspections conducted under this section. The report shall include 53561  
the number of inspections conducted, the number and types of 53562  
violations found, and the steps taken to address the violations. 53563  
The department shall file the report with the governor, the 53564  
president and minority leader of the senate, and the speaker and 53565  
minority leader of the house of representatives on or before the 53566  
first day of January of each year, beginning in 1999. 53567

**Sec. 5104.30.** (A) The department of job and family services 53568  
is hereby designated as the state agency responsible for 53569  
administration and coordination of federal and state funding for 53570  
publicly funded child day-care in this state. Publicly funded 53571  
child day-care shall be provided to the following: 53572

(1) Recipients of transitional child day-care as provided 53573  
under section 5104.34 of the Revised Code; 53574

(2) Participants in the Ohio works first program established 53575  
under Chapter 5107. of the Revised Code; 53576

(3) Individuals who would be participating in the Ohio works 53577  
first program if not for a sanction under section 5107.16 of the 53578  
Revised Code and who continue to participate in a work activity, 53579  
developmental activity, or alternative work activity pursuant to 53580  
an assignment under section 5107.42 of the Revised Code; 53581

(4) A family receiving publicly funded child day-care on 53582  
October 1, 1997, until the family's income reaches one hundred 53583  
fifty per cent of the federal poverty line; 53584

(5) Subject to available funds, other individuals determined 53585  
eligible in accordance with rules adopted under section 5104.38 of 53586  
the Revised Code. 53587

The department shall apply to the United States department of 53588  
health and human services for authority to operate a coordinated 53589

program for publicly funded child day-care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child day-care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child day-care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child day-care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child day-care, including appropriations of state funds for publicly funded child day-care and appropriations of federal funds ~~for publicly funded child day-care~~ available under Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended, and the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child day-care as the state share required to match any federal funds appropriated for publicly funded child day-care.

(C) ~~The department may~~ In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child day-care.

(2) Not more than five per cent of the aggregate amount of ~~those~~ the federal funds received for a fiscal year may be expended for administrative costs. ~~The~~

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

~~(1)~~(a) Activities designed to provide comprehensive consumer education to parents and the public; 53621  
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~~(2)~~(b) Activities that increase parental choice; 53623

~~(3)~~(c) Activities, including child day-care resource and referral services, designed to improve the quality, and increase the supply, of child day-care. 53624  
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~~(D)~~(4) The department shall ensure that ~~any~~ the federal funds received by the state under the child care block grant act will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of ~~that~~ the child care block grant act for publicly funded child day-care and related programs. A county department of job and family services may purchase child day-care from funds obtained through any other means. 53627  
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~~(E)~~(D) The department shall encourage the development of suitable child day-care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child day-care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child day-care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child day-care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter. 53635  
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The department may develop and maintain a registry of persons 53651

providing child day-care. The director may adopt rules pursuant to 53652  
Chapter 119. of the Revised Code establishing procedures and 53653  
requirements for the registry's administration. 53654

~~(F)~~(E)(1) The director shall adopt rules in accordance with 53655  
Chapter 119. of the Revised Code establishing both of the 53656  
following: 53657

(a) Reimbursement ceilings for providers of publicly funded 53658  
child day-care; 53659

(b) A procedure for reimbursing and paying providers of 53660  
publicly funded child day-care. 53661

(2) In establishing reimbursement ceilings under division 53662  
~~(F)~~(E)(1)(a) of this section, the director shall do all of the 53663  
following: 53664

(a) Use the information obtained under division (B)(3) of 53665  
section 5104.04 of the Revised Code; 53666

(b) Establish an enhanced reimbursement ceiling for providers 53667  
who provide child day-care for caretaker parents who work 53668  
nontraditional hours; 53669

(c) For a type B family day-care home provider that has 53670  
received limited certification pursuant to rules adopted under 53671  
division (G)(1) of section 5104.011 of the Revised Code, establish 53672  
a reimbursement ceiling that is the following: 53673

(i) If the provider is a person described in division 53674  
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 53675  
per cent of the reimbursement ceiling that applies to a type B 53676  
family day-care home certified by the same county department of 53677  
job and family services pursuant to section 5104.11 of the Revised 53678  
Code; 53679

(ii) If the provider is a person described in division 53680  
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 53681



of the reimbursement ceiling that applies to a type B family 53682  
day-care home certified by the same county department pursuant to 53683  
section 5104.11 of the Revised Code. 53684

(3) In establishing reimbursement ceilings under division 53685  
~~(F)~~(E)(1)(a) of this section, the director may establish different 53686  
reimbursement ceilings based on any of the following: 53687

(a) Geographic location of the provider; 53688

(b) Type of care provided; 53689

(c) Age of the child served; 53690

(d) Special needs of the child served; 53691

(e) Whether the expanded hours of service are provided; 53692

(f) Whether weekend service is provided; 53693

(g) Whether the provider has exceeded the minimum 53694  
requirements of state statutes and rules governing child day-care; 53695

(h) Any other factors the director considers appropriate. 53696

**Sec. 5104.32.** (A) Except as provided in division (C) of this 53697  
section, all purchases of publicly funded child day-care shall be 53698  
made under a contract entered into by a licensed child day-care 53699  
center, licensed type A family day-care home, certified type B 53700  
family day-care home, certified in-home aide, approved child day 53701  
camp, licensed preschool program, licensed school child program, 53702  
or border state child day-care provider and the county department 53703  
of job and family services. A county department of job and family 53704  
services may enter into a contract with a provider for publicly 53705  
funded child day-care for a specified period of time or upon a 53706  
continuous basis for an unspecified period of time. All contracts 53707  
for publicly funded child day-care shall be contingent upon the 53708  
availability of state and federal funds. The department of job and 53709  
family services shall prescribe a standard form to be used for all 53710

contracts for the purchase of publicly funded child day-care, 53711  
regardless of the source of public funds used to purchase the 53712  
child day-care. To the extent permitted by federal law and 53713  
notwithstanding any other provision of the Revised Code that 53714  
regulates state or county contracts or contracts involving the 53715  
expenditure of state, county, or federal funds, all contracts for 53716  
publicly funded child day-care shall be entered into in accordance 53717  
with the provisions of this chapter and are exempt from any other 53718  
provision of the Revised Code that regulates state or county 53719  
contracts or contracts involving the expenditure of state, county, 53720  
or federal funds. 53721

(B) Each contract for publicly funded child day-care shall 53722  
specify at least the following: 53723

(1) That the provider of publicly funded child day-care 53724  
agrees to be paid for rendering services at the lowest of the rate 53725  
customarily charged by the provider for children enrolled for 53726  
child day-care, the reimbursement ceiling or rate of payment 53727  
established pursuant to section 5104.30 of the Revised Code, or a 53728  
rate the county department negotiates with the provider; 53729

(2) That, if a provider provides child day-care to an 53730  
individual potentially eligible for publicly funded child day-care 53731  
who is subsequently determined to be eligible, the county 53732  
department agrees to pay for all child day-care provided between 53733  
the date the county department receives the individual's completed 53734  
application and the date the individual's eligibility is 53735  
determined; 53736

(3) Whether the county department of job and family services, 53737  
the provider, or a child day-care resource and referral service 53738  
organization will make eligibility determinations, whether the 53739  
provider or a child day-care resource and referral service 53740  
organization will be required to collect information to be used by 53741  
the county department to make eligibility determinations, and the 53742

time period within which the provider or child day-care resource 53743  
and referral service organization is required to complete required 53744  
eligibility determinations or to transmit to the county department 53745  
any information collected for the purpose of making eligibility 53746  
determinations; 53747

(4) That the provider, other than a border state child 53748  
day-care provider or except as provided in division (B) of section 53749  
3301.37 of the Revised Code, shall continue to be licensed, 53750  
approved, or certified pursuant to this chapter ~~or sections~~ 53751  
~~3301.52 to 3301.59 of the Revised Code~~ and shall comply with all 53752  
standards and other requirements in this chapter ~~and those~~ 53753  
~~sections~~ and in rules adopted pursuant to this chapter ~~or those~~ 53754  
~~sections~~ for maintaining the provider's license, approval, or 53755  
certification; 53756

(5) That, in the case of a border state child day-care 53757  
provider, the provider shall continue to be licensed, certified, 53758  
or otherwise approved by the state in which the provider is 53759  
located and shall comply with all standards and other requirements 53760  
established by that state for maintaining the provider's license, 53761  
certificate, or other approval; 53762

(6) Whether the provider will be paid by the county 53763  
department of job and family services or the state department of 53764  
job and family services; 53765

(7) That the contract is subject to the availability of state 53766  
and federal funds. 53767

(C) Unless specifically prohibited by federal law, the county 53768  
department of job and family services shall give individuals 53769  
eligible for publicly funded child day-care the option of 53770  
obtaining certificates for payment that the individual may use to 53771  
purchase services from any provider qualified to provide publicly 53772  
funded child day-care under section 5104.31 of the Revised Code. 53773

Providers of publicly funded child day-care may present these 53774  
certificates for payment for reimbursement in accordance with 53775  
rules that the director of job and family services shall adopt. 53776  
Only providers may receive reimbursement for certificates for 53777  
payment. The value of the certificate for payment shall be based 53778  
on the lowest of the rate customarily charged by the provider, the 53779  
reimbursement ceiling or rate of payment established pursuant to 53780  
section 5104.30 of the Revised Code, or a rate the county 53781  
department negotiates with the provider. The county department may 53782  
provide the certificates for payment to the individuals or may 53783  
contract with child day-care providers or child day-care resource 53784  
and referral service organizations that make determinations of 53785  
eligibility for publicly funded child day-care pursuant to 53786  
contracts entered into under section 5104.34 of the Revised Code 53787  
for the providers or resource and referral service organizations 53788  
to provide the certificates for payment to individuals whom they 53789  
determine are eligible for publicly funded child day-care. 53790

For each six-month period a provider of publicly funded child 53791  
day-care provides publicly funded child day-care to the child of 53792  
an individual given certificates ~~of~~ for payment, the individual 53793  
shall provide the provider certificates for days the provider 53794  
would have provided publicly funded child day-care to the child 53795  
had the child been present. County departments shall specify the 53796  
maximum number of days providers will be provided certificates of 53797  
payment for days the provider would have provided publicly funded 53798  
child day-care had the child been present. The maximum number of 53799  
days shall not exceed ten days in a six-month period during which 53800  
publicly funded child day-care is provided to the child regardless 53801  
of the number of providers that provide publicly funded child 53802  
day-care to the child during that period. 53803

**Sec. 5107.02.** As used in this chapter: 53804

- (A) "Adult" means an individual who is not a minor child. 53805
- (B) "Assistance group" means a group of individuals treated 53806  
as a unit for purposes of determining eligibility for and the 53807  
amount of assistance provided under Ohio works first. 53808
- (C) "Custodian" means an individual who has legal custody, as 53809  
defined in section 2151.011 of the Revised Code, of a minor child 53810  
or comparable status over a minor child created by a court of 53811  
competent jurisdiction in another state. 53812
- (D) "Guardian" means an individual that is granted authority 53813  
by a probate court pursuant to Chapter 2111. of the Revised Code, 53814  
or a court of competent jurisdiction in another state, to exercise 53815  
parental rights over a minor child to the extent provided in the 53816  
court's order and subject to residual parental rights of the minor 53817  
child's parents. 53818
- (E) "Minor child" means either of the following: 53819
- (1) An individual who has not attained age eighteen; 53820
- (2) An individual who has not attained age nineteen and is a 53821  
full-time student in a secondary school or in the equivalent level 53822  
of vocational or technical training. 53823
- (F) "Minor head of household" means a minor child who is 53824  
either of the following: 53825
- (1) ~~At~~ Is married, at least six months pregnant, and a member 53826  
of an assistance group that does not include an adult; 53827
- (2) ~~A~~ Is married and is a parent of a child included in the 53828  
same assistance group that does not include an adult. 53829
- (G) "Ohio works first" means the program established by this 53830  
chapter known as temporary assistance for needy families in Title 53831  
IV-A. 53832
- (H) "Payment standard" means the amount specified in rules 53833

adopted under section 5107.05 of the Revised Code that is the 53834  
maximum amount of cash assistance an assistance group may receive 53835  
under Ohio works first from state and federal funds. 53836

(I) "Specified relative" means the following individuals who 53837  
are age eighteen or older: 53838

(1) The following individuals related by blood or adoption: 53839

(a) Grandparents, including grandparents with the prefix 53840  
"great," "great-great," or "great-great-great"; 53841

(b) Siblings; 53842

(c) Aunts, uncles, nephews, and nieces, including such 53843  
relatives with the prefix "great," "great-great," "grand," or 53844  
"great-grand"; 53845

(d) First cousins and first cousins once removed. 53846

(2) Stepparents and stepsiblings; 53847

(3) Spouses and former spouses of individuals named in 53848  
division (I)(1) or (2) of this section. 53849

(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title 53850  
IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 53851  
301, as amended. 53852

**Sec. 5107.30.** (A) As used in this section: 53853

(1) "LEAP program" means the learning, earning, and parenting 53854  
program. 53855

(2) "Teen" means a participant of Ohio works first who is 53856  
under age ~~twenty~~ eighteen or is age eighteen and in school and is 53857  
a natural or adoptive parent or is pregnant. 53858

(3) "School" means an educational program that is designed to 53859  
lead to the attainment of a high school diploma or the equivalent 53860  
of a high school diploma. 53861

(B) The director of job and family services may adopt rules 53862  
under section 5107.05 of the Revised Code, to the extent that such 53863  
rules are consistent with federal law, to do all of the following: 53864

(1) Define "good cause" and "the equivalent of a high school 53865  
diploma" for the purposes of this section; 53866

(2) Conduct ~~one or more special demonstration programs a~~ 53867  
program titled the "LEAP program" and establish requirements 53868  
governing the program. The purpose of the LEAP program is to 53869  
encourage teens to complete school. 53870

(3) Require every teen who is subject to LEAP program 53871  
requirements to attend school in accordance with the requirements 53872  
governing the program unless the teen shows good cause for not 53873  
attending school. The department shall provide, in addition to the 53874  
cash assistance payment provided under Ohio works first, an 53875  
incentive payment, in an amount determined by the department, to 53876  
every teen who is participating in the LEAP program and attends 53877  
school in accordance with the requirements governing the program. 53878  
The department shall reduce the cash assistance payment, in an 53879  
amount determined by the department, under Ohio works first to 53880  
every teen participating in the LEAP program who fails or refuses, 53881  
without good cause, to ~~attend school in accordance with~~ meet the 53882  
requirements governing the program. 53883

(4) Require every teen who is subject to LEAP program 53884  
requirements to enter into a written agreement with the county 53885  
department of job and family services that provides all of the 53886  
following: 53887

(a) The teen, to be eligible to receive the incentive payment 53888  
under division (B)(3) of this section, must ~~attend school in~~ 53889  
~~accordance with~~ meet the requirements of the LEAP program. 53890

(b) The county department will provide the incentive payment 53891  
to the teen if the teen ~~attends school;~~ meets the requirements of 53892

the LEAP program. 53893

(c) The county department will reduce the cash assistance 53894  
payment under Ohio works first if the teen fails or refuses 53895  
without good cause to attend school in accordance with the 53896  
requirements governing the LEAP program. 53897

~~(5) Evaluate the demonstration programs established under 53898  
this section. In conducting the evaluations, the department of job 53899  
and family services shall select control groups of teens who are 53900  
otherwise subject to the LEAP program requirements. 53901~~

(C) A ~~teen~~ minor head of household who is participating in 53902  
the LEAP program shall be considered to be participating in a work 53903  
activity for the purpose of sections 5107.40 to 5107.69 of the 53904  
Revised Code. However, the ~~teen~~ minor head of household is not 53905  
subject to the requirements or sanctions of those sections, ~~unless 53906  
the teen is over age eighteen and meets the LEAP program 53907  
requirements by participating regularly in work activities, 53908  
developmental activities, or alternative work activities under 53909  
those sections. 53910~~

(D) Subject to the availability of funds, county departments 53911  
of job and family services shall provide for LEAP participants to 53912  
receive support services the county department determines to be 53913  
necessary for LEAP participation. Support services may include 53914  
publicly funded child day-care under Chapter 5104. of the Revised 53915  
Code, transportation, and other services. 53916

**Sec. 5107.37.** ~~An~~ (A) Except as provided in division (B) of 53917  
this section, an individual who resides in a county home, city 53918  
infirmary, jail, or other public institution is not eligible to 53919  
participate in Ohio works first. 53920

(B) Division (A) of this section does not apply to a minor 53921  
child residing with the minor child's mother who participates in a 53922



prison nursery program established under section 5120.65 of the 53923  
Revised Code. 53924

**Sec. 5107.40.** As used in sections 5107.40 to 5107.69 of the 53925  
Revised Code: 53926

(A) "Alternative work activity" means an activity designed to 53927  
promote self sufficiency and personal responsibility established 53928  
by a county department of job and family services under section 53929  
5107.64 of the Revised Code. 53930

(B) "Developmental activity" means an activity designed to 53931  
promote self sufficiency and personal responsibility established 53932  
by a county department of job and family services under section 53933  
5107.62 of the Revised Code. 53934

(C) "High school equivalence diploma" means a diploma 53935  
attesting to achievement of the equivalent of a high school 53936  
education as measured by scores obtained on the tests of general 53937  
educational development published by the American council on 53938  
education. "High school equivalence diploma" includes a 53939  
certificate of high school equivalence issued prior to January 1, 53940  
1994, attesting to the achievement of the equivalent of a high 53941  
school education as measured by scores obtained on tests of 53942  
general educational development. 53943

(D) "Work activity" means the following: 53944

(1) Unsubsidized employment activities established under 53945  
section 5107.60 of the Revised Code; 53946

(2) The subsidized employment program established under 53947  
section 5107.52 of the Revised Code; 53948

(3) The work experience program established under section 53949  
5107.54 of the Revised Code; 53950

(4) On-the-job training activities established under section 53951  
5107.60 of the Revised Code; 53952

(5) The job search and readiness program established under section 5107.50 of the Revised Code;	53953 53954
(6) Community service activities established under section 5107.60 of the Revised Code;	53955 53956
(7) Vocational educational training activities established under section 5107.60 of the Revised Code;	53957 53958
(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;	53959 53960 53961
(9) Education activities established under section 5107.60 of the Revised Code that are directly related to employment for participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma;	53962 53963 53964 53965
(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;	53966 53967 53968 53969 53970 53971
(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;	53972 53973 53974 53975
(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;	53976 53977 53978 53979 53980
(13) <del>Except as limited</del> <u>To the extent provided</u> by division (C) of section 5107.30 of the Revised Code, the LEAP program	53981 53982

established under that section. 53983

**Sec. 5107.60.** In accordance with Title IV-A, federal 53984  
regulations, state law, the Title IV-A state plan prepared under 53985  
section 5101.80 of the Revised Code, and amendments to the plan, 53986  
county departments of job and family services shall establish and 53987  
administer the following work activities, in addition to the work 53988  
activities established under sections 5107.50, 5107.52, 5107.54, 53989  
and 5107.58 of the Revised Code, for minor heads of households and 53990  
adults participating in Ohio works first: 53991

(A) Unsubsidized employment activities, including activities 53992  
a county department determines are legitimate entrepreneurial 53993  
activities; 53994

(B) On-the-job training activities, including training to 53995  
become an employee of a child day-care center or type A family 53996  
day-care home, authorized provider of a certified type B family 53997  
day-care home, or in-home aide; 53998

(C) Community service activities including a program under 53999  
which a participant of Ohio works first who is the parent, 54000  
guardian, custodian, or specified relative responsible for the 54001  
care of a minor child enrolled in grade twelve or lower is 54002  
involved in the minor child's education on a regular basis; 54003

(D) Vocational educational training activities; 54004

(E) Jobs skills training activities that are directly related 54005  
to employment; 54006

(F) Education activities that are directly related to 54007  
employment for participants who have not earned a high school 54008  
diploma or high school equivalence diploma; 54009

(G) Education activities for participants who have not 54010  
completed secondary school or received a high school equivalence 54011  
diploma under which the participants attend a secondary school or 54012

a course of study leading to a high school equivalence diploma,  
including LEAP participation by a minor head of household;

(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.

**Sec. 5108.01.** As used in this chapter:

(A) ~~"Assistance group" means a group of individuals treated  
as a unit for purposes of determining eligibility for the  
prevention, retention, and contingency program~~ "County family  
services planning committee" means the county family services  
planning committee established under section 329.06 of the Revised  
Code or the board created by consolidation under division (C) of  
section 6301.06 of the Revised Code.

(B) "Prevention, retention, and contingency program" means  
the program established by this chapter and funded in part with  
federal funds provided under Title IV-A.

(C) "Title IV-A" means Title IV-A of the "Social Security  
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

**Sec. 5108.03.** Under the prevention, retention, and  
contingency program, ~~a~~ each county department of job and family  
services shall ~~provide~~ do both of the following in accordance with  
the statement of policies the county department develops under  
section 5108.04 of the Revised Code:

(A) Provide benefits and services that individuals need to  
overcome immediate barriers to achieving or maintaining self  
sufficiency and personal responsibility;

(B) Perform related administrative duties. ~~A county~~

~~department shall provide the benefits and services in accordance 54042  
with either the model design for the program that the department 54043  
of job and family services develops under section 5108.05 of the 54044  
Revised Code or the county department's own policies for the 54045  
program developed under section 5108.06 of the Revised Code. 54046~~

**Sec. ~~5108.06~~ 5108.04.** Each county department of job and 54047  
family services shall ~~either adopt the model design for a written~~ 54048  
statement of policies governing the prevention, retention, and 54049  
~~contingency program the department of job and family services~~ 54050  
~~develops under section 5108.05 of the Revised Code or develop its~~ 54051  
~~own policies for the program~~ county. ~~To develop its own policies,~~ 54052  
~~a county department shall adopt a written statement of the~~ 54053  
~~policies governing the program. The policies may be a modification~~ 54054  
~~of the model design, different from the model design, or a~~ 54055  
~~combination.~~ The statement of policies shall be adopted not later 54056  
than October 1, 2003, and shall be updated at least every two 54057  
years thereafter. A county department may amend its statement of 54058  
policies to modify, terminate, and establish new policies. The 54059  
county director of job and family services shall sign and date the 54060  
statement of policies and any amendment to it. Neither the 54061  
statement of policies nor any amendment to it may have an 54062  
effective date that is earlier than the date of the county 54063  
director's signature. 54064

A Each county department of job and family services shall 54065  
~~inform~~ provide the department of job and family services ~~of~~ 54066  
~~whether it has adopted the model design or developed its own~~ 54067  
~~policies for the prevention, retention, and contingency program.~~ 54068  
~~If a county department develops its own policies, it shall provide~~ 54069  
~~the department~~ a written copy of the statement of policies and any 54070  
amendments it adopts to the statement not later than ten calendar 54071  
days after the statement or amendment's effective date. 54072

~~Sec. 5108.07~~ 5108.05. ~~The model design for the prevention, retention, and contingency program that the department of job and family services develops under section 5108.05 of the Revised Code and policies for the program that a county department of job and family services may develop under section 5108.06 of the Revised Code shall establish~~ In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, each county department of job and family services shall do all of the following:

(A) Establish or specify eligibility requirements for assistance groups that apply for the program under section 5108.10 of the Revised Code, benefits all of the following:

(1) Benefits and services to be provided under the program to assistance groups, administrative that are allowable uses of federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a) but rather benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance;

(2) Restrictions on the amount, duration, and frequency of the benefits and services;

(3) Eligibility requirements for the benefits and services;

(4) Fair and equitable procedures for both of the following:

(a) The certification of eligibility for the benefits and services that do not have a financial need eligibility requirement;

(b) The determination and verification of eligibility for the benefits and services that have a financial need eligibility requirement.

(5) Objective criteria for the delivery of the benefits and services;

<del>(6) Administrative requirements, and other;</del>	54103
<del>(7) Other matters the department, in the case of the model design, or a county department, in the case of county policies, determine <u>determines</u> are necessary.</del>	54104 54105 54106
<del>The model design and a county department's policies may establish eligibility requirements for, and specify benefits and services to be provided to, types of groups, such as students in the same class, that share a common need for the benefits and services. If the model design or a county department's policies include such a provision, the model design or county department's policies shall require that each individual who is to receive the benefits and services meet the eligibility requirements 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.</del>	54107 54108 54109 54110 54111 54112 54113 54114 54115 54116 54117 54118 54119 54120 54121
<del>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.</del>	54122 54123 54124 54125 54126 54127
<del>The model design and a county department's policies must be consistent with <u>(B) Provide for the statement of policies to be consistent with all of the following:</u></del>	54128 54129 54130
<del><u>(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code;</u></del>	54131 54132
<del><u>(2) The review and analysis of the county family services</u></del>	54133

committee conducted in accordance with division (B)(2) of section 54134  
329.06 of the Revised Code; 54135

(3) Title IV-A, federal regulations, state law, the Title 54136  
IV-A state plan submitted to the United States secretary of health 54137  
and human services under section 5101.80 of the Revised Code, and 54138  
amendments to the plan. All benefits and services to be provided 54139  
under the model design or a county department's policies must be 54140  
allowable uses of federal Title IV A funds as specified in 42 54141  
U.S.C.A. 604(a), except that they may not be "assistance" as 54142  
defined in 45 C.F.R. 260.31(a). The benefits and services shall be 54143  
benefits and services that 45 C.F.R. 260.31(b) excludes from the 54144  
definition of assistance. 54145

(C) Either provide the public and local government entities 54146  
at least thirty days to submit comments on, or have the county 54147  
family services planning committee review, the statement of 54148  
policies, including the design of the county's prevention, 54149  
retention, and contingency program, before the county director 54150  
signs and dates the statement of policies. 54151

Sec. 5108.06. In adopting a statement of policies under 54152  
section 5108.04 of the Revised Code for the county's prevention, 54153  
retention, and contingency program, a county department of job and 54154  
family services may specify both of the following: 54155

(A) Benefits and services to be provided under the program 54156  
that prevent and reduce the incidence of out-of-wedlock 54157  
pregnancies or encourage the formation and maintenance of 54158  
two-parent families as permitted by 45 C.F.R. 260.20(c) and (d); 54159

(B) How the county department will certify individuals' 54160  
eligibility for such benefits and services. 54161

Sec. 5108.07. (A) Each statement of policies adopted under 54162  
section 5108.04 of the Revised Code shall include the board of 54163



county commissioners' certification that the county department of 54164  
job and family services complied with this chapter in adopting the 54165  
statement of policies. 54166

(B) The board of county commissioners shall revise its 54167  
certification under division (A) of this section if an amendment 54168  
to the statement of policies that the board considers to be 54169  
significant is adopted under section 5108.04 of the Revised Code. 54170

**Sec. 5108.09.** When a state hearing under division (B) of 54171  
section 5101.35 of the Revised Code or an administrative appeal 54172  
under division (C) of that section is held regarding the 54173  
prevention, retention, and contingency program, the hearing 54174  
officer, director of job and family services, or director's 54175  
designee shall base the decision in the hearing or appeal on the 54176  
following: 54177

~~(A) If the county department of job and family services~~ 54178  
~~involved in the hearing or appeal adopted the department of job~~ 54179  
~~and family services' model design for the program developed under~~ 54180  
~~section 5108.05 of the Revised Code, the model design:~~ 54181

~~(B) If the county department developed its own policies for~~ 54182  
~~the program, the county department's department of job and family~~ 54183  
~~services' written statement of policies adopted under section~~ 54184  
~~5108.06 5108.04 of the Revised Code and any amendments the county~~ 54185  
~~department adopted to the statement if the county department~~ 54186  
~~provides a copy of the statement of policies and all amendments to~~ 54187  
~~the hearing officer, director, or director's designee at the~~ 54188  
~~hearing or appeal.~~ 54189

**Sec. 5108.10.** ~~An assistance group seeking to participate in~~ 54190  
~~the prevention, retention, and contingency program shall apply to~~ 54191  
~~a county department of job and family services using Eligibility~~ 54192  
~~for a benefit or service under a county's prevention, retention,~~ 54193

and contingency program shall be certified in accordance with the 54194  
statement of policies adopted under section 5108.04 of the Revised 54195  
Code if the benefit or service does not have a financial need 54196  
eligibility requirement. 54197

Eligibility for a benefit or service shall be determined in 54198  
accordance with the statement of policies and based on an 54199  
application containing information the county department of job 54200  
and family services requires- 54201

~~When if the benefit or service has a financial need~~ 54202  
~~eligibility requirement. When~~ a county department receives an 54203  
application for ~~participation in the prevention, retention, and~~ 54204  
~~contingency program~~ such benefits and services, it shall ~~promptly~~ 54205  
~~make an investigation and record of the circumstances of the~~ 54206  
~~applicant in order to ascertain~~ follow verification procedures 54207  
established by the statement of policies to verify the facts 54208  
surrounding the application and to obtain such other information 54209  
as may be required. On completion of the ~~investigation~~ 54210  
verification procedure, the county department shall determine 54211  
whether the applicant is eligible ~~to participate,~~ for the benefits 54212  
or services ~~the applicant should receive,~~ and the approximate date 54213  
when ~~participation is~~ the benefits or services are to begin. 54214

**Sec. 5108.11.** (A) To the extent permitted by section 307.982 54215  
of the Revised Code, a board of county commissioners may enter 54216  
into a written contract with a private or government entity for 54217  
the entity to do either or both of the following for the county's 54218  
prevention, retention, and contingency program: 54219

(1) Certify eligibility for benefits and services that do not 54220  
have a financial need eligibility requirement; 54221

(2) Accept applications and determine and verify eligibility 54222  
for benefits and services that have a financial need eligibility 54223  
requirement. 54224

(B) If a board of county commissioners enters into a contract under division (A) of this section with a private or government entity, the county department of job and family services shall do all of the following: 54225  
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54227  
54228

(1) Ensure that eligibility for benefits and services is certified or determined and verified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code; 54229  
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54231  
54232

(2) Ensure that the private or government entity maintains all records that are necessary for audits; 54233  
54234

(3) Monitor the private or government entity for compliance with Title IV-A, this chapter of the Revised Code, and the statement of policies; 54235  
54236  
54237

(4) Take actions that are necessary to recover any funds that are not spent in accordance with Title IV-A or this chapter of the Revised Code. 54238  
54239  
54240

**Sec. 5108.12.** Each county department of job and family services is responsible for funds expended or claimed under the county's prevention, retention, and contingency program that the department of job and family services, auditor of state, United States department of health and human services, or other government entity determines is expended or claimed in a manner that federal or state law or policy does not permit. 54241  
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**Sec. 5111.0112.** The director of job and family services shall examine instituting a copayment program under medicaid. As part of the examination, the director shall determine which groups of medicaid recipients may be subjected to a copayment requirement under federal statutes and regulations and which of those groups are appropriate for a copayment program designed to reduce inappropriate and excessive use of medical goods and services. If, 54248  
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on completion of the examination, the director determines that it 54255  
is feasible to institute such a copayment program, the director 54256  
may seek approval from the United States secretary of health and 54257  
human services to institute the copayment program. If necessary, 54258  
the director may seek approval by applying for a waiver of federal 54259  
statutes and regulations. If such approval is obtained, the 54260  
director shall adopt rules in accordance with Chapter 119. of the 54261  
Revised Code governing the copayment program. 54262

Sec. 5111.0113. Children who are in the temporary or 54263  
permanent custody of a certified public or private nonprofit 54264  
agency or institution or in adoptions subsidized under division 54265  
(B) of section 5153.163 of the Revised Code are eligible for 54266  
medical assistance through the medicaid program established under 54267  
section 5111.01 of the Revised Code. 54268

**Sec. 5111.02.** (A) Under the medical assistance program: 54269

(1) Except as otherwise permitted by federal statute or 54270  
regulation and at the department's discretion, reimbursement by 54271  
the department of job and family services to a medical provider 54272  
for any medical service rendered under the program shall not 54273  
exceed the authorized reimbursement level for the same service 54274  
under the medicare program established under Title XVIII of the 54275  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 54276  
amended. 54277

(2) Reimbursement for freestanding medical laboratory charges 54278  
shall not exceed the customary and usual fee for laboratory 54279  
profiles. 54280

(3) The department may deduct from payments for services 54281  
rendered by a medicaid provider under the medical assistance 54282  
program any amounts the provider owes the state as the result of 54283  
incorrect medical assistance payments the department has made to 54284

the provider. 54285

(4) The department may conduct final fiscal audits in 54286  
accordance with the applicable requirements set forth in federal 54287  
laws and regulations and determine any amounts the provider may 54288  
owe the state. When conducting final fiscal audits, the department 54289  
shall consider generally accepted auditing standards, which 54290  
include the use of statistical sampling. 54291

(5) The number of days of inpatient hospital care for which 54292  
reimbursement is made on behalf of a recipient of medical 54293  
assistance to a hospital that is not paid under a 54294  
diagnostic-related-group prospective payment system shall not 54295  
exceed thirty days during a period beginning on the day of the 54296  
recipient's admission to the hospital and ending sixty days after 54297  
the termination of that hospital stay, except that the department 54298  
may make exceptions to this limitation. The limitation does not 54299  
apply to children participating in the program for medically 54300  
handicapped children established under section 3701.023 of the 54301  
Revised Code. 54302

(B) The director of job and family services may adopt, amend, 54303  
or rescind rules under Chapter 119. of the Revised Code 54304  
establishing the amount, duration, and scope of medical services 54305  
to be included in the medical assistance program. Such rules shall 54306  
establish the conditions under which services are covered and 54307  
reimbursed, the method of reimbursement applicable to each covered 54308  
service, and the amount of reimbursement or, in lieu of such 54309  
amounts, methods by which such amounts are to be determined for 54310  
each covered service. Any rules that pertain to nursing facilities 54311  
or intermediate care facilities for the mentally retarded shall be 54312  
consistent with sections 5111.20 to 5111.33 of the Revised Code. 54313

~~(C) No health insuring corporation that has a contract to 54314  
provide health care services to recipients of medical assistance 54315  
shall restrict the availability to its enrollees of any 54316~~

~~prescription drugs included in the Ohio medicaid drug formulary as~~ 54317  
~~established under rules adopted by the director.~~ 54318

~~(D)~~ The division of any reimbursement between a collaborating 54319  
physician or podiatrist and a clinical nurse specialist, certified 54320  
nurse-midwife, or certified nurse practitioner for services 54321  
performed by the nurse shall be determined and agreed on by the 54322  
nurse and collaborating physician or podiatrist. In no case shall 54323  
reimbursement exceed the payment that the physician or podiatrist 54324  
would have received had the physician or podiatrist provided the 54325  
entire service. 54326

**Sec. 5111.021.** Under the medical assistance program, any 54327  
amount determined to be owed the state by a final fiscal audit 54328  
conducted pursuant to division (A)(4) of section 5111.02 of the 54329  
Revised Code, upon the issuance of an adjudication order pursuant 54330  
to Chapter 119. of the Revised Code that contains a finding that 54331  
there is a preponderance of the evidence that the provider will 54332  
liquidate assets or file bankruptcy in order to prevent payment of 54333  
the amount determined to be owed the state, becomes a lien upon 54334  
the real and personal property of the provider. Upon failure of 54335  
the provider to pay the amount to the state, the director of job 54336  
and family services shall file notice of the lien, for which there 54337  
shall be no charge, in the office of the county recorder of the 54338  
county in which it is ascertained that the provider owns real or 54339  
personal property. The director shall notify the provider by mail 54340  
of the lien, but absence of proof that the notice was sent does 54341  
not affect the validity of the lien. The lien is not valid as 54342  
against the claim of any mortgagee, pledgee, purchaser, judgment 54343  
creditor, or other lienholder of record at the time the notice is 54344  
filed. 54345

If the provider acquires real or personal property after 54346  
notice of the lien is filed, the lien shall not be valid as 54347

against the claim of any mortgagee, pledgee, subsequent bona fide 54348  
purchaser for value, judgment creditor, or other lienholder of 54349  
record to such after-acquired property unless the notice of lien 54350  
is refiled after the property is acquired by the provider and 54351  
before the competing lien attaches to the after-acquired property 54352  
or before the conveyance to the subsequent bona fide purchaser for 54353  
value. 54354

When the amount has been paid, the provider may record with 54355  
the recorder notice of the payment. For recording such notice of 54356  
payment, the recorder shall charge and receive from the provider a 54357  
base fee of one dollar for services and a housing trust fund fee 54358  
of one dollar pursuant to section 317.36 of the Revised Code. 54359

In the event of a distribution of a provider's assets 54360  
pursuant to an order of any court under the law of this state 54361  
including any receivership, assignment for benefit of creditors, 54362  
adjudicated insolvency, or similar proceedings, amounts then or 54363  
thereafter due the state under this chapter have the same priority 54364  
as provided by law for the payment of taxes due the state and 54365  
shall be paid out of the receivership trust fund or other such 54366  
trust fund in the same manner as provided for claims for unpaid 54367  
taxes due the state. 54368

If the attorney general finds after investigation that any 54369  
amount due the state under this chapter is uncollectable, in whole 54370  
or in part, the attorney general shall recommend to the director 54371  
the cancellation of all or part of the claim. The director may 54372  
thereupon effect the cancellation. 54373

**Sec. 5111.022.** (A) As used in this section: 54374

(1) "Community mental health facility" means a community 54375  
mental health facility that has a quality assurance program 54376  
accredited by the joint commission on accreditation of healthcare 54377  
organizations or is certified by the department of mental health 54378

or department of job and family services. 54379

(2) "Mental health professional" means a person qualified to 54380  
work with mentally ill persons under the standards established by 54381  
the director of mental health pursuant to section 5119.611 of the 54382  
Revised Code. 54383

~~(B) The state medicaid plan for providing medical assistance~~ 54384  
~~under Title XIX of the "Social Security Act," 49 Stat. 620, 42~~ 54385  
~~U.S.C.A. 301, as amended,~~ shall include provision of the following 54386  
mental health services when provided by community mental health 54387  
~~facilities described in division (B) of this section:~~ 54388

(1) Outpatient mental health services, including, but not 54389  
limited to, preventive, diagnostic, therapeutic, rehabilitative, 54390  
and palliative interventions rendered to individuals in an 54391  
individual or group setting by a mental health professional in 54392  
accordance with a plan of treatment appropriately established, 54393  
monitored, and reviewed; 54394

(2) Partial-hospitalization mental health services of three 54395  
to fourteen hours per service day, rendered by persons directly 54396  
supervised by a mental health professional; 54397

(3) Unscheduled, emergency mental health services of a kind 54398  
ordinarily provided to persons in crisis when rendered by persons 54399  
supervised by a mental health professional; 54400

(4) Subject to receipt of federal approval, assertive 54401  
community treatment and intensive home-based mental health 54402  
services. 54403

~~(B) Services shall be included in the state plan only when~~ 54404  
~~provided by community mental health facilities that have quality~~ 54405  
~~assurance programs accredited by the joint commission on~~ 54406  
~~accreditation of healthcare organizations or certified by the~~ 54407  
~~department of mental health or department of job and family~~ 54408  
~~services.~~ 54409



(C) The comprehensive annual plan shall certify the 54410  
availability of sufficient unencumbered community mental health 54411  
state subsidy and local funds to match ~~Title XIX federal medicaid~~ 54412  
reimbursement funds earned by ~~the community mental health~~ 54413  
facilities. ~~Reimbursement for eligible services shall be based on~~ 54414  
~~the prospective cost of providing the services as developed in~~ 54415  
~~standards adopted as part of the comprehensive annual plan.~~ 54416

(D) ~~As used in this section, "mental health professional"~~ 54417  
~~means a person qualified to work with mentally ill persons under~~ 54418  
~~the standards established by the director of mental health~~ 54419  
~~pursuant to section 5119.611 of the Revised Code.~~ 54420

(E) ~~With respect to services established by division (A) of~~ 54421  
~~this section, the The department of job and family services shall~~ 54422  
~~enter into a separate contract with the department of mental~~ 54423  
~~health under section 5111.91 of the Revised Code with regard to~~ 54424  
~~the component of the medicaid program provided for by this~~ 54425  
~~section. The terms of the contract between the department of job~~ 54426  
~~and family services and the department of mental health shall~~ 54427  
~~specify both of the following:~~ 54428

(1) ~~That the department of mental health and boards of~~ 54429  
~~alcohol, drug addiction, and mental health services shall provide~~ 54430  
~~state and local matching funds for Title XIX of the "Social~~ 54431  
~~Security Act," for reimbursement of services established by~~ 54432  
~~division (A) of this section;~~ 54433

(2) ~~How the community mental health facilities described in~~ 54434  
~~division (B) of this section will be paid for providing the~~ 54435  
~~services established by division (A) of this section.~~ 54436

(E) Not later than May 1, 2004, the department of job and 54437  
family services shall request federal approval to provide 54438  
assertive community treatment and intensive home-based mental 54439  
health services under medicaid pursuant to this section. 54440

(F) On receipt of federal approval sought under division (E) 54441  
of this section, the director of job and family services shall 54442  
adopt rules in accordance with Chapter 119. of the Revised Code 54443  
establishing statewide access and acuity standards for partial 54444  
hospitalization mental health services and assertive community 54445  
treatment and intensive home-based mental health services provided 54446  
under medicaid pursuant to this section. The director shall 54447  
consult with the department of mental health in adopting the 54448  
rules. 54449

**Sec. 5111.025.** (A) In rules adopted under section 5111.02 of 54450  
the Revised Code, the director of job and family services shall 54451  
modify the manner or establish a new manner in which the following 54452  
are paid under medicaid: 54453

(1) Community mental health facilities for providing mental 54454  
health services included in the state medicaid plan pursuant to 54455  
section 5111.022 of the Revised Code; 54456

(2) Providers of alcohol and drug addiction services for 54457  
providing alcohol and drug addiction services included in the 54458  
medicaid program pursuant to rules adopted under section 5111.02 54459  
of the Revised Code. 54460

(B) In modifying the manner, or establishing a new manner, 54461  
for medicaid to pay for the services specified in division (A) of 54462  
this section, the director shall include a provision for obtaining 54463  
federal financial participation for the costs that each board of 54464  
alcohol, drug addiction, and mental health services incurs in its 54465  
administration of those services. Except as provided in section 54466  
5111.92 of the Revised Code, the department of job and family 54467  
services shall pay the federal financial participation obtained 54468  
for such administrative costs to the board that incurs the 54469  
administrative costs. 54470

(C) The director's authority to modify the manner, or to 54471  
establish a new manner, for medicaid to pay for the services 54472  
specified in division (A) of this section is not limited by any 54473  
rules adopted under section 5111.02 or 5119.61 of the Revised Code 54474  
that are in effect on the effective date of this section and 54475  
govern the way medicaid pays for those services. This is the case 54476  
regardless of what state agency adopted the rules. 54477

**Sec. 5111.03.** (A) No provider of services or goods 54478  
contracting with the department of job and family services 54479  
pursuant to the medicaid program shall, by deception, obtain or 54480  
attempt to obtain payments under this chapter to which the 54481  
provider is not entitled pursuant to the provider agreement, or 54482  
the rules of the federal government or the department of job and 54483  
family services relating to the program. No provider shall 54484  
willfully receive payments to which the provider is not entitled, 54485  
or willfully receive payments in a greater amount than that to 54486  
which the provider is entitled; nor shall any provider falsify any 54487  
report or document required by state or federal law, rule, or 54488  
provider agreement relating to medicaid payments. As used in this 54489  
section, a provider engages in "deception" when the provider, 54490  
acting with actual knowledge of the representation or information 54491  
involved, acting in deliberate ignorance of the truth or falsity 54492  
of the representation or information involved, or acting in 54493  
reckless disregard of the truth or falsity of the representation 54494  
or information involved, deceives another or causes another to be 54495  
deceived by any false or misleading representation, by withholding 54496  
information, by preventing another from acquiring information, or 54497  
by any other conduct, act, or omission that creates, confirms, or 54498  
perpetuates a false impression in another, including a false 54499  
impression as to law, value, state of mind, or other objective or 54500  
subjective fact. No proof of specific intent to defraud is 54501  
required to show, for purposes of this section, that a provider 54502

has engaged in deception. 54503

(B) Any provider who violates division (A) of this section 54504  
shall be liable, in addition to any other penalties provided by 54505  
law, for all of the following civil penalties: 54506

(1) Payment of interest on the amount of the excess payments 54507  
at the maximum interest rate allowable for real estate mortgages 54508  
under section 1343.01 of the Revised Code on the date the payment 54509  
was made to the provider for the period from the date upon which 54510  
payment was made, to the date upon which repayment is made to the 54511  
state; 54512

(2) Payment of an amount equal to three times the amount of 54513  
any excess payments; 54514

(3) Payment of a sum of not less than five thousand dollars 54515  
and not more than ten thousand dollars for each deceptive claim or 54516  
falsification; 54517

(4) All reasonable expenses which the court determines have 54518  
been necessarily incurred by the state in the enforcement of this 54519  
section. 54520

(C) ~~In~~ As used in this division, "intermediate care facility 54521  
for the mentally retarded" and "nursing facility" have the same 54522  
meanings given in section 5111.20 of the Revised Code. 54523

In addition to the civil penalties provided in division (B) 54524  
of this section, the director of job and family services, upon the 54525  
conviction of, or the entry of a judgment in either a criminal or 54526  
civil action against, a medicaid provider or its owner, officer, 54527  
authorized agent, associate, manager, or employee in an action 54528  
brought pursuant to section 109.85 of the Revised Code, shall 54529  
terminate the provider agreement between the department and the 54530  
provider and stop reimbursement to the provider for services 54531  
rendered for a period of up to five years from the date of 54532  
conviction or entry of judgment. As used in this chapter, "owner" 54533

means any person having at least five per cent ownership in the 54534  
medicaid provider. No such provider, owner, officer, authorized 54535  
agent, associate, manager, or employee shall own or provide 54536  
services to any other medicaid provider or risk contractor or 54537  
arrange for, render, or order services for medicaid recipients 54538  
during the period of termination as provided in division (C) of 54539  
this section, nor, during the period of termination as provided in 54540  
division (C) of this section, shall such provider, owner, officer, 54541  
authorized agent, associate, manager, or employee receive 54542  
reimbursement in the form of direct payments from the department 54543  
or indirect payments of medicaid funds in the form of salary, 54544  
shared fees, contracts, kickbacks, or rebates from or through any 54545  
participating provider or risk contractor. The provider agreement 54546  
shall not be terminated or reimbursement terminated if the 54547  
provider or owner can demonstrate that the provider or owner did 54548  
not directly or indirectly sanction the action of its authorized 54549  
agent, associate, manager, or employee that resulted in the 54550  
conviction or entry of a judgment in a criminal or civil action 54551  
brought pursuant to section 109.85 of the Revised Code. Nothing in 54552  
this division prohibits any owner, officer, authorized agent, 54553  
associate, manager, or employee of a medicaid provider from 54554  
entering into a medicaid provider agreement if the person can 54555  
demonstrate that the person had no knowledge of an action of the 54556  
medicaid provider the person was formerly associated with that 54557  
resulted in the conviction or entry of a judgment in a criminal or 54558  
civil action brought pursuant to section 109.85 of the Revised 54559  
Code. 54560

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 54561  
~~Revised Code~~ Nursing facility or intermediate care facility for 54562  
the mentally retarded providers whose agreements are terminated 54563  
pursuant to this section may continue to receive reimbursement for 54564  
up to thirty days after the effective date of the termination if 54565  
the provider makes reasonable efforts to transfer recipients to 54566

another facility or to alternate care and if federal funds are 54567  
provided for such reimbursement. 54568

(D) Any provider of services or goods contracting with the 54569  
department of job and family services pursuant to Title XIX of the 54570  
"Social Security Act," who, without intent, obtains payments under 54571  
this chapter in excess of the amount to which the provider is 54572  
entitled, thereby becomes liable for payment of interest on the 54573  
amount of the excess payments at the maximum real estate mortgage 54574  
rate on the date the payment was made to the provider for the 54575  
period from the date upon which payment was made to the date upon 54576  
which repayment is made to the state. 54577

(E) The attorney general on behalf of the state may commence 54578  
proceedings to enforce this section in any court of competent 54579  
jurisdiction; and the attorney general may settle or compromise 54580  
any case brought under this section with the approval of the 54581  
department of job and family services. Notwithstanding any other 54582  
provision of law providing a shorter period of limitations, the 54583  
attorney general may commence a proceeding to enforce this section 54584  
at any time within six years after the conduct in violation of 54585  
this section terminates. 54586

(F) The authority, under state and federal law, of the 54587  
department of job and family services or a county department of 54588  
job and family services to recover excess payments made to a 54589  
provider is not limited by the availability of remedies under 54590  
sections 5111.11 and 5111.12 of the Revised Code for recovering 54591  
benefits paid on behalf of recipients of medical assistance. 54592

The penalties under this chapter apply to any overpayment, 54593  
billing, or falsification occurring on and after April 24, 1978. 54594  
All moneys collected by the state pursuant to this section shall 54595  
be deposited in the state treasury to the credit of the general 54596  
revenue fund. 54597

Sec. 5111.06. (A)(1) As used in this section:	54598
(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.	54599 54600 54601 54602 54603
(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.	54604 54605
(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.	54606 54607
(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code.	54608 54609 54610
(B) Except as provided in division (D) of this section, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:	54611 54612 54613 54614
(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;	54615 54616 54617
(2) Take any action based upon a final fiscal audit of a provider.	54618 54619
(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.	54620 54621 54622 54623
(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:	54624 54625
(1) The terms of a provider agreement require the provider to	54626

have a license, permit, or certificate issued by an official, 54627  
board, commission, department, division, bureau, or other agency 54628  
of state government other than the department of job and family 54629  
services, and the license, permit, or certificate has been denied 54630  
or revoked. 54631

(2) The provider agreement is denied, terminated, or not 54632  
renewed pursuant to division (C) or (E) of section 5111.03 of the 54633  
Revised Code; 54634

(3) The provider agreement is denied, terminated, or not 54635  
renewed due to the provider's termination, suspension, or 54636  
exclusion from the medicare program established under Title XVIII 54637  
of the "Social Security Act," and the termination, suspension, or 54638  
exclusion is binding on the provider's participation in the 54639  
medicaid program; 54640

(4) The provider agreement is denied, terminated, or not 54641  
renewed due to the provider's pleading guilty to or being 54642  
convicted of a criminal activity materially related to either the 54643  
medicare or medicaid program; 54644

(5) The provider agreement is denied, terminated, or 54645  
suspended as a result of action by the United States department of 54646  
health and human services and that action is binding on the 54647  
provider's participation in the medicaid program. 54648

(E) The department may withhold payments for services 54649  
rendered by a medicaid provider under the medical assistance 54650  
program during the pendency of proceedings initiated under 54651  
division (B)(1) of this section. If the proceedings are initiated 54652  
under division (B)(2) of this section, the department may withhold 54653  
payments only to the extent that they equal amounts determined in 54654  
a final fiscal audit as being due the state. This division does 54655  
not apply if the department fails to comply with section 119.07 of 54656  
the Revised Code, requests a continuance of the hearing, or does 54657



not issue a decision within thirty days after the hearing is 54658  
completed. This division does not apply to nursing facilities and 54659  
intermediate care facilities for the mentally retarded ~~subject to~~ 54660  
~~sections as defined in section~~ 5111.20 to 5111.32 of the Revised 54661  
Code. 54662

**Sec. ~~5111.08~~ 5111.071.** Commencing in December, 1986, and 54663  
every second December thereafter, the director of job and family 54664  
services shall establish a dispensing fee, effective the following 54665  
January, for licensed pharmacists who are providers under this 54666  
chapter. The dispensing fee shall take into consideration the 54667  
results of the survey conducted under section 5111.07 of the 54668  
Revised Code. 54669

**Sec. ~~5111.16~~ 5111.08.** In accordance with subsection (g) of 54670  
section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 54671  
U.S.C.A. 1396r-8(g), as amended, the department of job and family 54672  
services shall establish an outpatient drug use review program to 54673  
assure that prescriptions obtained by recipients of medical 54674  
assistance under this chapter are appropriate, medically 54675  
necessary, and unlikely to cause adverse medical results. 54676

**Sec. 5111.082.** The director of job and family services, in 54677  
rules adopted under section 5111.02 of the Revised Code, may 54678  
establish and implement a supplemental drug rebate program under 54679  
which drug manufacturers may be required to provide the department 54680  
of job and family services a supplemental rebate as a condition of 54681  
having the drug manufacturers' drug products covered by the 54682  
medicaid program without prior approval. If necessary, the 54683  
director may apply to the United States secretary of health and 54684  
human services for a waiver of federal statutes and regulations to 54685  
establish the supplemental drug rebate program. 54686

If the director establishes a supplemental drug rebate 54687

program, the director shall consult with drug manufacturers 54688  
regarding the establishment and implementation of the program. 54689

If the director establishes a supplemental drug rebate 54690  
program, the director shall exempt from the program and from prior 54691  
authorization or any other restriction all of a drug 54692  
manufacturer's drug products that have been approved by the United 54693  
States food and drug administration and for which there is no 54694  
generic equivalent for the treatment of either of the following: 54695

(A) Mental illness, as defined in section 5122.01 of the 54696  
Revised Code, including schizophrenia, major depressive disorder, 54697  
and bipolar disorder; 54698

(B) HIV or AIDS, both as defined in section 3701.24 of the 54699  
Revised Code. 54700

**Sec. 5111.111.** As used in this section, "home and 54701  
community-based services" means services provided pursuant to a 54702  
waiver under section 1915 of the "Social Security Act," 49 Stat. 54703  
620 (1935), 42 U.S.C.A. 1396n, as amended. 54704

The department of job and family services may place a lien 54705  
against the property of a medical assistance recipient or 54706  
recipient's spouse, other than a recipient or spouse of a 54707  
recipient of home and community-based services, that the 54708  
department may recover as part of the program instituted under 54709  
section 5111.11 of the Revised Code. When medical assistance is 54710  
paid on behalf of any person in circumstances under which federal 54711  
law and regulations and this section permit the imposition of a 54712  
lien, the director of job and family services or a person 54713  
designated by the director may sign a certificate to the effect. 54714  
The county department of job and family services shall file for 54715  
recording and indexing the certificate, or a certified copy, in 54716  
the real estate mortgage records in the office of the county 54717  
recorder in every county in which real property of the recipient 54718

or spouse is situated. From the time of filing the certificate in 54719  
the office of the county recorder, the lien attaches to all real 54720  
property of the recipient or spouse described therein for all 54721  
amounts of aid which are paid or which thereafter are paid, and 54722  
shall remain a lien until satisfied. 54723

Upon filing the certificate in the office of the recorder, 54724  
all persons are charged with notice of the lien and the rights of 54725  
the department of job and family services thereunder. 54726

The county recorder shall keep a record of every certificate 54727  
filed showing its date, the time of filing, the name and residence 54728  
of the recipient or spouse, and any release, waivers, or 54729  
satisfaction of the lien. 54730

The priority of the lien shall be established in accordance 54731  
with state and federal law. 54732

The department may waive the priority of its lien to provide 54733  
for the costs of the last illness as determined by the department, 54734  
administration, attorney fees, administrator fees, a sum for the 54735  
payment of the costs of burial, which shall be computed by 54736  
deducting from five hundred dollars whatever amount is available 54737  
for the same purpose from all other sources, and a similar sum for 54738  
the spouse of the decedent. 54739

Sec. 5111.151. (A) This section applies to eligibility 54740  
determinations for all cases involving medical assistance provided 54741  
pursuant to this chapter, qualified medicare beneficiaries, 54742  
specified low-income medicare beneficiaries, qualifying 54743  
individuals-1, qualifying individuals-2, and medical assistance 54744  
for covered families and children. 54745

(B) As used in this section: 54746

(1) "Trust" means any arrangement in which a grantor 54747  
transfers real or personal property to a trust with the intention 54748

that it be held, managed, or administered by at least one trustee 54749  
for the benefit of the grantor or beneficiaries. "Trust" includes 54750  
any legal instrument or device similar to a trust. 54751

(2) "Legal instrument or device similar to a trust" includes, 54752  
but is not limited to, escrow accounts, investment accounts, 54753  
partnerships, contracts, and other similar arrangements that are 54754  
not called trusts under state law but are similar to a trust and 54755  
to which all of the following apply: 54756

(a) The property in the trust is held, managed, retained, or 54757  
administered by a trustee. 54758

(b) The trustee has an equitable, legal, or fiduciary duty to 54759  
hold, manage, retain, or administer the property for the benefit 54760  
of the beneficiary. 54761

(c) The trustee holds identifiable property for the 54762  
beneficiary. 54763

(3) "Grantor" is a person who creates a trust, including all 54764  
of the following: 54765

(a) An individual; 54766

(b) An individual's spouse; 54767

(c) A person, including a court or administrative body, with 54768  
legal authority to act in place of or on behalf of an individual 54769  
or an individual's spouse; 54770

(d) A person, including a court or administrative body, that 54771  
acts at the direction or on request of an individual or the 54772  
individual's spouse. 54773

(4) "Beneficiary" is a person or persons, including a 54774  
grantor, who benefits in some way from a trust. 54775

(5) "Trustee" is a person who manages a trust's principal and 54776  
income for the benefit of the beneficiaries. 54777

<u>(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.</u>	54778
	54779
	54780
<u>(7) "Applicant" is an individual who applies for medical assistance benefits or the individual's spouse.</u>	54781
	54782
<u>(8) "Recipient" is an individual who receives medical assistance benefits or the individual's spouse.</u>	54783
	54784
<u>(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:</u>	54785
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	54787
<u>(a) A trust that provides that the trust can be terminated only by a court;</u>	54788
	54789
<u>(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.</u>	54790
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	54792
<u>(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.</u>	54793
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<u>(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.</u>	54797
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<u>(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.</u>	54800
	54801
	54802
<u>(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.</u>	54803
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	54805
<u>(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine</u>	54806
	54807

what type of trust it is and shall treat the trust in accordance 54808  
with the appropriate provisions of this section and rules adopted 54809  
by the department of job and family services governing trusts. The 54810  
county department of job and family services may determine that 54811  
the trust or portion of the trust is one of the following: 54812

(1) A countable resource; 54813

(2) Countable income; 54814

(3) A countable resource and countable income; 54815

(4) Not a countable resource or countable income. 54816

(D)(1) A trust or legal instrument or device similar to a 54817  
trust shall be considered a self-settled trust if all of the 54818  
following apply: 54819

(a) The trust was established on or after August 11, 1993. 54820

(b) The trust was not established by a will. 54821

(c) The trust was established by an applicant or recipient, 54822  
spouse of an applicant or recipient, or a person, including a 54823  
court or administrative body, with legal authority to act in place 54824  
of or on behalf of an applicant, recipient, or spouse, or acting 54825  
at the direction or on request of an applicant, recipient, or 54826  
spouse. 54827

(2) A trust that meets the requirements of division (D)(1) of 54828  
this section and is a revocable trust shall be treated by the 54829  
county department of job and family services as follows: 54830

(a) The corpus of the trust shall be considered a resource 54831  
available to the applicant or recipient. 54832

(b) Payments from the trust to or for the benefit of the 54833  
applicant or recipient shall be considered unearned income of the 54834  
applicant or recipient. 54835

(c) Any other payments from the trust shall be considered an 54836

improper transfer of resources and shall be subject to rules 54837  
adopted by the department of job and family services governing 54838  
improper transfers of resources. 54839

(3) A trust that meets the requirements of division (D)(1) of 54840  
this section and is an irrevocable trust shall be treated by the 54841  
county department of job and family services as follows: 54842

(a) If there are any circumstances under which payment from 54843  
the trust could be made to or for the benefit of the applicant or 54844  
recipient, including a payment that can be made only in the 54845  
future, the portion from which payments could be made shall be 54846  
considered a resource available to the applicant or recipient. The 54847  
county department of job and family services shall not take into 54848  
account when payments can be made. 54849

(b) Any payment that is actually made to or for the benefit 54850  
of the applicant or recipient from either the corpus or income 54851  
shall be considered unearned income. 54852

(c) If a payment is made to someone other than to the 54853  
applicant or recipient and the payment is not for the benefit of 54854  
the applicant or recipient, the payment shall be considered an 54855  
improper transfer of resources and shall be subject to rules 54856  
adopted by the department of job and family services governing 54857  
improper transfers of resources. 54858

(d) The date of the transfer shall be the later of the date 54859  
of establishment of the trust or the date of the occurrence of the 54860  
event. 54861

(e) When determining the value of the transferred resource 54862  
under this provision, the value of the trust shall be its value on 54863  
the date payment to the applicant or recipient was foreclosed. 54864

(f) Any income earned or other resources added subsequent to 54865  
the foreclosure date shall be added to the total value of the 54866  
trust. 54867

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value. 54868  
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(h) Any addition of resources after the foreclosure date shall be considered a separate transfer. 54872  
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(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient. 54874  
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(5) The availability of a self-settled trust shall be considered without regard to any of the following: 54880  
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(a) The purpose for which the trust is established; 54882

(b) Whether the trustees have exercised or may exercise discretion under the trust; 54883  
54884

(c) Any restrictions on when or whether distributions may be made from the trust; 54885  
54886

(d) Any restrictions on the use of distributions from the trust. 54887  
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(6) The baseline date for the look-back period for transfers of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving self-settled trusts: 54889  
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(a) If a self-settled trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the 54895  
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applicant or recipient, the distribution shall be considered an 54898  
improper transfer of resources. The look-back period shall be 54899  
sixty months from the baseline date. The transfer shall be 54900  
considered to have taken place on the date on which the payment to 54901  
someone other than the applicant or recipient was made. 54902

(b) If a self-settled trust is an irrevocable trust and a 54903  
portion of the trust is not distributable to the applicant or 54904  
recipient, the trust shall be treated as an improper transfer of 54905  
resources. The look-back period shall be sixty months from the 54906  
baseline date. The transfer is considered to have been made as of 54907  
the later of the date the trust was established or the date on 54908  
which payment to the applicant or recipient was foreclosed. The 54909  
value of these assets shall not be reduced by any payments from 54910  
the trust that may be made from these unavailable assets at a 54911  
later date. 54912

(c) If a self-settled trust is an irrevocable trust and a 54913  
portion or all of the trust may be disbursed to or for the benefit 54914  
of the applicant or recipient, any payment that is made to another 54915  
person other than the applicant or recipient shall be considered 54916  
an improper transfer of resources. The look-back period is 54917  
thirty-six months from the baseline date. The transfer shall be 54918  
considered to have been made as of the date of payment to the 54919  
other person. 54920

(E) The principal or income from any of the following shall 54921  
be exempt from being counted as a resource by a county department 54922  
of job and family services: 54923

(1)(a) A special needs trust that meets all of the following 54924  
requirements: 54925

(i) The trust contains assets of an applicant or recipient 54926  
under sixty-five years of age and may contain the assets of other 54927  
individuals. 54928

(ii) The applicant or recipient is disabled as defined in 54929  
rules adopted by the department of job and family services. 54930

(iii) The trust is established for the benefit of the 54931  
applicant or recipient by a parent, grandparent, legal guardian, 54932  
or a court. 54933

(iv) The trust requires that on the death of the applicant or 54934  
recipient the state will receive all amounts remaining in the 54935  
trust up to an amount equal to the total amount of medical 54936  
assistance paid on behalf of the applicant or recipient. 54937

(b) If a special needs trust meets the requirements of 54938  
division (E)(1)(a) of this section and has been established for a 54939  
disabled applicant or recipient under sixty-five years of age, the 54940  
exemption for the trust granted pursuant to division (E) of this 54941  
section shall continue after the disabled applicant or recipient 54942  
becomes sixty-five years of age if the applicant or recipient 54943  
continues to be disabled as defined in rules adopted by the 54944  
department of job and family services. Except for income earned by 54945  
the trust, the grantor shall not add to or otherwise augment the 54946  
trust after the applicant or recipient attains sixty-five years of 54947  
age. An addition or augmentation of the trust by the applicant or 54948  
recipient with the applicant's own assets after the applicant or 54949  
recipient attains sixty-five years of age shall be treated as an 54950  
improper transfer of resources. 54951

(c) Cash distributions to the applicant or recipient shall be 54952  
counted as unearned income. All other distributions from the trust 54953  
shall be treated as provided in rules adopted by the department of 54954  
job and family services governing in-kind income. 54955

(d) Transfers of assets to a special needs trust shall not be 54956  
treated as an improper transfer of resources. Assets held prior to 54957  
the transfer to the trust shall be considered as countable assets 54958  
or countable income or countable assets and income. 54959

<u>(2)(a) A qualifying income trust that meets all of the</u>	54960
<u>following requirements:</u>	54961
<u>(i) The trust is composed only of pension, social security,</u>	54962
<u>and other income to the applicant or recipient, including</u>	54963
<u>accumulated interest in the trust.</u>	54964
<u>(ii) The income is received by the individual and the right</u>	54965
<u>to receive the income is not assigned or transferred to the trust.</u>	54966
<u>(iii) The trust requires that on the death of the applicant</u>	54967
<u>or recipient the state will receive all amounts remaining in the</u>	54968
<u>trust up to an amount equal to the total amount of medical</u>	54969
<u>assistance paid on behalf of the applicant or recipient.</u>	54970
<u>(b) No resources shall be used to establish or augment the</u>	54971
<u>trust.</u>	54972
<u>(c) If an applicant or recipient has irrevocably transferred</u>	54973
<u>or assigned the applicant's or recipient's right to receive income</u>	54974
<u>to the trust, the trust shall not be considered a qualifying</u>	54975
<u>income trust by the county department of job and family services.</u>	54976
<u>(d) Income placed in a qualifying income trust shall not be</u>	54977
<u>counted in determining an applicant's or recipient's eligibility</u>	54978
<u>for medical assistance. The recipient of the funds may place any</u>	54979
<u>income directly into a qualifying income trust without those funds</u>	54980
<u>adversely affecting the applicant's or recipient's eligibility for</u>	54981
<u>medical assistance. Income generated by the trust that remains in</u>	54982
<u>the trust shall not be considered as income to the applicant or</u>	54983
<u>recipient.</u>	54984
<u>(e) All income placed in a qualifying income trust shall be</u>	54985
<u>combined with any countable income not placed in the trust to</u>	54986
<u>arrive at a base income figure to be used for spend down</u>	54987
<u>calculations.</u>	54988
<u>(f) The base income figure shall be used for post-eligibility</u>	54989

deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations. 54990  
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(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability. 54996  
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(3)(a) A pooled trust that meets all of the following requirements: 55002  
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(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted by the department of job and family services. 55004  
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(ii) The trust is established and managed by a nonprofit association. 55007  
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(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts. 55009  
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(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled. 55012  
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(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the 55016  
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beneficiary. 55021

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income. 55022  
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(c) Transfers of assets to a pooled trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets, countable income, or countable assets and income. 55026  
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(4) A supplemental services trust that meets the requirements of section 1339.51 of the Revised Code and to which all of the following apply: 55030  
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(a) A person may establish a supplemental services trust pursuant to section 1339.51 of the Revised Code only for another person who is eligible to receive services through one of the following agencies: 55033  
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(i) The department of mental retardation and developmental disabilities; 55037  
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(ii) A county board of mental retardation and developmental disabilities; 55039  
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(iii) The department of mental health; 55041

(iv) A board of alcohol, drug addiction, and mental health services. 55042  
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(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following: 55044  
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(i) Provide documentation from one of the agencies listed in division (E)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust; 55047  
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(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (E)(4)(a) of this section at the time of the creation of the trust. 55051  
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(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2002 is two hundred fourteen thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars. 55055  
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(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 1339.51 of the Revised Code. 55060  
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(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary. 55063  
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(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (E)(4) of this section and section 1339.51 of the Revised Code, the county department of job and family services shall not consider it an exempt trust. 55069  
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(F)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply: 55075  
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(a) The trust is created by a person other than the applicant or recipient. 55079  
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(b) The trust names the applicant or recipient as a beneficiary. 55081  
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(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust. 55083  
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(2) Any portion of a trust that meets the requirements of division (F)(1) of this section shall be an available resource only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes. 55086  
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(3) A trust that meets the requirements of division (F)(1) of this section shall be considered an available resource even if the trust contains any of the following types of provisions: 55092  
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(a) A provision that prohibits the trustee from making payments that would supplant or replace medical assistance or other public assistance; 55095  
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(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medical assistance or other public assistance; 55098  
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(c) A provision that attempts to prevent the trust or its corpus or principal from being counted as an available resource. 55102  
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(4) A trust that meets the requirements of division (F)(1) of this section shall not be counted as an available resource if at least one of the following circumstances applies: 55104  
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(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to 55107  
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preserve a portion of the trust shall not qualify as a clear 55111  
statement requiring the trustee to preserve a portion of the 55112  
trust. 55113

(b) If a trust contains a clear statement requiring the 55114  
trustee to use a portion of the trust for a purpose other than 55115  
medical care, care, comfort, maintenance, welfare, or general well 55116  
being of the applicant or recipient, that portion of the trust 55117  
shall not be counted as an available resource. Terms of a trust 55118  
that grant discretion to limit the use of a portion of the trust 55119  
shall not qualify as a clear statement requiring the trustee to 55120  
use a portion of the trust for a particular purpose. 55121

(c) If a trust contains a clear statement limiting the 55122  
trustee to making fixed periodic payments, the trust shall not be 55123  
counted as an available resource and payments shall be treated in 55124  
accordance with rules adopted by the department of job and family 55125  
services governing income. Terms of a trust that grant discretion 55126  
to limit payments shall not qualify as a clear statement requiring 55127  
the trustee to make fixed periodic payments. 55128

(d) If a trust contains a clear statement that requires the 55129  
trustee to terminate the trust if it is counted as an available 55130  
resource, the trust shall not be counted as an available resource. 55131  
Terms of a trust that grant discretion to terminate the trust do 55132  
not qualify as a clear statement requiring the trustee to 55133  
terminate the trust. 55134

(e) If a person obtains a judgment from a court of competent 55135  
jurisdiction that expressly prevents the trustee from using part 55136  
or all of the trust for the medical care, care, comfort, 55137  
maintenance, welfare, or general well being of the applicant or 55138  
recipient, the trust or that portion of the trust subject to the 55139  
court order shall not be counted as a resource. 55140

(f) If a trust is specifically exempt from being counted as 55141



an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource. 55142  
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(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource. 55144  
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(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. 55149  
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(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource. 55156  
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(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (F)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper transfer of assets. 55160  
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**Sec. 5111.16.** (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human 55169  
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services for waivers of federal medicaid requirements that would 55173  
otherwise be violated in the implementation of the system. 55174

The department shall implement the care management system in 55175  
some or all counties and shall designate the medicaid recipients 55176  
who are required or permitted to participate in the system. In the 55177  
case of individuals who receive medicaid on the basis of being 55178  
aged, blind, or disabled, as specified in division (A)(2) of 55179  
section 5111.01 of the Revised Code, all of the following apply: 55180

(1) Not later than July 1, 2004, the department shall 55181  
designate a portion of the individuals for participation in the 55182  
care management system. 55183

(2) Individuals shall not be designated for participation 55184  
unless they reside in a county in which individuals who receive 55185  
medicaid on another basis have been designated for participation. 55186

(3) If, pursuant to division (B)(2) of this section, the 55187  
department requires or permits the individuals to obtain health 55188  
care services through managed care organizations, the department 55189  
shall select the managed care organizations to be used by the 55190  
individuals through a request for proposals process. The 55191  
department shall issue its initial request for proposals not later 55192  
than December 31, 2003. 55193

(4) Individuals shall not be required to obtain health care 55194  
services through managed care organizations unless they are at 55195  
least twenty-one years of age. 55196

(B) Under the care management system, the department may do 55197  
both of the following: 55198

(1) Require or permit participants in the system to obtain 55199  
health care services from providers designated by the department; 55200

(2) Subject to division (A)(4) of this section, require or 55201  
permit participants in the system to obtain health care services 55202

through managed care organizations under contract with the 55203  
department pursuant to section 5111.17 of the Revised Code. 55204

(C) The director of job and family services may adopt rules 55205  
in accordance with Chapter 119. of the Revised Code to implement 55206  
this section. 55207

**Sec. 5111.161.** (A) As used in this section, "chronically ill 55208  
child" means an individual who is not more than twenty-one years 55209  
of age and meets the conditions specified in division (A)(2) of 55210  
section 5111.01 of the Revised Code to be eligible for medicaid on 55211  
the basis of being blind or disabled. 55212

(B) The department of job and family services shall develop a 55213  
pilot program under which chronically ill children are included 55214  
among the medicaid recipients who are required to participate in 55215  
the care management system established under section 5111.16 of 55216  
the Revised Code. The pilot program shall be implemented not later 55217  
than October 1, 2003. The department shall operate the program 55218  
until October 1, 2005, except that the department shall cease 55219  
operation of the program before that date if either of the 55220  
following is the case: 55221

(1) The department determines that requiring chronically ill 55222  
children to participate in the care management system is not a 55223  
cost-effective means of providing medicaid services; 55224

(2) The combined state and federal cost of operating the 55225  
program reaches three million dollars. 55226

(C) The department shall ensure that the pilot program is 55227  
operated in Hamilton county, Muskingum county, and at least one 55228  
other county selected by the department. The department may extend 55229  
its operation of the program into the areas surrounding the 55230  
counties in which the program is operated. 55231

(D) The purpose of the pilot program shall be to determine 55232

whether occurrences of acute illnesses and hospitalizations among 55233  
chronically ill children can be prevented or reduced by 55234  
establishing a medical home for the children where care is 55235  
administered proactively and in a manner that is accessible, 55236  
continuous, family-centered, coordinated, and compassionate. In 55237  
establishing a medical home for a chronically ill child, all of 55238  
the following apply: 55239

(1) A physician shall serve as the care coordinator for the 55240  
child. The care coordinator may be engaged in practice as a 55241  
pediatrician certified in pediatrics by a medical specialty board 55242  
of the American medical association or American osteopathic 55243  
association, a pediatric subspecialist, or a provider for the 55244  
bureau of children with medical handicaps within the department of 55245  
health. If the physician is in a group practice, any member of the 55246  
group practice may serve as the child's care coordinator. The 55247  
duties of the care coordinator may be performed by a person acting 55248  
under the supervision of the care coordinator. 55249

(2) The child may receive care from any health care 55250  
practitioner appropriate to the child's needs, but the care 55251  
coordinator shall direct and oversee the child's overall care. 55252

(3) The care coordinator shall establish a relationship of 55253  
mutual responsibility with the child's parents or other persons 55254  
who are responsible for the child. Under this relationship, the 55255  
care coordinator shall commit to developing a long-term disease 55256  
prevention strategy and providing disease management and education 55257  
services, while the child's parents or other persons who are 55258  
responsible for the child shall commit to participate fully in 55259  
implementing the child's care management plan. 55260

(4) The medicaid program shall provide reimbursement for the 55261  
reasonable and necessary costs of the services associated with 55262  
care coordination, including, but not limited to, case management, 55263  
care plan oversight, preventive care, health and behavioral care 55264

assessment and intervention, and any service modifier that 55265  
reflects the provision of prolonged services or additional care. 55266

(E) The department shall conduct an evaluation of the pilot 55267  
program's effectiveness. As part of the evaluation, the department 55268  
shall maintain statistics on physician expenditures, hospital 55269  
expenditures, preventable hospitalizations, and other matters the 55270  
department considers necessary to conduct the evaluation. 55271

(F) The department shall adopt rules in accordance with 55272  
Chapter 119. of the Revised Code as necessary to implement this 55273  
section. The rules shall specify standards and procedures to be 55274  
used in designating the chronically ill children who are required 55275  
to participate in the pilot program. 55276

**Sec. 5111.17.** ~~(A) On receipt of a waiver from the United~~ 55277  
~~States department of health and human services of any federal~~ 55278  
~~requirement that would otherwise be violated, the~~ The department 55279  
of job and family services may establish in some or all counties a 55280  
managed care system under which designated recipients of medical 55281  
assistance are required to obtain health care services from 55282  
providers designated by the department. 55283

~~(B) The department may enter into contracts with managed care~~ 55284  
~~organizations to authorize, including health insuring~~ 55285  
corporations, under which the organizations are authorized to 55286  
provide, or arrange for the provision of, health care services to 55287  
medical assistance recipients ~~participating in a~~ who are required 55288  
or permitted to obtain health care services through managed care 55289  
organizations as part of the care management system established 55290  
under ~~this~~ section 5111.16 of the Revised Code. 55291

~~(C) For the purpose of determining the amount the department~~ 55292  
~~pays hospitals under section 5112.08 of the Revised Code and the~~ 55293  
~~amount of disproportionate share hospital payments paid by the~~ 55294  
~~medicare program established under Title XVIII of the "Social~~ 55295

~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, 55296  
each managed care organization under contract with the department 55297  
to provide hospital services to participating medical assistance 55298  
recipients shall keep detailed records for each hospital with 55299  
which it contracts about the cost to the hospital of providing the 55300  
care, payments made by the organization to the hospital for the 55301  
care, utilization of hospital services by medical assistance 55302  
recipients participating in managed care, and other utilization 55303  
data required by the department. 55304~~

~~(D)~~(B) The director of job and family services may adopt 55305  
rules in accordance with Chapter 119. of the Revised Code to 55306  
implement this section. 55307

**Sec. 5111.171.** (A) The department of job and family services 55308  
may provide financial incentive awards to managed care 55309  
organizations ~~that~~ under contract with the department ~~under~~ 55310  
pursuant to section 5111.17 of the Revised Code to provide health 55311  
~~care services to participating medical assistance recipients and~~ 55312  
that meet or exceed performance standards specified in provider 55313  
agreements or rules adopted by the department. The department may 55314  
specify in a contract with a managed care organization the amounts 55315  
of financial incentive awards, methodology for distributing 55316  
awards, types of awards, and standards for administration by the 55317  
department. 55318

(B) There is hereby created in the state treasury the health 55319  
care compliance fund. The fund shall consist of all fines imposed 55320  
on and collected from managed care organizations for failure to 55321  
~~nmeet~~ meet performance standards or other requirements specified 55322  
in provider agreements or rules adopted by the department. All 55323  
investment earnings of the fund shall be credited to the fund. 55324  
Moneys credited to the fund shall be used solely for the following 55325  
purposes: 55326

(1) To reimburse managed care organizations that have paid 55327  
fines for failures to meet performance standards or other 55328  
requirements and that have come into compliance by meeting 55329  
requirements as specified by the department; 55330

(2) To provide financial incentive awards established 55331  
pursuant to division (A) of this section and specified in 55332  
contracts between managed care organizations and the department. 55333

Sec. 5111.172. When contracting under section 5111.17 of the 55334  
Revised Code with a managed care organization that is a health 55335  
insuring corporation, the department of job and family services 55336  
may require the health insuring corporation to provide coverage of 55337  
prescription drugs for medicaid recipients enrolled in the health 55338  
insuring corporation. In providing the required coverage, the 55339  
health insuring corporation may, subject to the department's 55340  
approval, use strategies for the management of drug utilization. 55341

Sec. 5111.173. The department of job and family services 55342  
shall appoint a temporary manager for a managed care organization 55343  
under contract with the department pursuant to section 5111.17 of 55344  
the Revised Code if the department determines that the managed 55345  
care organization has repeatedly failed to meet substantive 55346  
requirements specified in section 1903(m) of the "Social Security 55347  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 55348  
1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 55349  
42 C.F.R. 438 Part I. The appointment of a temporary manager does 55350  
not preclude the department from imposing other sanctions 55351  
available to the department against the managed care organization. 55352

The managed care organization shall pay all costs of having 55353  
the temporary manager perform the temporary manager's duties, 55354  
including all costs the temporary manager incurs in performing 55355  
those duties. If the temporary manager incurs costs or liabilities 55356

on behalf of the managed care organization, the managed care organization shall pay those costs and be responsible for those liabilities. 55357  
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The appointment of a temporary manager is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the appointment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code. 55360  
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The appointment of a temporary manager does not cause the managed care organization to lose the right to appeal, in accordance with Chapter 119. of the Revised Code, any proposed termination or any decision not to renew the managed care organization's medicaid provider agreement or the right to initiate the sale of the managed care organization or its assets. 55366  
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In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 55372  
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**Sec. 5111.174.** The department of job and family services may disenroll some or all medicaid recipients enrolled in a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code if the department proposes to terminate or not to renew the contract and determines that the recipients' access to medically necessary services is jeopardized by the proposal to terminate or not to renew the contract. The disenrollment is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the disenrollment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the 55376  
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Revised Code. The request for, or conduct of, a reconsideration 55388  
regarding a proposed disenrollment shall not delay the 55389  
disenrollment. 55390

In addition to the rules required to be adopted under this 55391  
section, the director may adopt any other rules necessary to 55392  
implement this section. The rules shall be adopted in accordance 55393  
with Chapter 119. of the Revised Code. 55394

Sec. 5111.175. For the purpose of determining the amount the 55395  
department of job and family services pays hospitals under section 55396  
5112.08 of the Revised Code and the amount of disproportionate 55397  
share hospital payments paid by the medicare program established 55398  
under Title XVIII of the "Social Security Act," 79 Stat. 286 55399  
(1965), 42 U.S.C. 1396n, as amended, a managed care organization 55400  
under contract with the department pursuant to section 5111.17 of 55401  
the Revised Code authorizing the organization to provide, or 55402  
arrange for the provision of, hospital services to medicaid 55403  
recipients shall keep detailed records for each hospital with 55404  
which it contracts about the cost to the hospital of providing the 55405  
services, payments made by the organization to the hospital for 55406  
the services, utilization of hospital services by medicaid 55407  
recipients enrolled in the organization, and other utilization 55408  
data required by the department. 55409

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 55410  
of the Revised Code: 55411

(A) "Allowable costs" are those costs determined by the 55412  
department of job and family services to be reasonable and do not 55413  
include fines paid under sections 5111.35 to 5111.61 and section 55414  
5111.99 of the Revised Code. 55415

(B) "Capital costs" means costs of ownership and nonextensive 55416  
renovation. 55417

(1) "Cost of ownership" means the actual expense incurred for	55418
all of the following:	55419
(a) Depreciation and interest on any capital assets that cost	55420
five hundred dollars or more per item, including the following:	55421
(i) Buildings;	55422
(ii) Building improvements that are not approved as	55423
nonextensive renovations under section 5111.25 or 5111.251 of the	55424
Revised Code;	55425
(iii) Equipment;	55426
(iv) Extensive renovations;	55427
(v) Transportation equipment.	55428
(b) Amortization and interest on land improvements and	55429
leasehold improvements;	55430
(c) Amortization of financing costs;	55431
(d) Except as provided in division (I) of this section, lease	55432
and rent of land, building, and equipment.	55433
The costs of capital assets of less than five hundred dollars	55434
per item may be considered costs of ownership in accordance with a	55435
provider's practice.	55436
(2) "Costs of nonextensive renovation" means the actual	55437
expense incurred for depreciation or amortization and interest on	55438
renovations that are not extensive renovations.	55439
(C) "Capital lease" and "operating lease" shall be construed	55440
in accordance with generally accepted accounting principles.	55441
(D) "Case-mix score" means the measure determined under	55442
section 5111.231 of the Revised Code of the relative direct-care	55443
resources needed to provide care and habilitation to a resident of	55444
a nursing facility or intermediate care facility for the mentally	55445
retarded.	55446

(E) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

(2) If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(F) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

(G) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;	55478 55479
(b) Costs for direct care staff, administrative nursing staff, medical directors, social services staff, activities staff, psychologists and psychology assistants, social workers and counselors, habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;	55480 55481 55482 55483 55484 55485 55486 55487
(c) Costs of purchased nursing services;	55488
(d) Costs of quality assurance;	55489
(e) Costs of 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 divisions (G)(1)(a), (b), and (d) of this section;	55490 55491 55492 55493 55494 55495
(f) Costs of consulting and management fees related to direct care;	55496 55497
(g) Allocated direct care home office costs.	55498
(2) In addition to the costs specified in division (G)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:	55499 55500 55501
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists;	55502 55503 55504
(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in	55505 55506 55507

rules adopted by the director of job and family services in 55508  
accordance with Chapter 119. of the Revised Code, for personnel 55509  
listed in division (G)(2)(a) of this section. 55510

(3) Costs of other direct-care resources that are specified 55511  
as direct care costs in rules adopted by the director of job and 55512  
family services in accordance with Chapter 119. of the Revised 55513  
Code. 55514

(H) "Fiscal year" means the fiscal year of this state, as 55515  
specified in section 9.34 of the Revised Code. 55516

(I) "Indirect care costs" means all reasonable costs other 55517  
than direct care costs, other protected costs, or capital costs. 55518  
"Indirect care costs" includes but is not limited to costs of 55519  
habilitation supplies, pharmacy consultants, medical and 55520  
habilitation records, program supplies, incontinence supplies, 55521  
food, enterals, dietary supplies and personnel, laundry, 55522  
housekeeping, security, administration, liability insurance, 55523  
bookkeeping, purchasing department, human resources, 55524  
communications, travel, dues, license fees, subscriptions, home 55525  
office costs not otherwise allocated, legal services, accounting 55526  
services, minor equipment, maintenance and repairs, help-wanted 55527  
advertising, informational advertising, consumer satisfaction 55528  
survey fees paid under section 173.55 of the Revised Code, 55529  
start-up costs, organizational expenses, other interest, property 55530  
insurance, employee training and staff development, employee 55531  
benefits, payroll taxes, and workers' compensation premiums or 55532  
costs for self-insurance claims and related costs as specified in 55533  
rules adopted by the director of job and family services in 55534  
accordance with Chapter 119. of the Revised Code, for personnel 55535  
listed in this division. Notwithstanding division (B)(1) of this 55536  
section, "indirect care costs" also means the cost of equipment, 55537  
including vehicles, acquired by operating lease executed before 55538  
December 1, 1992, if the costs are reported as administrative and 55539

general costs on the facility's cost report for the cost reporting 55540  
period ending December 31, 1992. 55541

(J) "Inpatient days" means all days during which a resident, 55542  
regardless of payment source, occupies a bed in a nursing facility 55543  
or intermediate care facility for the mentally retarded that is 55544  
included in the facility's certified capacity under Title XIX of 55545  
the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, 55546  
as amended. Therapeutic or hospital leave days for which payment 55547  
is made under section 5111.33 of the Revised Code are considered 55548  
inpatient days proportionate to the percentage of the facility's 55549  
per resident per day rate paid for those days. 55550

(K) "Intermediate care facility for the mentally retarded" 55551  
means an intermediate care facility for the mentally retarded 55552  
certified as in compliance with applicable standards for the 55553  
medical assistance program by the director of health in accordance 55554  
with Title XIX of the "Social Security Act." 55555

(L) "Maintenance and repair expenses" means, except as 55556  
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 55557  
are necessary and proper to maintain an asset in a normally 55558  
efficient working condition and that do not extend the useful life 55559  
of the asset two years or more. "Maintenance and repair expenses" 55560  
includes but is not limited to the cost of ordinary repairs such 55561  
as painting and wallpapering. 55562

(M) "Nursing facility" means a facility, or a distinct part 55563  
of a facility, that is certified as a nursing facility by the 55564  
director of health in accordance with Title XIX of the "Social 55565  
Security Act," and is not an intermediate care facility for the 55566  
mentally retarded. "Nursing facility" includes a facility, or a 55567  
distinct part of a facility, that is certified as a nursing 55568  
facility by the director of health in accordance with Title XIX of 55569  
the "Social Security Act," and is certified as a skilled nursing 55570  
facility by the director in accordance with Title XVIII of the 55571

"Social Security Act." 55572

(N) "Operator" means the person or government entity 55573  
responsible for the daily operating and management decisions for a 55574  
nursing facility or intermediate care facility for the mentally 55575  
retarded. 55576

(O) "Other protected costs" means costs for medical supplies; 55577  
real estate, franchise, and property taxes; natural gas, fuel oil, 55578  
water, electricity, sewage, and refuse and hazardous medical waste 55579  
collection; allocated other protected home office costs; and any 55580  
additional costs defined as other protected costs in rules adopted 55581  
by the director of job and family services in accordance with 55582  
Chapter 119. of the Revised Code. 55583

~~(O)~~(P) "Owner" means any person or government entity that has 55584  
at least five per cent ownership or interest, either directly, 55585  
indirectly, or in any combination, in any of the following 55586  
regarding a nursing facility or intermediate care facility for the 55587  
mentally retarded: 55588

(a) The land on which the facility is located; 55589

(b) The structure in which the facility is located; 55590

(c) Any mortgage, contract for deed, or other obligation 55591  
secured in whole or in part by the land or structure on or in 55592  
which the facility is located; 55593

(d) Any lease or sublease of the land or structure on or in 55594  
which the facility is located. 55595

(2) "Owner" does not mean a holder of a debenture or bond 55596  
related to the nursing facility or intermediate care facility for 55597  
the mentally retarded and purchased at public issue or a regulated 55598  
lender that has made a loan related to the facility unless the 55599  
holder or lender operates the facility directly or through a 55600  
subsidiary. 55601

~~(P)~~(Q) "Patient" includes "resident." 55602

~~(Q)~~(R) Except as provided in divisions ~~(Q)~~(R)(1) and (2) of 55603  
this section, "per diem" means a nursing facility's or 55604  
intermediate care facility for the mentally retarded's actual, 55605  
allowable costs in a given cost center in a cost reporting period, 55606  
divided by the facility's inpatient days for that cost reporting 55607  
period. 55608

(1) When calculating indirect care costs for the purpose of 55609  
establishing rates under section 5111.24 or 5111.241 of the 55610  
Revised Code, "per diem" means a facility's actual, allowable 55611  
indirect care costs in a cost reporting period divided by the 55612  
greater of the facility's inpatient days for that period or the 55613  
number of inpatient days the facility would have had during that 55614  
period if its occupancy rate had been eighty-five per cent. 55615

(2) When calculating capital costs for the purpose of 55616  
establishing rates under section 5111.25 or 5111.251 of the 55617  
Revised Code, "per diem" means a facility's actual, allowable 55618  
capital costs in a cost reporting period divided by the greater of 55619  
the facility's inpatient days for that period or the number of 55620  
inpatient days the facility would have had during that period if 55621  
its occupancy rate had been ninety-five per cent. 55622

~~(R)~~(S) "Provider" means a person or government entity that 55623  
operates a nursing facility or intermediate care facility for the 55624  
mentally retarded under a provider agreement. 55625

~~(S)~~(T) "Provider agreement" means a contract between the 55626  
department of job and family services and a nursing facility or 55627  
intermediate care facility for the mentally retarded for the 55628  
provision of nursing facility services or intermediate care 55629  
facility services for the mentally retarded under the medical 55630  
assistance program. 55631

~~(T)~~(U) "Purchased nursing services" means services that are 55632



provided in a nursing facility by registered nurses, licensed 55633  
practical nurses, or nurse aides who are not employees of the 55634  
facility. 55635

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that 55636  
is appropriate and helpful to develop and maintain the operation 55637  
of patient care facilities and activities, including normal 55638  
standby costs, and that does not exceed what a prudent buyer pays 55639  
for a given item or services. Reasonable costs may vary from 55640  
provider to provider and from time to time for the same provider. 55641

~~(V)~~(W) "Related party" means an individual or organization 55642  
that, to a significant extent, has common ownership with, is 55643  
associated or affiliated with, has control of, or is controlled 55644  
by, the provider. 55645

(1) An individual who is a relative of an owner is a related 55646  
party. 55647

(2) Common ownership exists when an individual or individuals 55648  
possess significant ownership or equity in both the provider and 55649  
the other organization. Significant ownership or equity exists 55650  
when an individual or individuals possess five per cent ownership 55651  
or equity in both the provider and a supplier. Significant 55652  
ownership or equity is presumed to exist when an individual or 55653  
individuals possess ten per cent ownership or equity in both the 55654  
provider and another organization from which the provider 55655  
purchases or leases real property. 55656

(3) Control exists when an individual or organization has the 55657  
power, directly or indirectly, to significantly influence or 55658  
direct the actions or policies of an organization. 55659

(4) An individual or organization that supplies goods or 55660  
services to a provider shall not be considered a related party if 55661  
all of the following conditions are met: 55662

(a) The supplier is a separate bona fide organization. 55663

(b) A substantial part of the supplier's business activity of 55664  
the type carried on with the provider is transacted with others 55665  
than the provider and there is an open, competitive market for the 55666  
types of goods or services the supplier furnishes. 55667

(c) The types of goods or services are commonly obtained by 55668  
other nursing facilities or intermediate care facilities for the 55669  
mentally retarded from outside organizations and are not a basic 55670  
element of patient care ordinarily furnished directly to patients 55671  
by the facilities. 55672

(d) The charge to the provider is in line with the charge for 55673  
the goods or services in the open market and no more than the 55674  
charge made under comparable circumstances to others by the 55675  
supplier. 55676

~~(W)~~(X) "Relative of owner" means an individual who is related 55677  
to an owner of a nursing facility or intermediate care facility 55678  
for the mentally retarded by one of the following relationships: 55679

- (1) Spouse; 55680
- (2) Natural parent, child, or sibling; 55681
- (3) Adopted parent, child, or sibling; 55682
- (4) Step-parent, step-child, step-brother, or step-sister; 55683
- (5) Father-in-law, mother-in-law, son-in-law, 55684  
daughter-in-law, brother-in-law, or sister-in-law; 55685
- (6) Grandparent or grandchild; 55686
- (7) Foster caregiver, foster child, foster brother, or foster 55687  
sister. 55688

~~(X)~~(Y) "Renovation" and "extensive renovation" mean: 55689

- (1) Any betterment, improvement, or restoration of a nursing 55690  
facility or intermediate care facility for the mentally retarded 55691  
started before July 1, 1993, that meets the definition of a 55692

renovation or extensive renovation established in rules adopted by 55693  
the director of job and family services in effect on December 22, 55694  
1992. 55695

(2) In the case of betterments, improvements, and 55696  
restorations of nursing facilities and intermediate care 55697  
facilities for the mentally retarded started on or after July 1, 55698  
1993: 55699

(a) "Renovation" means the betterment, improvement, or 55700  
restoration of a nursing facility or intermediate care facility 55701  
for the mentally retarded beyond its current functional capacity 55702  
through a structural change that costs at least five hundred 55703  
dollars per bed. A renovation may include betterment, improvement, 55704  
restoration, or replacement of assets that are affixed to the 55705  
building and have a useful life of at least five years. A 55706  
renovation may include costs that otherwise would be considered 55707  
maintenance and repair expenses if they are an integral part of 55708  
the structural change that makes up the renovation project. 55709  
"Renovation" does not mean construction of additional space for 55710  
beds that will be added to a facility's licensed or certified 55711  
capacity. 55712

(b) "Extensive renovation" means a renovation that costs more 55713  
than sixty-five per cent and no more than eighty-five per cent of 55714  
the cost of constructing a new bed and that extends the useful 55715  
life of the assets for at least ten years. 55716

For the purposes of division ~~(X)~~(Y)(2) of this section, the 55717  
cost of constructing a new bed shall be considered to be forty 55718  
thousand dollars, adjusted for the estimated rate of inflation 55719  
from January 1, 1993, to the end of the calendar year during which 55720  
the renovation is completed, using the consumer price index for 55721  
shelter costs for all urban consumers for the north central 55722  
region, as published by the United States bureau of labor 55723  
statistics. 55724

The department of job and family services may treat a 55725  
renovation that costs more than eighty-five per cent of the cost 55726  
of constructing new beds as an extensive renovation if the 55727  
department determines that the renovation is more prudent than 55728  
construction of new beds. 55729

Sec. 5111.206. (A) As used in this section, "nursing 55730  
facility" has the same meaning as in section 5111.20 of the 55731  
Revised Code. 55732

(B) To the extent funds are available, the director of job 55733  
and family services may establish the Ohio access success project 55734  
to help medicaid recipients make the transition from residing in a 55735  
nursing facility to residing in a community setting. The program 55736  
may be established as a separate non-medicaid program or 55737  
integrated into a new or existing Medicaid home and 55738  
community-based services program established under a waiver 55739  
approved by the federal centers for medicare and medicaid 55740  
services. The department may limit the number of program 55741  
participants. 55742

To be eligible for benefits under the project, a medicaid 55743  
recipient must satisfy all of the following requirements: 55744

(1) Be a recipient of medicaid-funded nursing facility care, 55745  
at the time of applying for the benefits; 55746

(2) Have resided continuously in a nursing facility since 55747  
January 1, 2002; 55748

(3) Need the level of care provided by nursing facilities; 55749

(4) For participation in a non-medicaid program, receive 55750  
services to remain in the community with a projected cost not 55751  
exceeding eighty per cent of the average monthly medicaid cost of 55752  
a medicaid recipient in a nursing facility; 55753

(5) For participation in a program established under a home 55754

and community-based services waiver, meet waiver enrollment 55755  
criteria. 55756

(C) If the director establishes the Ohio access success 55757  
project, the benefits provided under the project may include 55758  
payment of all of the following: 55759

(1) The first month's rent in a community setting; 55760

(2) Rental deposits; 55761

(3) Utility deposits; 55762

(4) Moving expenses; 55763

(5) Other expenses not covered by the medicaid program that 55764  
facilitate a medicaid recipient's move from a nursing facility to 55765  
a community setting. 55766

(D) If the project is established as a non-medicaid program, 55767  
no participant may receive more than two thousand dollars worth of 55768  
benefits under the project. 55769

(E) The director may submit a request to the United States 55770  
secretary of health and human services pursuant to section 1915 of 55771  
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 55772  
as amended, to create a medicaid home and community-based services 55773  
waiver programs to serve individuals who meet the criteria for 55774  
participation in the Ohio access success project. The director may 55775  
adopt rules under Chapter 119. of the Revised Code for the 55776  
administration and operation of the program. 55777

**Sec. 5111.21.** (A) Subject to sections 5111.01, 5111.011, 55778  
5111.012, ~~and~~ 5111.02, and 5111.6810 of the Revised Code, the 55779  
department of job and family services shall pay, as provided in 55780  
sections 5111.20 to 5111.32 of the Revised Code, the reasonable 55781  
costs of services provided to an eligible medicaid recipient by an 55782  
eligible nursing facility or intermediate care facility for the 55783  
mentally retarded. 55784

In order to be eligible for medical assistance payments, an operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Comply with all applicable state and federal laws and rules.

(B) ~~A An operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicare medicaid program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended may shall qualify all or part of the facility of the facility's medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.~~

**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:

(A) The department agrees to:

~~(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 provided in sections 5111.20 to 5111.32 of the Revised Code. No payment shall be made for the day a recipient is discharged from~~

the facility. 55815

~~(2) Provide copies of rules governing the facility's participation as a provider in the medical assistance program. Whenever the director of job and family services files a proposed rule or proposed rule in revised form under division (D) of section 111.15 or division (B) of section 119.03 of the Revised Code, the department shall provide the facility with one copy of such rule. In the case of a rescission or proposed rescission of a rule, the department may provide the rule number and title instead of the rules rescinded or proposed to be rescinded.~~ 55816  
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(B) The ~~provider~~ operator agrees to: 55825

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code; 55826  
55827

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted; 55828  
55829  
55830  
55831  
55832

(3) File reports as required by the department; 55833

(4) Open all records relating to the costs of its services for inspection and audit by the department; 55834  
55835

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect; 55836  
55837  
55838

(6) Supply to the department such information as it requires concerning the facility's services to patients who are or are eligible to be medicaid recipients; 55839  
55840  
55841

(7) Comply with section 5111.31 of the Revised Code. 55842

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department. 55843  
55844

A provider agreement shall be effective for no longer than 55845  
twelve months, except that if federal statute or regulations 55846  
authorize a longer term, it may be effective for a longer term so 55847  
authorized. A provider agreement may be renewed only if the 55848  
facility is certified by the department of health for 55849  
participation in the medicaid program. 55850

The department of job and family services, in accordance with 55851  
rules adopted by the director pursuant to Chapter 119. of the 55852  
Revised Code, may elect not to enter into, not to renew, or to 55853  
terminate a provider agreement when the department determines that 55854  
such an agreement would not be in the best interests of the 55855  
recipients or of the state. 55856

Sec. 5111.222. An operator of a nursing facility or 55857  
intermediate care facility for the mentally retarded may enter 55858  
into provider agreements for more than one nursing facility or 55859  
intermediate care facility for the mentally retarded. 55860

**Sec. 5111.25.** (A) The department of job and family services 55861  
shall pay each eligible nursing facility a per resident per day 55862  
rate for its reasonable capital costs established prospectively 55863  
each fiscal year for each facility. Except as otherwise provided 55864  
in sections 5111.20 to 5111.32 of the Revised Code, the rate shall 55865  
be based on the facility's capital costs for the calendar year 55866  
preceding the fiscal year in which the rate will be paid. The rate 55867  
shall equal the sum of divisions (A)(1) to (3) of this section: 55868

(1) The lesser of the following: 55869

(a) Eighty-eight and sixty-five one-hundredths per cent of 55870  
the facility's desk-reviewed, actual, allowable, per diem cost of 55871  
ownership and eighty-five per cent of the facility's actual, 55872  
allowable, per diem cost of nonextensive renovation determined 55873  
under division (F) of this section; 55874



(b) Eighty-eight and sixty-five one-hundredths per cent of	55875
the following limitation:	55876
(i) For the fiscal year beginning July 1, 1993, sixteen	55877
dollars per resident day;	55878
(ii) For the fiscal year beginning July 1, 1994, sixteen	55879
dollars per resident day, adjusted to reflect the rate of	55880
inflation for the twelve-month period beginning July 1, 1992, and	55881
ending June 30, 1993, using the consumer price index for shelter	55882
costs for all urban consumers for the north central region,	55883
published by the United States bureau of labor statistics;	55884
(iii) For subsequent fiscal years, the limitation in effect	55885
during the previous fiscal year, adjusted to reflect the rate of	55886
inflation for the twelve-month period beginning on the first day	55887
of July for the calendar year preceding the calendar year that	55888
precedes the fiscal year and ending on the following thirtieth day	55889
of June, using the consumer price index for shelter costs for all	55890
urban consumers for the north central region, published by the	55891
United States bureau of labor statistics.	55892
(2) Any efficiency incentive determined under division (D) of	55893
this section;	55894
(3) Any amounts for return on equity determined under	55895
division (H) of this section.	55896
Buildings shall be depreciated using the straight line method	55897
over forty years or over a different period approved by the	55898
department. Components and equipment shall be depreciated using	55899
the straight-line method over a period designated in rules adopted	55900
by the director of job and family services in accordance with	55901
Chapter 119. of the Revised Code, consistent with the guidelines	55902
of the American hospital association, or over a different period	55903
approved by the department. Any rules adopted under this division	55904
that specify useful lives of buildings, components, or equipment	55905

apply only to assets acquired on or after July 1, 1993. 55906  
Depreciation for costs paid or reimbursed by any government agency 55907  
shall not be included in cost of ownership or renovation unless 55908  
that part of the payment under sections 5111.20 to 5111.32 of the 55909  
Revised Code is used to reimburse the government agency. 55910

(B) The capital cost basis of nursing facility assets shall 55911  
be determined in the following manner: 55912

(1) For purposes of calculating the rate to be paid for the 55913  
fiscal year beginning July 1, 1993, for facilities with dates of 55914  
licensure on or before June 30, 1993, the capital cost basis shall 55915  
be equal to the following: 55916

(a) For facilities that have not had a change of ownership 55917  
during the period beginning January 1, 1993, and ending June 30, 55918  
1993, the desk-reviewed, actual, allowable capital cost basis that 55919  
is listed on the facility's cost report for the cost reporting 55920  
period ending December 31, 1992, plus the actual, allowable 55921  
capital cost basis of any assets constructed or acquired after 55922  
December 31, 1992, but before July 1, 1993, if the aggregate 55923  
capital costs of those assets would increase the facility's rate 55924  
for capital costs by twenty or more cents per resident per day. 55925

(b) For facilities that have a date of licensure or had a 55926  
change of ownership during the period beginning January 1, 1993, 55927  
and ending June 30, 1993, the actual, allowable capital cost basis 55928  
of the person or government entity that owns the facility on June 55929  
30, 1993. 55930

Capital cost basis shall be calculated as provided in 55931  
division (B)(1) of this section subject to approval by the United 55932  
States health care financing administration of any necessary 55933  
amendment to the state plan for providing medical assistance. 55934

The department shall include the actual, allowable capital 55935  
cost basis of assets constructed or acquired during the period 55936

beginning January 1, 1993, and ending June 30, 1993, in the 55937  
calculation for the facility's rate effective July 1, 1993, if the 55938  
aggregate capital costs of the assets would increase the 55939  
facility's rate by twenty or more cents per resident per day and 55940  
the facility provides the department with sufficient documentation 55941  
of the costs before June 1, 1993. If the facility provides the 55942  
documentation after that date, the department shall adjust the 55943  
facility's rate to reflect the costs of the assets one month after 55944  
the first day of the month after the department receives the 55945  
documentation. 55946

(2) Except as provided in division (B)(4) of this section, 55947  
for purposes of calculating the rates to be paid for fiscal years 55948  
beginning after June 30, 1994, for facilities with dates of 55949  
licensure on or before June 30, 1993, the capital cost basis of 55950  
each asset shall be equal to the desk-reviewed, actual, allowable, 55951  
capital cost basis that is listed on the facility's cost report 55952  
for the calendar year preceding the fiscal year during which the 55953  
rate will be paid. 55954

(3) For facilities with dates of licensure after June 30, 55955  
1993, the capital cost basis shall be determined in accordance 55956  
with the principles of the medicare program established under 55957  
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 55958  
U.S.C.A. 301, as amended, except as otherwise provided in sections 55959  
5111.20 to 5111.32 of the Revised Code. 55960

(4) Except as provided in division (B)(5) of this section, if 55961  
a provider transfers an interest in a facility to another provider 55962  
after June 30, 1993, there shall be no increase in the capital 55963  
cost basis of the asset if the providers are related parties. If 55964  
the providers are not related parties or if they are related 55965  
parties and division (B)(5) of this section requires the 55966  
adjustment of the capital cost basis under this division, the 55967  
basis of the asset shall be adjusted by the lesser of the 55968

following: 55969

(a) One-half of the change in construction costs during the 55970  
time that the transferor held the asset, as calculated by the 55971  
department of job and family services using the "Dodge building 55972  
cost indexes, northeastern and north central states," published by 55973  
Marshall and Swift; 55974

(b) One-half of the change in the consumer price index for 55975  
all items for all urban consumers, as published by the United 55976  
States bureau of labor statistics, during the time that the 55977  
transferor held the asset. 55978

(5) If a provider transfers an interest in a facility to 55979  
another provider who is a related party, the capital cost basis of 55980  
the asset shall be adjusted as specified in division (B)(4) of 55981  
this section for a transfer to a provider that is not a related 55982  
party if all of the following conditions are met: 55983

(a) The related party is a relative of owner; 55984

(b) Except as provided in division (B)(5)(c)(ii) of this 55985  
section, the provider making the transfer retains no ownership 55986  
interest in the facility; 55987

(c) The department of job and family services determines that 55988  
the transfer is an arm's length transaction pursuant to rules the 55989  
department shall adopt in accordance with Chapter 119. of the 55990  
Revised Code no later than December 31, 2000. The rules shall 55991  
provide that a transfer is an arm's length transaction if all of 55992  
the following apply: 55993

(i) Once the transfer goes into effect, the provider that 55994  
made the transfer has no direct or indirect interest in the 55995  
provider that acquires the facility or the facility itself, 55996  
including interest as an owner, officer, director, employee, 55997  
independent contractor, or consultant, but excluding interest as a 55998  
creditor. 55999

(ii) The provider that made the transfer does not reacquire 56000  
an interest in the facility except through the exercise of a 56001  
creditor's rights in the event of a default. If the provider 56002  
reacquires an interest in the facility in this manner, the 56003  
department shall treat the facility as if the transfer never 56004  
occurred when the department calculates its reimbursement rates 56005  
for capital costs. 56006

(iii) The transfer satisfies any other criteria specified in 56007  
the rules. 56008

(d) Except in the case of hardship caused by a catastrophic 56009  
event, as determined by the department, or in the case of a 56010  
provider making the transfer who is at least sixty-five years of 56011  
age, not less than twenty years have elapsed since, for the same 56012  
facility, the capital cost basis was adjusted most recently under 56013  
division (B)(5) of this section or actual, allowable cost of 56014  
ownership was determined most recently under division (C)(9) of 56015  
this section. 56016

(C) As used in this division, "lease expense" means lease 56017  
payments in the case of an operating lease and depreciation 56018  
expense and interest expense in the case of a capital lease. As 56019  
used in this division, "new lease" means a lease, to a different 56020  
lessee, of a nursing facility that previously was operated under a 56021  
lease. 56022

(1) Subject to the limitation specified in division (A)(1) of 56023  
this section, for a lease of a facility that was effective on May 56024  
27, 1992, the entire lease expense is an actual, allowable cost of 56025  
ownership during the term of the existing lease. The entire lease 56026  
expense also is an actual, allowable cost of ownership if a lease 56027  
in existence on May 27, 1992, is renewed under either of the 56028  
following circumstances: 56029

(a) The renewal is pursuant to a renewal option that was in 56030

existence on May 27, 1992; 56031

(b) The renewal is for the same lease payment amount and 56032  
between the same parties as the lease in existence on May 27, 56033  
1992. 56034

(2) Subject to the limitation specified in division (A)(1) of 56035  
this section, for a lease of a facility that was in existence but 56036  
not operated under a lease on May 27, 1992, actual, allowable cost 56037  
of ownership shall include the lesser of the annual lease expense 56038  
or the annual depreciation expense and imputed interest expense 56039  
that would be calculated at the inception of the lease using the 56040  
lessor's entire historical capital asset cost basis, adjusted by 56041  
the lesser of the following amounts: 56042

(a) One-half of the change in construction costs during the 56043  
time the lessor held each asset until the beginning of the lease, 56044  
as calculated by the department using the "Dodge building cost 56045  
indexes, northeastern and north central states," published by 56046  
Marshall and Swift; 56047

(b) One-half of the change in the consumer price index for 56048  
all items for all urban consumers, as published by the United 56049  
States bureau of labor statistics, during the time the lessor held 56050  
each asset until the beginning of the lease. 56051

(3) Subject to the limitation specified in division (A)(1) of 56052  
this section, for a lease of a facility with a date of licensure 56053  
on or after May 27, 1992, that is initially operated under a 56054  
lease, actual, allowable cost of ownership shall include the 56055  
annual lease expense if there was a substantial commitment of 56056  
money for construction of the facility after December 22, 1992, 56057  
and before July 1, 1993. If there was not a substantial commitment 56058  
of money after December 22, 1992, and before July 1, 1993, actual, 56059  
allowable cost of ownership shall include the lesser of the annual 56060  
lease expense or the sum of the following: 56061

(a) The annual depreciation expense that would be calculated 56062  
at the inception of the lease using the lessor's entire historical 56063  
capital asset cost basis; 56064

(b) The greater of the lessor's actual annual amortization of 56065  
financing costs and interest expense at the inception of the lease 56066  
or the imputed interest expense calculated at the inception of the 56067  
lease using seventy per cent of the lessor's historical capital 56068  
asset cost basis. 56069

(4) Subject to the limitation specified in division (A)(1) of 56070  
this section, for a lease of a facility with a date of licensure 56071  
on or after May 27, 1992, that was not initially operated under a 56072  
lease and has been in existence for ten years, actual, allowable 56073  
cost of ownership shall include the lesser of the annual lease 56074  
expense or the annual depreciation expense and imputed interest 56075  
expense that would be calculated at the inception of the lease 56076  
using the entire historical capital asset cost basis of the 56077  
lessor, adjusted by the lesser of the following: 56078

(a) One-half of the change in construction costs during the 56079  
time the lessor held each asset until the beginning of the lease, 56080  
as calculated by the department using the "Dodge building cost 56081  
indexes, northeastern and north central states," published by 56082  
Marshall and Swift; 56083

(b) One-half of the change in the consumer price index for 56084  
all items for all urban consumers, as published by the United 56085  
States bureau of labor statistics, during the time the lessor held 56086  
each asset until the beginning of the lease. 56087

(5) Subject to the limitation specified in division (A)(1) of 56088  
this section, for a new lease of a facility that was operated 56089  
under a lease on May 27, 1992, actual, allowable cost of ownership 56090  
shall include the lesser of the annual new lease expense or the 56091  
annual old lease payment. If the old lease was in effect for ten 56092

years or longer, the old lease payment from the beginning of the 56093  
old lease shall be adjusted by the lesser of the following: 56094

(a) One-half of the change in construction costs from the 56095  
beginning of the old lease to the beginning of the new lease, as 56096  
calculated by the department using the "Dodge building cost 56097  
indexes, northeastern and north central states," published by 56098  
Marshall and Swift; 56099

(b) One-half of the change in the consumer price index for 56100  
all items for all urban consumers, as published by the United 56101  
States bureau of labor statistics, from the beginning of the old 56102  
lease to the beginning of the new lease. 56103

(6) Subject to the limitation specified in division (A)(1) of 56104  
this section, for a new lease of a facility that was not in 56105  
existence or that was in existence but not operated under a lease 56106  
on May 27, 1992, actual, allowable cost of ownership shall include 56107  
the lesser of annual new lease expense or the annual amount 56108  
calculated for the old lease under division (C)(2), (3), (4), or 56109  
(6) of this section, as applicable. If the old lease was in effect 56110  
for ten years or longer, the lessor's historical capital asset 56111  
cost basis shall be adjusted by the lesser of the following for 56112  
purposes of calculating the annual amount under division (C)(2), 56113  
(3), (4), or (6) of this section: 56114

(a) One-half of the change in construction costs from the 56115  
beginning of the old lease to the beginning of the new lease, as 56116  
calculated by the department using the "Dodge building cost 56117  
indexes, northeastern and north central states," published by 56118  
Marshall and Swift; 56119

(b) One-half of the change in the consumer price index for 56120  
all items for all urban consumers, as published by the United 56121  
States bureau of labor statistics, from the beginning of the old 56122  
lease to the beginning of the new lease. 56123



In the case of a lease under division (C)(3) of this section 56124  
of a facility for which a substantial commitment of money was made 56125  
after December 22, 1992, and before July 1, 1993, the old lease 56126  
payment shall be adjusted for the purpose of determining the 56127  
annual amount. 56128

(7) For any revision of a lease described in division (C)(1), 56129  
(2), (3), (4), (5), or (6) of this section, or for any subsequent 56130  
lease of a facility operated under such a lease, other than 56131  
execution of a new lease, the portion of actual, allowable cost of 56132  
ownership attributable to the lease shall be the same as before 56133  
the revision or subsequent lease. 56134

(8) Except as provided in division (C)(9) of this section, if 56135  
a provider leases an interest in a facility to another provider 56136  
who is a related party, the related party's actual, allowable cost 56137  
of ownership shall include the lesser of the annual lease expense 56138  
or the reasonable cost to the lessor. 56139

(9) If a provider leases an interest in a facility to another 56140  
provider who is a related party, regardless of the date of the 56141  
lease, the related party's actual, allowable cost of ownership 56142  
shall include the annual lease expense, subject to the limitations 56143  
specified in divisions (C)(1) to (7) of this section, if all of 56144  
the following conditions are met: 56145

(a) The related party is a relative of owner; 56146

(b) If the lessor retains an ownership interest, it is, 56147  
except as provided in division (C)(9)(c)(ii) of this section, in 56148  
only the real property and any improvements on the real property; 56149

(c) The department of job and family services determines that 56150  
the lease is an arm's length transaction pursuant to rules the 56151  
department shall adopt in accordance with Chapter 119. of the 56152  
Revised Code no later than December 31, 2000. The rules shall 56153  
provide that a lease is an arm's length transaction if all of the 56154

following apply: 56155

(i) Once the lease goes into effect, the lessor has no direct 56156  
or indirect interest in the lessee or, except as provided in 56157  
division (C)(9)(b) of this section, the facility itself, including 56158  
interest as an owner, officer, director, employee, independent 56159  
contractor, or consultant, but excluding interest as a lessor. 56160

(ii) The lessor does not reacquire an interest in the 56161  
facility except through the exercise of a lessor's rights in the 56162  
event of a default. If the lessor reacquires an interest in the 56163  
facility in this manner, the department shall treat the facility 56164  
as if the lease never occurred when the department calculates its 56165  
reimbursement rates for capital costs. 56166

(iii) The lease satisfies any other criteria specified in the 56167  
rules. 56168

(d) Except in the case of hardship caused by a catastrophic 56169  
event, as determined by the department, or in the case of a lessor 56170  
who is at least sixty-five years of age, not less than twenty 56171  
years have elapsed since, for the same facility, the capital cost 56172  
basis was adjusted most recently under division (B)(5) of this 56173  
section or actual, allowable cost of ownership was determined most 56174  
recently under division (C)(9) of this section. 56175

(10) This division does not apply to leases of specific items 56176  
of equipment. 56177

(D)(1) Subject to division (D)(2) of this section, the 56178  
department shall pay each nursing facility an efficiency incentive 56179  
that is equal to fifty per cent of the difference between the 56180  
following: 56181

(a) Eighty-eight and sixty-five one-hundredths per cent of 56182  
the facility's desk-reviewed, actual, allowable, per diem cost of 56183  
ownership; 56184

(b) The applicable amount specified in division (E) of this section.	56185 56186
(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following:	56187 56188
(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;	56189 56190
(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.	56191 56192 56193 56194 56195 56196 56197 56198 56199
(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.	56200 56201 56202 56203 56204
(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:	56205 56206
(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty-four cents per patient day;	56207 56208
(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968:	56209 56210
(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;	56211 56212 56213
(b) Four dollars and twenty-four cents per patient day if the	56214

cost of construction was less than three thousand five hundred	56215
dollars per bed.	56216
(3) For facilities with dates of licensure after December 31,	56217
1967, but prior to January 1, 1976:	56218
(a) Six dollars and twenty-four cents per patient day if the	56219
cost of construction was five thousand one hundred fifty dollars	56220
or more per bed;	56221
(b) Five dollars and twenty-four cents per patient day if the	56222
cost of construction was less than five thousand one hundred fifty	56223
dollars per bed, but exceeded three thousand five hundred dollars	56224
per bed;	56225
(c) Four dollars and twenty-four cents per patient day if the	56226
cost of construction was three thousand five hundred dollars or	56227
less per bed.	56228
(4) For facilities with dates of licensure after December 31,	56229
1975, but prior to January 1, 1979:	56230
(a) Seven dollars and twenty-four cents per patient day if	56231
the cost of construction was six thousand eight hundred dollars or	56232
more per bed;	56233
(b) Six dollars and twenty-four cents per patient day if the	56234
cost of construction was less than six thousand eight hundred	56235
dollars per bed but exceeded five thousand one hundred fifty	56236
dollars per bed;	56237
(c) Five dollars and twenty-four cents per patient day if the	56238
cost of construction was five thousand one hundred fifty dollars	56239
or less per bed, but exceeded three thousand five hundred dollars	56240
per bed;	56241
(d) Four dollars and twenty-four cents per patient day if the	56242
cost of construction was three thousand five hundred dollars or	56243
less per bed.	56244

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:	56245
	56246
(a) Seven dollars and seventy-four cents per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;	56247
	56248
	56249
(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;	56250
	56251
	56252
	56253
(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;	56254
	56255
	56256
	56257
(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;	56258
	56259
	56260
(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.	56261
	56262
	56263
(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:	56264
	56265
(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 (e) of this section;	56266
	56267
	56268
	56269
(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, <u>the</u> department shall do both of the following to the six-dollar amount:	56270
	56271
	56272
	56273
	56274

(i) Adjust the amount for fluctuations in construction costs 56275  
calculated by the department using the "Dodge building cost 56276  
indexes, northeastern and north central states," published by 56277  
Marshall and Swift, using 1980 as the base year; 56278

(ii) Increase the amount, as adjusted for inflation under 56279  
division (E)(6)(b)(i) of this section, by one dollar and 56280  
seventy-four cents. 56281

(7) For facilities with dates of licensure on or after 56282  
January 1, 1992, seven dollars and ninety-seven cents, adjusted 56283  
for fluctuations in construction costs between 1991 and 1993 as 56284  
calculated by the department using the "Dodge building cost 56285  
indexes, northeastern and north central states," published by 56286  
Marshall and Swift, and then increased by one dollar and 56287  
seventy-four cents. 56288

For the fiscal year that begins July 1, 1994, each of the 56289  
amounts listed in divisions (E)(1) to (7) of this section shall be 56290  
increased by twenty-five cents. For the fiscal year that begins 56291  
July 1, 1995, each of those amounts shall be increased by an 56292  
additional twenty-five cents. For subsequent fiscal years, each of 56293  
those amounts, as increased for the prior fiscal year, shall be 56294  
adjusted to reflect the rate of inflation for the twelve-month 56295  
period beginning on the first day of July of the calendar year 56296  
preceding the calendar year that precedes the fiscal year and 56297  
ending on the following thirtieth day of June, using the consumer 56298  
price index for shelter costs for all urban consumers for the 56299  
north central region, as published by the United States bureau of 56300  
labor statistics. 56301

If the amount established for a nursing facility under this 56302  
division is less than the amount that applied to the facility 56303  
under division (B) of former section 5111.25 of the Revised Code, 56304  
as the former section existed immediately prior to December 22, 56305

1992, the amount used to calculate the efficiency incentive for 56306  
the facility under division (D)(2) of this section shall be the 56307  
amount that was calculated under division (B) of the former 56308  
section. 56309

(F) Beginning July 1, 1993, regardless of the facility's date 56310  
of licensure or the date of the nonextensive renovations, the rate 56311  
for the costs of nonextensive renovations for nursing facilities 56312  
shall be eighty-five per cent of the desk-reviewed, actual, 56313  
allowable, per diem, nonextensive renovation costs. This division 56314  
applies to nonextensive renovations regardless of whether they are 56315  
made by an owner or a lessee. If the tenancy of a lessee that has 56316  
made nonextensive renovations ends before the depreciation expense 56317  
for the renovation costs has been fully reported, the former 56318  
lessee shall not report the undepreciated balance as an expense. 56319

(1) For a nonextensive renovation made after July 1, 1993, to 56320  
qualify for payment under this division, both of the following 56321  
conditions must be met: 56322

(a) At least five years have elapsed since the date of 56323  
licensure of the portion of the facility that is proposed to be 56324  
renovated, except that this condition does not apply if the 56325  
renovation is necessary to meet the requirements of federal, 56326  
state, or local statutes, ordinances, rules, or policies. 56327

(b) The provider has obtained prior approval from the 56328  
department of job and family services, and if required the 56329  
director of health has granted a certificate of need for the 56330  
renovation under section 3702.52 of the Revised Code. The provider 56331  
shall submit a plan that describes in detail the changes in 56332  
capital assets to be accomplished by means of the renovation and 56333  
the timetable for completing the project. The time for completion 56334  
of the project shall be no more than eighteen months after the 56335  
renovation begins. The department of job and family services shall 56336  
adopt rules in accordance with Chapter 119. of the Revised Code 56337

that specify criteria and procedures for prior approval of 56338  
renovation projects. No provider shall separate a project with the 56339  
intent to evade the characterization of the project as a 56340  
renovation or as an extensive renovation. No provider shall 56341  
increase the scope of a project after it is approved by the 56342  
department of job and family services unless the increase in scope 56343  
is approved by the department. 56344

(2) The payment provided for in this division is the only 56345  
payment that shall be made for the costs of a nonextensive 56346  
renovation. Nonextensive renovation costs shall not be included in 56347  
costs of ownership, and a nonextensive renovation shall not affect 56348  
the date of licensure for purposes of calculating the efficiency 56349  
incentive under divisions (D) and (E) of this section. 56350

~~(G) The owner of a nursing facility operating under a 56351  
provider agreement shall provide written notice to the department 56352  
of job and family services at least forty five days prior to 56353  
entering into any contract of sale for the facility or voluntarily 56354  
terminating participation in the medical assistance program. After 56355  
the date on which a transaction of sale of a nursing facility is 56356  
closed, the owner shall refund to the department the amount of 56357  
excess depreciation paid to the facility by the department for 56358  
each year the owner has operated the facility under a provider 56359  
agreement and prorated according to the number of medicaid patient 56360  
days for which the facility has received payment. If a nursing 56361  
facility is sold after five or fewer years of operation under a 56362  
provider agreement, the refund to the department shall be equal to 56363  
the excess depreciation paid to the facility. If a nursing 56364  
facility is sold after more than five years but less than ten 56365  
years of operation under a provider agreement, the refund to the 56366  
department shall equal the excess depreciation paid to the 56367  
facility multiplied by twenty per cent, multiplied by the 56368  
difference between ten and the number of years that the facility 56369~~



was operated under a provider agreement. If a nursing facility is 56370  
sold after ten or more years of operation under a provider 56371  
agreement, the owner shall not refund any excess depreciation to 56372  
the department. The owner of a nursing facility that is sold or 56373  
that ~~voluntarily terminates~~ undergoes a voluntary withdrawal of 56374  
participation in the medical assistance program, as defined in 56375  
section 5111.65 of the Revised Code, also shall refund any other 56376  
amount that the department properly finds to be due after ~~the a~~ 56377  
final fiscal audit ~~conducted under this division~~ the department 56378  
shall conduct. For the purposes of this division, "depreciation 56379  
paid to the facility" means the amount paid to the nursing 56380  
facility for cost of ownership pursuant to this section less any 56381  
amount paid for interest costs, amortization of financing costs, 56382  
and lease expenses. For the purposes of this division, "excess 56383  
depreciation" is the nursing facility's depreciated basis, which 56384  
is the owner's cost less accumulated depreciation, subtracted from 56385  
the purchase price net of selling costs but not exceeding the 56386  
amount of depreciation paid to the facility. 56387

~~A cost report shall be filed with the department within 56388  
ninety days after the date on which the transaction of sale is 56389  
closed or participation is voluntarily terminated. The report 56390  
shall show the accumulated depreciation, the sales price, and 56391  
other information required by the department. The department shall 56392  
provide for a bank, trust company, or savings and loan association 56393  
to hold in escrow the amount of the last two monthly payments to a 56394  
nursing facility made pursuant to division (A)(1) of section 56395  
5111.22 of the Revised Code before a sale or termination of 56396  
participation or, if the owner fails, within the time required by 56397  
this division, to notify the department before entering into a 56398  
contract of sale for the facility, the amount of the first two 56399  
monthly payments made to the facility after the department learns 56400  
of the contract, regardless of whether a new owner is in 56401  
possession of the facility. If the amount the owner will be 56402~~

~~required to refund under this section is likely to be less than 56403  
the amount of the two monthly payments otherwise put into escrow 56404  
under this division, the department shall take one of the 56405  
following actions instead of withholding the amount of the two 56406  
monthly payments: 56407~~

~~(1) In the case of an owner that owns other facilities that 56408  
participate in the medical assistance program, obtain a promissory 56409  
note in an amount sufficient to cover the amount likely to be 56410  
refunded; 56411~~

~~(2) In the case of all other owners, withhold the amount of 56412  
the last monthly payment to the nursing facility or, if the owner 56413  
fails, within the time required by this division, to notify the 56414  
department before entering into a contract of sale for the 56415  
facility, the amount of the first monthly payment made to the 56416  
facility after the department learns of the contract, regardless 56417  
of whether a new owner is in possession of the facility. 56418~~

~~The department shall, within ninety days following the filing 56419  
of the cost report, audit the cost report and issue an audit 56420  
report to the owner. The department also may audit any other cost 56421  
report that the facility has filed during the previous three 56422  
years. In the audit report, the department shall state its 56423  
findings and the amount of any money owed to the department by the 56424  
nursing facility. The findings shall be subject to adjudication 56425  
conducted in accordance with Chapter 119. of the Revised Code. No 56426  
later than fifteen days after the owner agrees to a settlement, 56427  
any funds held in escrow less any amounts due to the department 56428  
shall be released to the owner and amounts due to the department 56429  
shall be paid to the department. If the amounts in escrow are less 56430  
than the amounts due to the department, the balance shall be paid 56431  
to the department within fifteen days after the owner agrees to a 56432  
settlement. If the department does not issue its audit report 56433  
within the ninety day period, the department shall release any 56434~~

~~money held in escrow to the owner. For the purposes of this~~ 56435  
~~section, a transfer of corporate stock, the merger of one~~ 56436  
~~corporation into another, or a consolidation does not constitute a~~ 56437  
~~sale.~~ 56438

~~If a nursing facility is not sold or its participation is not~~ 56439  
~~terminated after notice is provided to the department under this~~ 56440  
~~division, the department shall order any payments held in escrow~~ 56441  
~~released to the facility upon receiving written notice from the~~ 56442  
~~owner that there will be no sale or termination. After written~~ 56443  
~~notice is received from a nursing facility that a sale or~~ 56444  
~~termination will not take place, the facility shall provide notice~~ 56445  
~~to the department at least forty five days prior to entering into~~ 56446  
~~any contract of sale or terminating participation at any future~~ 56447  
~~time.~~ 56448

(H) The department shall pay each eligible proprietary 56449  
nursing facility a return on the facility's net equity computed at 56450  
the rate of one and one-half times the average interest rate on 56451  
special issues of public debt obligations issued to the federal 56452  
hospital insurance trust fund for the cost reporting period, 56453  
except that no facility's return on net equity shall exceed fifty 56454  
cents per patient day. 56455

When calculating the rate for return on net equity, the 56456  
department shall use the greater of the facility's inpatient days 56457  
during the applicable cost reporting period or the number of 56458  
inpatient days the facility would have had during that period if 56459  
its occupancy rate had been ninety-five per cent. 56460

(I) If a nursing facility would receive a lower rate for 56461  
capital costs for assets in the facility's possession on July 1, 56462  
1993, under this section than it would receive under former 56463  
section 5111.25 of the Revised Code, as the former section existed 56464  
immediately prior to December 22, 1992, the facility shall receive 56465  
for those assets the rate it would have received under the former 56466

section for each fiscal year beginning on or after July 1, 1993, 56467  
until the rate it would receive under this section exceeds the 56468  
rate it would have received under the former section. Any facility 56469  
that receives a rate calculated under the former section 5111.25 56470  
of the Revised Code for assets in the facility's possession on 56471  
July 1, 1993, also shall receive a rate calculated under this 56472  
section for costs of any assets it constructs or acquires after 56473  
July 1, 1993. 56474

**Sec. 5111.251.** (A) The department of job and family services 56475  
shall pay each eligible intermediate care facility for the 56476  
mentally retarded for its reasonable capital costs, a per resident 56477  
per day rate established prospectively each fiscal year for each 56478  
intermediate care facility for the mentally retarded. Except as 56479  
otherwise provided in sections 5111.20 to 5111.32 of the Revised 56480  
Code, the rate shall be based on the facility's capital costs for 56481  
the calendar year preceding the fiscal year in which the rate will 56482  
be paid. The rate shall equal the sum of the following: 56483

(1) The facility's desk-reviewed, actual, allowable, per diem 56484  
cost of ownership for the preceding cost reporting period, limited 56485  
as provided in divisions (C) and (F) of this section; 56486

(2) Any efficiency incentive determined under division (B) of 56487  
this section; 56488

(3) Any amounts for renovations determined under division (D) 56489  
of this section; 56490

(4) Any amounts for return on equity determined under 56491  
division (I) of this section. 56492

Buildings shall be depreciated using the straight line method 56493  
over forty years or over a different period approved by the 56494  
department. Components and equipment shall be depreciated using 56495  
the straight line method over a period designated by the director 56496

of job and family services in rules adopted in accordance with 56497  
Chapter 119. of the Revised Code, consistent with the guidelines 56498  
of the American hospital association, or over a different period 56499  
approved by the department of job and family services. Any rules 56500  
adopted under this division that specify useful lives of 56501  
buildings, components, or equipment apply only to assets acquired 56502  
on or after July 1, 1993. Depreciation for costs paid or 56503  
reimbursed by any government agency shall not be included in costs 56504  
of ownership or renovation unless that part of the payment under 56505  
sections 5111.20 to 5111.32 of the Revised Code is used to 56506  
reimburse the government agency. 56507

(B) The department of job and family services shall pay to 56508  
each intermediate care facility for the mentally retarded an 56509  
efficiency incentive equal to fifty per cent of the difference 56510  
between any desk-reviewed, actual, allowable cost of ownership and 56511  
the applicable limit on cost of ownership payments under division 56512  
(C) of this section. For purposes of computing the efficiency 56513  
incentive, depreciation for costs paid or reimbursed by any 56514  
government agency shall be considered as a cost of ownership, and 56515  
the applicable limit under division (C) of this section shall 56516  
apply both to facilities with more than eight beds and facilities 56517  
with eight or fewer beds. The efficiency incentive paid to a 56518  
facility with eight or fewer beds shall not exceed three dollars 56519  
per patient day, adjusted annually for the inflation rate for the 56520  
twelve-month period beginning on the first day of July of the 56521  
calendar year preceding the calendar year that precedes the fiscal 56522  
year for which the efficiency incentive is determined and ending 56523  
on the thirtieth day of the following June, using the consumer 56524  
price index for shelter costs for all urban consumers for the 56525  
north central region, as published by the United States bureau of 56526  
labor statistics. 56527

(C) Cost of ownership payments to intermediate care 56528

facilities for the mentally retarded with more than eight beds	56529
shall not exceed the following limits:	56530
(1) For facilities with dates of licensure prior to January	56531
1, 1958, not exceeding two dollars and fifty cents per patient	56532
day;	56533
(2) For facilities with dates of licensure after December 31,	56534
1957, but prior to January 1, 1968, not exceeding:	56535
(a) Three dollars and fifty cents per patient day if the cost	56536
of construction was three thousand five hundred dollars or more	56537
per bed;	56538
(b) Two dollars and fifty cents per patient day if the cost	56539
of construction was less than three thousand five hundred dollars	56540
per bed.	56541
(3) For facilities with dates of licensure after December 31,	56542
1967, but prior to January 1, 1976, not exceeding:	56543
(a) Four dollars and fifty cents per patient day if the cost	56544
of construction was five thousand one hundred fifty dollars or	56545
more per bed;	56546
(b) Three dollars and fifty cents per patient day if the cost	56547
of construction was less than five thousand one hundred fifty	56548
dollars per bed, but exceeds three thousand five hundred dollars	56549
per bed;	56550
(c) Two dollars and fifty cents per patient day if the cost	56551
of construction was three thousand five hundred dollars or less	56552
per bed.	56553
(4) For facilities with dates of licensure after December 31,	56554
1975, but prior to January 1, 1979, not exceeding:	56555
(a) Five dollars and fifty cents per patient day if the cost	56556
of construction was six thousand eight hundred dollars or more per	56557
bed;	56558

(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed; 56559  
56560  
56561  
56562

(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed; 56563  
56564  
56565  
56566

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 56567  
56568  
56569

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding: 56570  
56571

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed; 56572  
56573  
56574

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed; 56575  
56576  
56577  
56578

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed; 56579  
56580  
56581

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed; 56582  
56583  
56584

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 56585  
56586  
56587

(6) For facilities with dates of licensure after December 31, 56588

1979, but prior to January 1, 1981, not exceeding:	56589
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56590 56591 56592
(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.	56593 56594
(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:	56595 56596
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56597 56598 56599
(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56600 56601 56602
(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	56603 56604
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56605 56606 56607
(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56608 56609 56610
(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	56611 56612
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56613 56614 56615
(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56616 56617 56618



(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	56619
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56620
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56621
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56622
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56623
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56624
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56625
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56626
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56627
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	56628
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56629
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56630
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56631
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56632
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56633
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56634
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56635
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56636
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	56637
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56638
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56639
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56640
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56641
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56642
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56643
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56644
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	56645
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by	56646
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by	56647
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by	56648

the department of mental retardation and developmental	56649
disabilities;	56650
(b) Seven dollars and sixty-seven cents per patient day if	56651
the beds were originally licensed as nursing home beds by the	56652
department of health.	56653
(14) For facilities with dates of licensure after December	56654
31, 1987, but prior to January 1, 1989, not exceeding thirteen	56655
dollars and twenty-six cents per patient day;	56656
(15) For facilities with dates of licensure after December	56657
31, 1988, but prior to January 1, 1990, not exceeding thirteen	56658
dollars and forty-six cents per patient day;	56659
(16) For facilities with dates of licensure after December	56660
31, 1989, but prior to January 1, 1991, not exceeding thirteen	56661
dollars and sixty cents per patient day;	56662
(17) For facilities with dates of licensure after December	56663
31, 1990, but prior to January 1, 1992, not exceeding thirteen	56664
dollars and forty-nine cents per patient day;	56665
(18) For facilities with dates of licensure after December	56666
31, 1991, but prior to January 1, 1993, not exceeding thirteen	56667
dollars and sixty-seven cents per patient day;	56668
(19) For facilities with dates of licensure after December	56669
31, 1992, not exceeding fourteen dollars and twenty-eight cents	56670
per patient day.	56671
(D) Beginning January 1, 1981, regardless of the original	56672
date of licensure, the department of job and family services shall	56673
pay a rate for the per diem capitalized costs of renovations to	56674
intermediate care facilities for the mentally retarded made after	56675
January 1, 1981, not exceeding six dollars per patient day using	56676
1980 as the base year and adjusting the amount annually until June	56677
30, 1993, for fluctuations in construction costs calculated by the	56678

department using the "Dodge building cost indexes, northeastern 56679  
and north central states," published by Marshall and Swift. The 56680  
payment provided for in this division is the only payment that 56681  
shall be made for the capitalized costs of a nonextensive 56682  
renovation of an intermediate care facility for the mentally 56683  
retarded. Nonextensive renovation costs shall not be included in 56684  
cost of ownership, and a nonextensive renovation shall not affect 56685  
the date of licensure for purposes of division (C) of this 56686  
section. This division applies to nonextensive renovations 56687  
regardless of whether they are made by an owner or a lessee. If 56688  
the tenancy of a lessee that has made renovations ends before the 56689  
depreciation expense for the renovation costs has been fully 56690  
reported, the former lessee shall not report the undepreciated 56691  
balance as an expense. 56692

For a nonextensive renovation to qualify for payment under 56693  
this division, both of the following conditions must be met: 56694

(1) At least five years have elapsed since the date of 56695  
licensure or date of an extensive renovation of the portion of the 56696  
facility that is proposed to be renovated, except that this 56697  
condition does not apply if the renovation is necessary to meet 56698  
the requirements of federal, state, or local statutes, ordinances, 56699  
rules, or policies. 56700

(2) The provider has obtained prior approval from the 56701  
department of job and family services. The provider shall submit a 56702  
plan that describes in detail the changes in capital assets to be 56703  
accomplished by means of the renovation and the timetable for 56704  
completing the project. The time for completion of the project 56705  
shall be no more than eighteen months after the renovation begins. 56706  
The director of job and family services shall adopt rules in 56707  
accordance with Chapter 119. of the Revised Code that specify 56708  
criteria and procedures for prior approval of renovation projects. 56709  
No provider shall separate a project with the intent to evade the 56710

characterization of the project as a renovation or as an extensive 56711  
renovation. No provider shall increase the scope of a project 56712  
after it is approved by the department of job and family services 56713  
unless the increase in scope is approved by the department. 56714

(E) The amounts specified in divisions (C) and (D) of this 56715  
section shall be adjusted beginning July 1, 1993, for the 56716  
estimated inflation for the twelve-month period beginning on the 56717  
first day of July of the calendar year preceding the calendar year 56718  
that precedes the fiscal year for which rate will be paid and 56719  
ending on the thirtieth day of the following June, using the 56720  
consumer price index for shelter costs for all urban consumers for 56721  
the north central region, as published by the United States bureau 56722  
of labor statistics. 56723

(F)(1) For facilities of eight or fewer beds that have dates 56724  
of licensure or have been granted project authorization by the 56725  
department of mental retardation and developmental disabilities 56726  
before July 1, 1993, and for facilities of eight or fewer beds 56727  
that have dates of licensure or have been granted project 56728  
authorization after that date if the facilities demonstrate that 56729  
they made substantial commitments of funds on or before that date, 56730  
cost of ownership shall not exceed eighteen dollars and thirty 56731  
cents per resident per day. The eighteen-dollar and thirty-cent 56732  
amount shall be increased by the change in the "Dodge building 56733  
cost indexes, northeastern and north central states," published by 56734  
Marshall and Swift, during the period beginning June 30, 1990, and 56735  
ending July 1, 1993, and by the change in the consumer price index 56736  
for shelter costs for all urban consumers for the north central 56737  
region, as published by the United States bureau of labor 56738  
statistics, annually thereafter. 56739

(2) For facilities with eight or fewer beds that have dates 56740  
of licensure or have been granted project authorization by the 56741  
department of mental retardation and developmental disabilities on 56742

or after July 1, 1993, for which substantial commitments of funds 56743  
were not made before that date, cost of ownership payments shall 56744  
not exceed the applicable amount calculated under division (F)(1) 56745  
of this section, if the department of job and family services 56746  
gives prior approval for construction of the facility or, 56747  
regardless of whether the department gives prior approval, if the 56748  
facility obtains a residential facility license under section 56749  
5123.19 of the Revised Code pursuant to section 5123.1910 of the 56750  
Revised Code. If the department does not give prior approval, cost 56751  
of ownership payments shall not exceed the amount specified in 56752  
division (C) of this section unless the facility obtains a 56753  
residential facility license under section 5123.19 of the Revised 56754  
Code pursuant to section 5123.1910 of the Revised Code. 56755

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 56756  
section, the total payment for cost of ownership, cost of 56757  
ownership efficiency incentive, and capitalized costs of 56758  
renovations for an intermediate care facility for the mentally 56759  
retarded with eight or fewer beds shall not exceed the sum of the 56760  
limitations specified in divisions (C) and (D) of this section. 56761

(G) Notwithstanding any provision of this section or section 56762  
5111.24 of the Revised Code, the director of job and family 56763  
services may adopt rules in accordance with Chapter 119. of the 56764  
Revised Code that provide for a calculation of a combined maximum 56765  
payment limit for indirect care costs and cost of ownership for 56766  
intermediate care facilities for the mentally retarded with eight 56767  
or fewer beds. 56768

~~(H) After June 30, 1980, the owner of an intermediate care 56769  
facility for the mentally retarded operating under a provider 56770  
agreement shall provide written notice to the department of job 56771  
and family services at least forty five days prior to entering 56772  
into any contract of sale for the facility or voluntarily 56773  
terminating participation in the medical assistance program. After 56774~~

the date on which a transaction of sale of an intermediate care facility for the mentally retarded is closed, the owner shall refund to the department the amount of excess depreciation paid to the facility by the department for each year the owner has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility has received payment. If an intermediate care facility for the mentally retarded is sold after five or fewer years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If an intermediate care facility for the mentally retarded is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the number of years less than ten that a facility was operated under a provider agreement. If an intermediate care facility for the mentally retarded is sold after ten or more years of operation under a provider agreement, the owner shall not refund any excess depreciation to the department. For the purposes of this division, "depreciation paid to the facility" means the amount paid to the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the owner's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the facility.

~~A cost report shall be filed with the department within ninety days after the date on which the transaction of sale is closed or participation is voluntarily terminated for an intermediate care facility for the mentally retarded subject to this division. The report shall show the accumulated depreciation,~~

~~the sales price, and other information required by the department. 56808~~  
~~The department shall provide for a bank, trust company, or savings 56809~~  
~~and loan association to hold in escrow the amount of the last two 56810~~  
~~monthly payments to an intermediate care facility for the mentally 56811~~  
~~retarded made pursuant to division (A)(1) of section 5111.22 of 56812~~  
~~the Revised Code before a sale or voluntary termination of 56813~~  
~~participation or, if the owner fails, within the time required by 56814~~  
~~this division, to notify the department before entering into a 56815~~  
~~contract of sale for the facility, the amount of the first two 56816~~  
~~monthly payments made to the facility after the department learns 56817~~  
~~of the contract, regardless of whether a new owner is in 56818~~  
~~possession of the facility. If the amount the owner will be 56819~~  
~~required to refund under this section is likely to be less than 56820~~  
~~the amount of the two monthly payments otherwise put into escrow 56821~~  
~~under this division, the department shall take one of the 56822~~  
~~following actions instead of withholding the amount of the two 56823~~  
~~monthly payments:~~ 56824

~~(1) In the case of an owner that owns other facilities that 56825~~  
~~participate in the medical assistance program, obtain a promissory 56826~~  
~~note in an amount sufficient to cover the amount likely to be 56827~~  
~~refunded;~~ 56828

~~(2) In the case of all other owners, withhold the amount of 56829~~  
~~the last monthly payment to the intermediate care facility for the 56830~~  
~~mentally retarded or, if the owner fails, within the time required 56831~~  
~~by this division, to notify the department before entering into a 56832~~  
~~contract of sale for the facility, the amount of the first monthly 56833~~  
~~payment made to the facility after the department learns of the 56834~~  
~~contract, regardless of whether a new owner is in possession of 56835~~  
~~the facility.~~ 56836

~~The department shall, within ninety days following the filing 56837~~  
~~of the cost report, audit the report and issue an audit report to 56838~~  
~~the owner. The department also may audit any other cost reports 56839~~

~~for the facility that have been filed during the previous three 56840  
years. In the audit report, the department shall state its 56841  
findings and the amount of any money owed to the department by the 56842  
intermediate care facility for the mentally retarded. The findings 56843  
shall be subject to an adjudication conducted in accordance with 56844  
Chapter 119. of the Revised Code. No later than fifteen days after 56845  
the owner agrees to a settlement, any funds held in escrow less 56846  
any amounts due to the department shall be released to the owner 56847  
and amounts due to the department shall be paid to the department. 56848  
If the amounts in escrow are less than the amounts due to the 56849  
department, the balance shall be paid to the department within 56850  
fifteen days after the owner agrees to a settlement. If the 56851  
department does not issue its audit report within the ninety day 56852  
period, the department shall release any money held in escrow to 56853  
the owner. For the purposes of this section, a transfer of 56854  
corporate stock, the merger of one corporation into another, or a 56855  
consolidation does not constitute a sale. 56856~~

~~If an intermediate care facility for the mentally retarded is 56857  
not sold or its participation is not terminated after notice is 56858  
provided to the department under this division, the department 56859  
shall order any payments held in escrow released to the facility 56860  
upon receiving written notice from the owner that there will be no 56861  
sale or termination of participation. After written notice is 56862  
received from an intermediate care facility for the mentally 56863  
retarded that a sale or termination of participation will not take 56864  
place, the facility shall provide notice to the department at 56865  
least forty five days prior to entering into any contract of sale 56866  
or terminating participation at any future time. 56867~~

(I) The department of job and family services shall pay each 56868  
eligible proprietary intermediate care facility for the mentally 56869  
retarded a return on the facility's net equity computed at the 56870  
rate of one and one-half times the average of interest rates on 56871



special issues of public debt obligations issued to the federal 56872  
hospital insurance trust fund for the cost reporting period. No 56873  
facility's return on net equity paid under this division shall 56874  
exceed one dollar per patient day. 56875

In calculating the rate for return on net equity, the 56876  
department shall use the greater of the facility's inpatient days 56877  
during the applicable cost reporting period or the number of 56878  
inpatient days the facility would have had during that period if 56879  
its occupancy rate had been ninety-five per cent. 56880

(J)(1) Except as provided in division (J)(2) of this section, 56881  
if a provider leases or transfers an interest in a facility to 56882  
another provider who is a related party, the related party's 56883  
allowable cost of ownership shall include the lesser of the 56884  
following: 56885

(a) The annual lease expense or actual cost of ownership, 56886  
whichever is applicable; 56887

(b) The reasonable cost to the lessor or provider making the 56888  
transfer. 56889

(2) If a provider leases or transfers an interest in a 56890  
facility to another provider who is a related party, regardless of 56891  
the date of the lease or transfer, the related party's allowable 56892  
cost of ownership shall include the annual lease expense or actual 56893  
cost of ownership, whichever is applicable, subject to the 56894  
limitations specified in divisions (B) to (I) of this section, if 56895  
all of the following conditions are met: 56896

(a) The related party is a relative of owner; 56897

(b) In the case of a lease, if the lessor retains any 56898  
ownership interest, it is, except as provided in division 56899  
(J)(2)(d)(ii) of this section, in only the real property and any 56900  
improvements on the real property; 56901

(c) In the case of a transfer, the provider making the 56902  
transfer retains, except as provided in division (J)(2)(d)(iv) of 56903  
this section, no ownership interest in the facility; 56904

(d) The department of job and family services determines that 56905  
the lease or transfer is an arm's length transaction pursuant to 56906  
rules the department shall adopt in accordance with Chapter 119. 56907  
of the Revised Code no later than December 31, 2000. The rules 56908  
shall provide that a lease or transfer is an arm's length 56909  
transaction if all of the following, as applicable, apply: 56910

(i) In the case of a lease, once the lease goes into effect, 56911  
the lessor has no direct or indirect interest in the lessee or, 56912  
except as provided in division (J)(2)(b) of this section, the 56913  
facility itself, including interest as an owner, officer, 56914  
director, employee, independent contractor, or consultant, but 56915  
excluding interest as a lessor. 56916

(ii) In the case of a lease, the lessor does not reacquire an 56917  
interest in the facility except through the exercise of a lessor's 56918  
rights in the event of a default. If the lessor reacquires an 56919  
interest in the facility in this manner, the department shall 56920  
treat the facility as if the lease never occurred when the 56921  
department calculates its reimbursement rates for capital costs. 56922

(iii) In the case of a transfer, once the transfer goes into 56923  
effect, the provider that made the transfer has no direct or 56924  
indirect interest in the provider that acquires the facility or 56925  
the facility itself, including interest as an owner, officer, 56926  
director, employee, independent contractor, or consultant, but 56927  
excluding interest as a creditor. 56928

(iv) In the case of a transfer, the provider that made the 56929  
transfer does not reacquire an interest in the facility except 56930  
through the exercise of a creditor's rights in the event of a 56931  
default. If the provider reacquires an interest in the facility in 56932

this manner, the department shall treat the facility as if the 56933  
transfer never occurred when the department calculates its 56934  
reimbursement rates for capital costs. 56935

(v) The lease or transfer satisfies any other criteria 56936  
specified in the rules. 56937

(e) Except in the case of hardship caused by a catastrophic 56938  
event, as determined by the department, or in the case of a lessor 56939  
or provider making the transfer who is at least sixty-five years 56940  
of age, not less than twenty years have elapsed since, for the 56941  
same facility, allowable cost of ownership was determined most 56942  
recently under this division. 56943

**Sec. 5111.28.** (A) If a provider properly amends its cost 56944  
report under section 5111.27 of the Revised Code and the amended 56945  
report shows that the provider received a lower rate under the 56946  
original cost report than it was entitled to receive, the 56947  
department shall adjust the provider's rate prospectively to 56948  
reflect the corrected information. The department shall pay the 56949  
adjusted rate beginning two months after the first day of the 56950  
month after the provider files the amended cost report. If the 56951  
department finds, from an exception review of resident assessment 56952  
information conducted after the effective date of the rate for 56953  
direct care costs that is based on the assessment information, 56954  
that inaccurate assessment information resulted in the provider 56955  
receiving a lower rate than it was entitled to receive, the 56956  
department prospectively shall adjust the provider's rate 56957  
accordingly and shall make payments using the adjusted rate for 56958  
the remainder of the calendar quarter for which the assessment 56959  
information is used to determine the rate, beginning one month 56960  
after the first day of the month after the exception review is 56961  
completed. 56962

(B) If the provider properly amends its cost report under 56963

section 5111.27 of the Revised Code, the department makes a 56964  
finding based on an audit under that section, or the department 56965  
makes a finding based on an exception review of resident 56966  
assessment information conducted under that section after the 56967  
effective date of the rate for direct care costs that is based on 56968  
the assessment information, any of which results in a 56969  
determination that the provider has received a higher rate than it 56970  
was entitled to receive, the department shall recalculate the 56971  
provider's rate using the revised information. The department 56972  
shall apply the recalculated rate to the periods when the provider 56973  
received the incorrect rate to determine the amount of the 56974  
overpayment. The provider shall refund the amount of the 56975  
overpayment. 56976

In addition to requiring a refund under this division, the 56977  
department may charge the provider interest at the applicable rate 56978  
specified in this division from the time the overpayment was made. 56979

(1) If the overpayment resulted from costs reported for 56980  
calendar year 1993, the interest shall be no greater than one and 56981  
one-half times the average bank prime rate. 56982

(2) If the overpayment resulted from costs reported for 56983  
subsequent calendar years: 56984

(a) The interest shall be no greater than two times the 56985  
average bank prime rate if the overpayment was equal to or less 56986  
than one per cent of the total medicaid payments to the provider 56987  
for the fiscal year for which the incorrect information was used 56988  
to establish a rate. 56989

(b) The interest shall be no greater than two and one-half 56990  
times the current average bank prime rate if the overpayment was 56991  
greater than one per cent of the total medicaid payments to the 56992  
provider for the fiscal year for which the incorrect information 56993  
was used to establish a rate. 56994

(C) The department also may impose the following penalties: 56995

(1) If a provider does not furnish invoices or other 56996  
documentation that the department requests during an audit within 56997  
sixty days after the request, no more than the greater of one 56998  
thousand dollars per audit or twenty-five per cent of the 56999  
cumulative amount by which the costs for which documentation was 57000  
not furnished increased the total medicaid payments to the 57001  
provider during the fiscal year for which the costs were used to 57002  
establish a rate; 57003

(2) If an ~~owner~~ exiting operator fails to provide a properly 57004  
completed notice of ~~sale of the facility or closure,~~ voluntary 57005  
termination, voluntary withdrawal of participation ~~in the medical~~ 57006  
~~assistance program, or change of operator,~~ as required by section 57007  
~~5111.25~~ 5111.66 or ~~5111.251~~ 5111.67 of the Revised Code, no more 57008  
than the current average bank prime rate plus four per cent of ~~the~~ 57009  
~~last~~ an amount equal to two times the average amount of monthly 57010  
payments to the exiting operator under the medicaid program for 57011  
the twelve-month period immediately preceding the month that 57012  
includes the last day the exiting operator's provider agreement is 57013  
in effect or, in the case of a voluntary withdrawal of 57014  
participation, the effective date of the voluntary withdrawal of 57015  
participation. 57016

(D) If the provider continues to participate in the ~~medical~~ 57017  
~~assistance~~ medicaid program, the department shall deduct any 57018  
amount that the provider is required to refund under this section, 57019  
and the amount of any interest charged or penalty imposed under 57020  
this section, from the next available payment from the department 57021  
to the provider. The department and the provider may enter into an 57022  
agreement under which the amount, together with interest, is 57023  
deducted in installments from payments from the department to the 57024  
provider. If the provider does not continue to participate in the 57025  
medicaid program, the department shall collect any amount that the 57026

provider owes to the department under this section from the 57027  
withholding, security, or both that the department makes or 57028  
requires under section 5111.681 of the Revised Code. 57029

(E) The department shall transmit refunds and penalties to 57030  
the treasurer of state for deposit in the general revenue fund. 57031

(F) For the purpose of this section, the department shall 57032  
determine the average bank prime rate using statistical release 57033  
H.15, "selected interest rates," a weekly publication of the 57034  
federal reserve board, or any successor publication. If 57035  
statistical release H.15, or its successor, ceases to contain the 57036  
bank prime rate information or ceases to be published, the 57037  
department shall request a written statement of the average bank 57038  
prime rate from the federal reserve bank of Cleveland or the 57039  
federal reserve board. 57040

**Sec. 5111.29.** (A) The director of job and family services 57041  
shall adopt rules in accordance with Chapter 119. of the Revised 57042  
Code that establish a process under which a nursing facility or 57043  
intermediate care facility for the mentally retarded, or a group 57044  
or association of facilities, may seek reconsideration of rates 57045  
established under sections 5111.23 to 5111.28 of the Revised Code, 57046  
including a rate for direct care costs recalculated before the 57047  
effective date of the rate as a result of an exception review of 57048  
resident assessment information conducted under section 5111.27 of 57049  
the Revised Code. 57050

(1) Except as provided in divisions (A)(2) to (4) of this 57051  
section, the only issue that a facility, group, or association may 57052  
raise in the rate reconsideration shall be whether the rate was 57053  
calculated in accordance with sections 5111.23 to 5111.28 of the 57054  
Revised Code and the rules adopted under those sections. The rules 57055  
shall permit a facility, group, or association to submit written 57056  
arguments or other materials that support its position. The rules 57057

shall specify time frames within which the facility, group, or 57058  
association and the department must act. If the department 57059  
determines, as a result of the rate reconsideration, that the rate 57060  
established for one or more facilities is less than the rate to 57061  
which it is entitled, the department shall increase the rate. If 57062  
the department has paid the incorrect rate for a period of time, 57063  
the department shall pay the facility the difference between the 57064  
amount it was paid for that period and the amount it should have 57065  
been paid. 57066

(2) The rules shall provide that during a fiscal year, the 57067  
department, by means of the rate reconsideration process, may 57068  
increase a facility's rate as calculated under sections 5111.23 to 57069  
5111.28 of the Revised Code if the facility demonstrates that its 57070  
actual, allowable costs have increased because of extreme 57071  
circumstances. A facility may qualify for a rate increase only if 57072  
its per diem, actual, allowable costs have increased to a level 57073  
that exceeds its total rate, including any efficiency incentive 57074  
and return on equity payment. The rules shall specify the 57075  
circumstances that would justify a rate increase under division 57076  
(A)(2) of this section. In the case of nursing facilities, the 57077  
rules shall provide that the extreme circumstances include 57078  
increased security costs for an inner-city nursing facility and an 57079  
increase in workers' compensation experience rating of greater 57080  
than five per cent for a facility that has an appropriate claims 57081  
management program but do not include a change of ownership that 57082  
results from bankruptcy, foreclosure, or findings of violations of 57083  
certification requirements by the department of health. In the 57084  
case of intermediate care facilities for the mentally retarded, 57085  
the rules shall provide that the extreme circumstances include, 57086  
but are not limited to, renovations approved under division (D) of 57087  
section 5111.251 of the Revised Code, an increase in workers' 57088  
compensation experience rating of greater than five per cent for a 57089  
facility that has an appropriate claims management program, 57090

increased security costs for an inner-city facility, and a change 57091  
of ownership that results from bankruptcy, foreclosure, or 57092  
findings of violations of certification requirements by the 57093  
department of health. An increase under division (A)(2) of this 57094  
section is subject to any rate limitations or maximum rates 57095  
established by sections 5111.23 to 5111.28 of the Revised Code for 57096  
specific cost centers. Any rate increase granted under division 57097  
(A)(2) of this section shall take effect on the first day of the 57098  
first month after the department receives the request. 57099

(3) The rules shall provide that the department, through the 57100  
rate reconsideration process, may increase a facility's rate as 57101  
calculated under sections 5111.23 to 5111.28 of the Revised Code 57102  
if the department, in its sole discretion, determines that the 57103  
rate as calculated under those sections works an extreme hardship 57104  
on the facility. 57105

(4) The rules shall provide that when beds certified for the 57106  
medical assistance program are added to an existing facility, 57107  
replaced at the same site, or subject to a change of ownership or 57108  
lease, the department, through the rate reconsideration process, 57109  
shall increase the facility's rate for capital costs 57110  
proportionately, as limited by any applicable limitation under 57111  
section 5111.25 or 5111.251 of the Revised Code, to account for 57112  
the costs of the beds that are added, replaced, or subject to a 57113  
change of ownership or lease. The department shall make this 57114  
increase one month after the first day of the month after the 57115  
department receives sufficient documentation of the costs. Any 57116  
rate increase granted under division (A)(4) of this section after 57117  
June 30, 1993, shall remain in effect until the effective date of 57118  
a rate calculated under section 5111.25 or 5111.251 of the Revised 57119  
Code that includes costs incurred for a full calendar year for the 57120  
bed addition, bed replacement, or change of ownership or lease. 57121  
The facility shall report double accumulated depreciation in an 57122



amount equal to the depreciation included in the rate adjustment 57123  
on its cost report for the first year of operation. During the 57124  
term of any loan used to finance a project for which a rate 57125  
adjustment is granted under division (A)(4) of this section, if 57126  
the facility is operated by the same provider, the facility shall 57127  
subtract from the interest costs it reports on its cost report an 57128  
amount equal to the difference between the following: 57129

(a) The actual, allowable interest costs for the loan during 57130  
the calendar year for which the costs are being reported; 57131

(b) The actual, allowable interest costs attributable to the 57132  
loan that were used to calculate the rates paid to the facility 57133  
during the same calendar year. 57134

(5) The department's decision at the conclusion of the 57135  
reconsideration process shall not be subject to any administrative 57136  
proceedings under Chapter 119. or any other provision of the 57137  
Revised Code. 57138

(B) ~~Any~~ All of the following are subject to an adjudication 57139  
conducted in accordance with Chapter 119. of the Revised Code: 57140

(1) Any audit disallowance that the department makes as the 57141  
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 57142

(2) Any adverse finding that results from an exception review 57143  
of resident assessment information conducted under ~~that~~ section 57144  
5111.27 of the Revised Code after the effective date of the 57145  
facility's rate that is based on the assessment information, ~~and~~ 57146  
~~any;~~ 57147

(3) Any penalty the department imposes under division (C) of 57148  
section 5111.28 of the Revised Code ~~shall be subject to an~~ 57149  
~~adjudication conducted in accordance with Chapter 119. or section~~ 57150  
5111.684 of the Revised Code. 57151

**Sec. 5111.30.** The department of job and family services shall 57152

terminate the provider agreement with an operator of a nursing 57153  
facility or intermediate care facility for the mentally retarded 57154  
that does not comply with the requirements of section 3721.071 of 57155  
the Revised Code for the installation of fire extinguishing and 57156  
fire alarm systems. 57157

**Sec. 5111.31.** (A) Every provider agreement with an operator 57158  
of a nursing facility or intermediate care facility for the 57159  
mentally retarded shall: 57160

(1) Prohibit the facility from failing or refusing to retain 57161  
as a patient any person because the person is, becomes, or may, as 57162  
a patient in the facility, become a recipient of assistance under 57163  
the medical assistance program. For the purposes of this division, 57164  
a recipient of medical assistance who is a patient in a facility 57165  
shall be considered a patient in the facility during any hospital 57166  
stays totaling less than twenty-five days during any twelve-month 57167  
period. Recipients who have been identified by the department of 57168  
job and family services or its designee as requiring the level of 57169  
care of an intermediate care facility for the mentally retarded 57170  
shall not be subject to a maximum period of absences during which 57171  
they are considered patients if prior authorization of the 57172  
department for visits with relatives and friends and participation 57173  
in therapeutic programs is obtained under rules adopted under 57174  
section 5111.02 of the Revised Code. 57175

(2) Include any part of the facility that meets standards for 57176  
certification of compliance with federal and state laws and rules 57177  
for participation in the medical assistance program, except that 57178  
nursing facilities that, during the period beginning July 1, 1987, 57179  
and ending July 1, 1993, added beds licensed as nursing home beds 57180  
under Chapter 3721. of the Revised Code are not required to 57181  
include those beds under a provider agreement unless otherwise 57182  
required by federal law. Once added to the provider agreement, 57183

however, those nursing home beds may not be removed unless the 57184  
facility withdraws from the medical assistance program in its 57185  
entirety. 57186

(3) Prohibit the facility from discriminating against any 57187  
patient on the basis of race, color, sex, creed, or national 57188  
origin. 57189

(4) Except as otherwise prohibited under section 5111.55 of 57190  
the Revised Code, prohibit the facility from failing or refusing 57191  
to accept a patient because the patient is, becomes, or may, as a 57192  
patient in the facility, become a recipient of assistance under 57193  
the medical assistance program if less than eighty per cent of the 57194  
patients in the facility are recipients of medical assistance. 57195

(B) Nothing in this section shall bar any religious or 57196  
denominational nursing facility or intermediate care facility for 57197  
the mentally retarded that is operated, supervised, or controlled 57198  
by a religious organization from giving preference to persons of 57199  
the same religion or denomination. Nothing in this section shall 57200  
bar any facility from giving preference to persons with whom it 57201  
has contracted to provide continuing care. 57202

(C) Nothing in this section shall bar any county home 57203  
organized under Chapter 5155. of the Revised Code from admitting 57204  
residents exclusively from the county in which the county home is 57205  
located. 57206

(D) No operator of a nursing facility or intermediate care 57207  
facility for the mentally retarded with which a provider agreement 57208  
is in effect shall violate the provider contract obligations 57209  
imposed under this section. 57210

(E) Nothing in divisions (A) and (B) of this section shall 57211  
bar any nursing facility or intermediate care facility for the 57212  
mentally retarded from retaining patients who have resided in the 57213  
facility for not less than one year as private pay patients and 57214

who subsequently become recipients of assistance under the 57215  
medicaid program, but refusing to accept as a patient any person 57216  
who is or may, as a patient in the facility, become a recipient of 57217  
assistance under the medicaid program, if all of the following 57218  
apply: 57219

(1) The facility does not refuse to retain any patient who 57220  
has resided in the facility for not less than one year as a 57221  
private pay patient because the patient becomes a recipient of 57222  
assistance under the medicaid program, except as necessary to 57223  
comply with division (E)(2) of this section; 57224

(2) The number of medicaid recipients retained under this 57225  
division does not at any time exceed ten per cent of all the 57226  
patients in the facility; 57227

(3) On July 1, 1980, all the patients in the facility were 57228  
private pay patients. 57229

**Sec. 5111.34.** (A) There is hereby created the nursing 57230  
facility reimbursement study council consisting of the following 57231  
~~seventeen~~ eighteen members: 57232

(1) The director of job and family services; 57233

(2) The deputy director of the office of Ohio health plans of 57234  
the department of job and family services; 57235

(3) An employee of the governor's office; 57236

(4) The director of health; 57237

(5) The director of aging; 57238

(6) Three members of the house of representatives, not more 57239  
than two of whom are members of the same political party, 57240  
appointed by the speaker of the house of representatives; 57241

(7) Three members of the senate, not more than two of whom 57242  
are members of the same political party, appointed by the 57243

president of the senate; 57244

(8) One representative of medicaid recipients residing in nursing facilities, appointed by the governor; 57245  
57246

(9) Two representatives of each of the following 57247  
organizations, appointed by their respective governing bodies: 57248

(a) The Ohio academy of nursing homes; 57249

(b) The association of Ohio philanthropic homes and housing 57250  
for the aging; 57251

(c) The Ohio health care association. 57252

Initial appointments of members described in divisions 57253  
(A)(6), (7), and ~~(8)~~(9) of this section shall be made no later 57254  
than ninety days after June 6, 2001, except that the initial 57255  
appointments of the two additional members described in divisions 57256  
(A)(6) and (7) of this section added by Am. Sub. H.B. 405 of the 57257  
124th general assembly shall be made not later than ninety days 57258  
after ~~the effective date of this amendment~~ March 14, 2002. Initial 57259  
appointment of the member described in division (A)(8) of this 57260  
section shall be made not later than ninety days after the 57261  
effective date of this amendment. Vacancies in any of those 57262  
appointments shall be filled in the same manner as original 57263  
appointments. The members described in divisions (A)(6), (7), ~~and~~ 57264  
(8), and (9) of this section shall serve at the pleasure of the 57265  
official or governing body appointing the member. The members 57266  
described in divisions (A)(1), (2), (3), (4), and (5) of this 57267  
section shall serve for as long as they hold the position that 57268  
qualifies them for membership on the council. The speaker of the 57269  
house of representatives and the president of the senate jointly 57270  
shall appoint the chairperson of the council. Members of the 57271  
council shall serve without compensation. 57272

(B) The council shall review, on an ongoing basis, the system 57273  
established by sections 5111.20 to 5111.32 of the Revised Code for 57274

reimbursing nursing facilities under the medical assistance 57275  
program. The council shall recommend any changes it determines are 57276  
necessary. The council shall issue a report of its activities, 57277  
findings, and recommendations to the governor, the speaker of the 57278  
house of representatives, and the president of the senate not 57279  
later than July 30, 2004. Thereafter, the council periodically 57280  
shall report its activities, findings, and recommendations to the 57281  
governor, the speaker of the house of representatives, and the 57282  
president of the senate. 57283

(C) The council shall meet quarterly. Its first quarterly 57284  
meeting after the effective date of this amendment shall be held 57285  
not later than August 1, 2003. 57286

**Sec. 5111.65.** As used in sections 5111.65 to 5111.6810 of the 57287  
Revised Code: 57288

(A) "Change of operator" means an entering operator becoming 57289  
the operator of a nursing facility or intermediate care facility 57290  
for the mentally retarded in the place of the exiting operator. 57291

(1) Actions that constitute a change of operator include, but 57292  
are not limited to, the following: 57293

(a) A change in an exiting operator's form of legal 57294  
organization, including the formation of a partnership or 57295  
corporation from a sole proprietorship; 57296

(b) A transfer of all the exiting operator's ownership 57297  
interest in the operation of the facility to the entering 57298  
operator, regardless of whether ownership of any or all of the 57299  
real property or personal property associated with the facility is 57300  
also transferred; 57301

(c) A lease of the facility to the entering operator or the 57302  
exiting operator's termination of the lease; 57303

(d) If the exiting operator is a partnership, dissolution of 57304

<u>the partnership;</u>	57305
<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	57306
<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	57308
<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	57310
<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>	57312
<u>(2) The following, alone, do not constitute a change of operator:</u>	57316
<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>	57318
<u>(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;</u>	57322
<u>(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.</u>	57327
<u>(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.</u>	57331
<u>(C) "Effective date of a facility closure" means the last day</u>	57334

that the last of the residents of the nursing facility or 57335  
intermediate care facility for the mentally retarded resides in 57336  
the facility. 57337

(D) "Effective date of a voluntary termination" means the day 57338  
the intermediate care facility for the mentally retarded ceases to 57339  
accept medicaid patients. 57340

(E) "Effective date of a voluntary withdrawal of 57341  
participation" means the day the nursing facility ceases to accept 57342  
new medicaid patients other than the individuals who reside in the 57343  
nursing facility on the day before the effective date of the 57344  
voluntary withdrawal of participation. 57345

(F) "Entering operator" means the person or government entity 57346  
that will become the operator of a nursing facility or 57347  
intermediate care facility for the mentally retarded when a change 57348  
of operator occurs. 57349

(G) "Exiting operator" means any of the following: 57350

(1) An operator that will cease to be the operator of a 57351  
nursing facility or intermediate care facility for the mentally 57352  
retarded on the effective date of a change of operator; 57353

(2) An operator that will cease to be the operator of a 57354  
nursing facility or intermediate care facility for the mentally 57355  
retarded on the effective date of a facility closure; 57356

(3) An operator of an intermediate care facility for the 57357  
mentally retarded that is undergoing or has undergone a voluntary 57358  
termination; 57359

(4) An operator of a nursing facility that is undergoing or 57360  
has undergone a voluntary withdrawal of participation. 57361

(H) "Facility closure" means discontinuance of the use of the 57362  
building, or part of the building, that houses the facility as a 57363  
nursing facility or intermediate care facility for the mentally 57364



retarded that results in the relocation of all of the facility's 57365  
residents. A facility closure occurs regardless of any of the 57366  
following: 57367

(1) The operator completely or partially replacing the 57368  
facility by constructing a new facility or transferring the 57369  
facility's license to another facility; 57370

(2) The facility's residents relocating to another of the 57371  
operator's facilities; 57372

(3) Any action the department of health takes regarding the 57373  
facility's certification under Title XIX of the "Social Security 57374  
Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, that may 57375  
result in the transfer of part of the facility's survey findings 57376  
to another of the operator's facilities; 57377

(4) Any action the department of health takes regarding the 57378  
facility's license under Chapter 3721. of the Revised Code; 57379

(5) Any action the department of mental retardation and 57380  
developmental disabilities takes regarding the facility's license 57381  
under section 5123.19 of the Revised Code. 57382

(I) "Fiscal year" means the fiscal year of this state, as 57383  
specified in section 9.34 of the Revised Code. 57384

(J) "Intermediate care facility for the mentally retarded," 57385  
"nursing home," "operator," and "owner" have the same meanings as 57386  
in section 5111.20 of the Revised Code. 57387

(K) "Provider agreement" means a contract between the 57388  
department of job and family services and the operator of a 57389  
nursing facility or intermediate care facility for the mentally 57390  
retarded for the provision of nursing facility services or 57391  
intermediate care facility services for the mentally retarded 57392  
under the medical assistance program. 57393

(L) "Voluntary termination" means an operator's voluntary 57394

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. 57395  
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(M) "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. 57399  
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**Sec. 5111.66.** 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: 57403  
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(A) The name of the exiting operator and, if any, the exiting operator's authorized agent; 57412  
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(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; 57414  
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(C) The exiting operator's medicaid provider agreement number; 57418  
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(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation; 57420  
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(E) The signature of the exiting operator's or owner's representative. 57422  
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Sec. 5111.661. An operator shall comply with section 57424  
1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 57425  
42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility 57426  
undergoes a voluntary withdrawal of participation. 57427

Sec. 5111.67. (A) An exiting operator or owner and entering 57428  
operator shall provide the department of job and family services 57429  
written notice of a change of operator if the nursing facility or 57430  
intermediate care facility for the mentally retarded participates 57431  
in the medicaid program and the entering operator seeks to 57432  
continue the facility's participation. The written notice shall be 57433  
provided to the department not later than forty-five days before 57434  
the effective date of the change of operator if the change of 57435  
operator does not entail the relocation of residents. The written 57436  
notice shall be provided to the department not later than ninety 57437  
days before the effective date of the change of operator if the 57438  
change of operator entails the relocation of residents. The 57439  
written notice shall include all of the following: 57440

(1) The name of the exiting operator and, if any, the exiting 57441  
operator's authorized agent; 57442

(2) The name of the nursing facility or intermediate care 57443  
facility for the mentally retarded that is the subject of the 57444  
change of operator; 57445

(3) The exiting operator's medicaid provider agreement 57446  
number; 57447

(4) The name of the entering operator; 57448

(5) The effective date of the change of operator; 57449

(6) The manner in which the entering operator becomes the 57450  
facility's operator, including through sale, lease, merger, or 57451  
other action; 57452

(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step; 57453  
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(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator; 57456  
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(9) The signature of the exiting operator's or owner's representative. 57459  
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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: 57461  
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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; 57465  
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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. 57471  
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Sec. 5111.671. 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: 57477  
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(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or 57481  
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<u>before the date required by that section.</u>	57483
<u>(B) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator not later than ten days after the effective date of the change of operator.</u>	57484 57485 57486 57487 57488
<u>(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.</u>	57489 57490
<b>Sec. 5111.672.</b> <u>(A) 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 date determined under division (B) of this section if all of the following are the case:</u>	57491 57492 57493 57494
<u>(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code.</u>	57495 57496
<u>(2) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to change of operator.</u>	57497 57498 57499 57500
<u>(3) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code, the requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator, or both.</u>	57501 57502 57503 57504 57505
<u>(4) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.</u>	57506 57507
<u>(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:</u>	57508 57509 57510
<u>(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate</u>	57511 57512

payments are made, make the withholding required by section 57513  
5111.681 of the Revised Code, and withhold the final payment to 57514  
the exiting operator until the following: 57515

(a) Ninety days after the exiting operator submits to the 57516  
department a properly completed cost report under section 5111.683 57517  
of the Revised Code; 57518

(b) One hundred eighty days after the department waives the 57519  
cost report requirement of section 5111.683 of the Revised Code. 57520

(2) The effective date shall be not earlier than the later of 57521  
the effective date of the change of operator or the date that the 57522  
exiting operator or owner and entering operator comply with 57523  
section 5111.67 of the Revised Code. 57524

(3) The effective date shall be not later than the following 57525  
after the later of the dates specified in division (B)(2) of this 57526  
section: 57527

(a) Forty-five days if the change of operator does not entail 57528  
the relocation of residents; 57529

(b) Ninety days if the change of operator entails the 57530  
relocation of residents. 57531

**Sec. 5111.673.** A provider agreement that the department of 57532  
job and family services enters into with an entering operator 57533  
under section 5111.671 or 5111.672 of the Revised Code shall 57534  
satisfy all of the following requirements: 57535

(A) Comply with all applicable federal statutes and 57536  
regulations; 57537

(B) Comply with section 5111.22 of the Revised Code and all 57538  
other applicable state statutes and rules; 57539

(C) Include all the terms and conditions of the exiting 57540  
operator's provider agreement, including, but not limited to, all 57541

<u>of the following:</u>	57542
<u>(1) Any plan of correction;</u>	57543
<u>(2) Compliance with health and safety standards;</u>	57544
<u>(3) Compliance with the ownership and financial interest</u>	57545
<u>disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	57546
<u>(4) Compliance with the civil rights requirements of 45</u>	57547
<u>C.F.R. parts 80, 84, and 90;</u>	57548
<u>(5) Compliance with additional requirements imposed by the</u>	57549
<u>department;</u>	57550
<u>(6) Any sanctions relating to remedies for violation of the</u>	57551
<u>provider agreement, including deficiencies, compliance periods,</u>	57552
<u>accountability periods, monetary penalties, notification for</u>	57553
<u>correction of contract violations, and history of deficiencies.</u>	57554
<u>(D) Require the entering operator to assume the exiting</u>	57555
<u>operator's remaining debt to the department and United States</u>	57556
<u>centers for medicare and medicaid services that the department is</u>	57557
<u>unable to collect from the exiting operator.</u>	57558
<u>Sec. 5111.674. In the case of a change of operator, the</u>	57559
<u>exiting operator shall be considered to be the operator of the</u>	57560
<u>nursing facility or intermediate care facility for the mentally</u>	57561
<u>retarded for purposes of the medicaid program, including medicaid</u>	57562
<u>payments, until the effective date of the entering operator's</u>	57563
<u>provider agreement if the provider agreement is entered into under</u>	57564
<u>section 5111.671 or 5111.672 of the Revised Code.</u>	57565
<u>Sec. 5111.675. The department of job and family services may</u>	57566
<u>enter into a provider agreement as provided in section 5111.22 of</u>	57567
<u>the Revised Code, rather than section 5111.671 or 5111.672 of the</u>	57568
<u>Revised Code, with an entering operator if the entering operator</u>	57569
<u>does not agree to a provider agreement that satisfies the</u>	57570

requirements of division (C) or (D) of section 5111.673 of the 57571  
Revised Code. The department may not enter into the provider 57572  
agreement unless the department of health certifies the nursing 57573  
facility or intermediate care facility for the mentally retarded 57574  
under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 57575  
42 U.S.C.A. 1396, as amended. The effective date of the provider 57576  
agreement shall not precede any of the following: 57577

(A) The date that the department of health certifies the 57578  
facility; 57579

(B) The effective date of the change of operator; 57580

(C) The date the requirement of section 5111.67 of the 57581  
Revised Code is satisfied. 57582

Sec. 5111.676. The director of job and family services may 57583  
adopt rules in accordance with Chapter 119. of the Revised Code 57584  
governing adjustments to the medicaid reimbursement rate for a 57585  
nursing facility or intermediate care facility for the mentally 57586  
retarded that undergoes a change of operator. No rate adjustment 57587  
resulting from a change of operator shall be effective before the 57588  
effective date of the entering operator's provider agreement. This 57589  
is the case regardless of whether the provider agreement is 57590  
entered into under section 5111.671, section 5111.672, or, 57591  
pursuant to section 5111.675, section 5111.22 of the Revised Code. 57592

Sec. 5111.677. Neither of the following shall affect the 57593  
department of job and family services' determination of whether or 57594  
when a change of operator occurs or the effective date of an 57595  
entering operator's provider agreement under section 5111.671, 57596  
section 5111.672, or, pursuant to section 5111.675, section 57597  
5111.22 of the Revised Code: 57598

(A) The department of health's determination that a change of 57599  
operator has or has not occurred for purposes of licensure under 57600



<u>Chapter 3721. of the Revised Code;</u>	57601
<u>(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.</u>	57602 57603 57604 57605
<u>Sec. 5111.68. (A) On receipt of a written notice under section 5111.66 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation or a written notice under section 5111.67 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:</u>	57606 57607 57608 57609 57610 57611 57612 57613 57614 57615 57616 57617 57618 57619
<u>(1) Refunds due the department under division (G) of section 5111.25 of the Revised Code or division (H) of section 5111.251 of the Revised Code;</u>	57620 57621 57622
<u>(2) Interest owed to the department and United States centers for medicare and medicaid services;</u>	57623 57624
<u>(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;</u>	57625 57626
<u>(4) Third-party liabilities;</u>	57627
<u>(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</u>	57628 57629 57630

portion thereof in which the exiting operator participated in the 57631  
medicaid program. 57632

(B) If the department is unable to determine the amount of 57633  
the overpayments and other debts for any period before the 57634  
effective date of the entering operator's provider agreement or 57635  
the effective date of the facility closure, voluntary termination, 57636  
or voluntary withdrawal of participation, the department shall 57637  
make a reasonable estimate of the overpayments and other debts for 57638  
the period. The department shall make the estimate using 57639  
information available to the department, including prior 57640  
determinations of overpayments and other debts. 57641

**Sec. 5111.681.** (A) The department of job and family services 57642  
shall withhold the greater of the following from payment due an 57643  
exiting operator under the medicaid program: 57644

(1) The total amount of any overpayments made under the 57645  
medicaid program to the exiting operator, including overpayments 57646  
the exiting operator disputes, and other actual and potential 57647  
debts, including any unpaid penalties, the exiting operator owes 57648  
or may owe to the department and United States centers for 57649  
medicare and medicaid services under the medicaid program; 57650

(2) An amount equal to the average amount of monthly payments 57651  
to the exiting operator under the medicaid program for the 57652  
twelve-month period immediately preceding the month that includes 57653  
the last day the exiting operator's provider agreement is in 57654  
effect or, in the case of a voluntary withdrawal of participation, 57655  
the effective date of the voluntary withdrawal of participation. 57656

(B) The department may transfer the amount withheld under 57657  
division (A) of this section to an escrow account with a bank, 57658  
trust company, or savings and loan association. 57659

(C) If payment due an exiting operator under the medicaid 57660

program is less than the amount the department is required to 57661  
withhold under division (A) of this section, the department shall 57662  
require that the exiting operator provide the difference in the 57663  
form of a security. 57664

(D) The department shall release to the exiting operator the 57665  
actual amount withheld under division (A) of this section if the 57666  
department allows the exiting operator to provide the department a 57667  
security in the amount the department is required to withhold 57668  
under division (A) of this section, less any of that amount 57669  
provided to the department in the form of a security under 57670  
division (C) of this section. 57671

(E) Security provided to the department under division (C) or 57672  
(D) of this section shall be in either or both of the following 57673  
forms: 57674

(1) In the case of a change of operator, the entering 57675  
operator's nontransferable, unconditional, written agreement to 57676  
pay the department any debt the exiting operator owes the 57677  
department under the medicaid program; 57678

(2) In the case of a change of operator, facility closure, 57679  
voluntary termination, or voluntary withdrawal of participation, a 57680  
form of collateral or security acceptable to the department that 57681  
satisfies both of the following conditions: 57682

(a) Is at least equal to the amount the department is 57683  
required to withhold under division (A) of this section, less any 57684  
amounts the department has received through actual withholding or 57685  
one or more other forms of security under this division; 57686

(b) Is payable to the department if the exiting operator 57687  
fails to pay any debt owed the department under the medicaid 57688  
program within fifteen days of receiving the department's written 57689  
demand for payment of the debt. 57690

Sec. 5111.682. An entering operator that provides the 57691  
department of job and family services a security in the form 57692  
provided by division (E)(1) of section 5111.681 of the Revised 57693  
Code shall also provide the department a list of the entering 57694  
operator's assets and liabilities. The department shall determine 57695  
whether the assets are sufficient for the purpose of the security. 57696

Sec. 5111.683. (A) Except as provided in division (B) of this 57697  
section, an exiting operator shall file with the department of job 57698  
and family services a cost report not later than ninety days after 57699  
the last day the exiting operator's provider agreement is in 57700  
effect or, in the case of a voluntary withdrawal of participation, 57701  
the effective date of the voluntary withdrawal of participation. 57702  
The cost report shall cover the period that begins with the day 57703  
after the last day covered by the operator's most recent previous 57704  
cost report required by section 5111.26 of the Revised Code and 57705  
ends on the last day the exiting operator's provider agreement is 57706  
in effect or, in the case of a voluntary withdrawal of 57707  
participation, the effective date of the voluntary withdrawal of 57708  
participation. The cost report shall include, as applicable, all 57709  
of the following: 57710

(1) The sale price of the nursing facility or intermediate 57711  
care facility for the mentally retarded; 57712

(2) A final depreciation schedule that shows which assets are 57713  
transferred to the buyer and which assets are not transferred to 57714  
the buyer; 57715

(3) Any other information the department requires. 57716

(B) The department, at its sole discretion, may waive the 57717  
requirement that an exiting operator file a cost report in 57718  
accordance with division (A) of this section. 57719

Sec. 5111.684. If an exiting operator required by section 5111.683 of the Revised Code to file a cost report with the department of job and family services fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late.

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Sec. 5111.685. The department of job and family services may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections 5111.26 and 5111.683 of the Revised Code.

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Sec. 5111.686. The department of job and family services shall determine the actual amount of debt an exiting operator owes the department under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue a report on this matter not later than ninety days after the date the exiting operator files the properly completed cost report required by section 5111.683 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, one hundred eighty days after the date the department waives the cost report requirement. The report shall include the department's findings and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. Only the parts of the report that are subject to an adjudication as

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specified in division (B) of section 5111.29 of the Revised Code 57750  
are subject to an adjudication conducted in accordance with 57751  
Chapter 119. of the Revised Code. 57752

Sec. 5111.687. The department of job and family services 57753  
shall release the actual amount withheld under division (A) of 57754  
section 5111.681 of the Revised Code, and any security provided to 57755  
the department under that section, less any amount the exiting 57756  
operator owes the department and United States centers for 57757  
medicare and medicaid services under the medicaid program, as 57758  
follows: 57759

(A) Ninety-one days after the date the exiting operator files 57760  
a properly completed cost report required by section 5111.683 of 57761  
the Revised Code unless the department issues the report required 57762  
by section 5111.686 of the Revised Code not later than ninety days 57763  
after the date the exiting operator files the properly completed 57764  
cost report; 57765

(B) Not later than fifteen days after the exiting operator 57766  
agrees to a final fiscal audit resulting from the report required 57767  
by section 5111.686 of the Revised Code if the department issues 57768  
the report not later than ninety days after the date the exiting 57769  
operator files a properly completed cost report required by 57770  
section 5111.683 of the Revised Code; 57771

(C) One hundred eighty-one days after the date the department 57772  
waives the cost report requirement of section 5111.683 of the 57773  
Revised Code unless the department issues the report required by 57774  
section 5111.686 of the Revised Code not later than one hundred 57775  
eighty days after the date the department waives the cost report 57776  
requirement; 57777

(D) Not later than fifteen days after the exiting operator 57778  
agrees to a final fiscal audit resulting from the report required 57779  
by section 5111.686 of the Revised Code if the department issues 57780

the report not later than one hundred eighty days after the date 57781  
the department waives the cost report requirement of section 57782  
5111.683 of the Revised Code. 57783

Sec. 5111.688. If the actual amount the department of job and 57784  
family services withholds from an exiting operator under division 57785  
(A) of section 5111.681 of the Revised Code, and any security 57786  
provided to the department under that section, is inadequate to 57787  
pay the exiting operator's debt to the department and United 57788  
States centers for medicare and medicaid services under the 57789  
medicaid program or the department is required to release the 57790  
withholdings and security under section 5111.687 of the Revised 57791  
Code before the department is paid the exiting operator's debt, 57792  
the department shall collect the debt as follows: 57793

(A) From the exiting operator; 57794

(B) From the entering operator if the department is unable to 57795  
collect the entire debt from the exiting operator and the entering 57796  
operator entered into a provider agreement under section 5111.671 57797  
or 5111.672 of the Revised Code. The department may collect the 57798  
remaining debt by withholding the amount due from payments to the 57799  
entering operator under the medicaid program. The department may 57800  
enter into an agreement with the entering operator under which the 57801  
entering operator pays the remaining debt, with applicable 57802  
interest, in installments from withholdings from the entering 57803  
operator's payments under the medicaid program. 57804

Sec. 5111.689. The department of job and family services, at 57805  
its sole discretion, may release the amount withheld under 57806  
division (A) of section 5111.681 of the Revised Code, and any 57807  
security provided to the department under that section, if the 57808  
exiting operator submits to the department written notice of a 57809  
postponement of a change of operator, facility closure, voluntary 57810

termination, or voluntary withdrawal of participation and the 57811  
transactions leading to the change of operator, facility closure, 57812  
voluntary termination, or voluntary withdrawal of participation 57813  
are postponed for at least thirty days but less than ninety days 57814  
after the date originally proposed for the change of operator, 57815  
facility closure, voluntary termination, or voluntary withdrawal 57816  
of participation as reported in the written notice required by 57817  
section 5111.66 or 5111.67 of the Revised Code. The department 57818  
shall release the amount withheld and security if the exiting 57819  
operator submits to the department written notice of a 57820  
cancellation or postponement of a change of operator, facility 57821  
closure, voluntary termination, or voluntary withdrawal of 57822  
participation and the transactions leading to the change of 57823  
operator, facility closure, voluntary termination, or voluntary 57824  
withdrawal of participation are canceled, or postponed for more 57825  
than ninety days after the date originally proposed for the change 57826  
of operator, facility closure, voluntary termination, or voluntary 57827  
withdrawal of participation as reported in the written notice 57828  
required by section 5111.66 or 5111.67 of the Revised Code. 57829

After the department receives a written notice regarding a 57830  
cancellation or postponement of a facility closure, voluntary 57831  
termination, or voluntary withdrawal of participation, the exiting 57832  
operator or owner shall provide new written notice to the 57833  
department under section 5111.66 of the Revised Code regarding any 57834  
transactions leading to a facility closure, voluntary termination, 57835  
or voluntary withdrawal of participation at a future time. After 57836  
the department receives a written notice regarding a cancellation 57837  
or postponement of a change of operator, the exiting operator or 57838  
owner and entering operator shall provide new written notice to 57839  
the department under section 5111.67 of the Revised Code regarding 57840  
any transactions leading to a change of operator at a future time. 57841

**Sec. 5111.6810.** The director of job and family services may 57842



adopt rules in accordance with Chapter 119. of the Revised Code to 57843  
implement sections 5111.65 to 5111.6810 of the Revised Code, 57844  
including rules applicable to an exiting operator that provides 57845  
written notification under section 5111.66 of the Revised Code of 57846  
a voluntary withdrawal of participation. Rules adopted under this 57847  
section shall comply with section 1919(c)(2)(F) of the "Social 57848  
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 57849  
regarding restrictions on transfers or discharges of nursing 57850  
facility residents in the case of a voluntary withdrawal of 57851  
participation. The rules may prescribe a medicaid reimbursement 57852  
methodology and other procedures that are applicable after the 57853  
effective date of a voluntary withdrawal of participation that 57854  
differ from the reimbursement methodology and other procedures 57855  
that would otherwise apply. 57856

**Sec. 5111.85.** (A) As used in this section, "medicaid waiver 57857  
component" means a component of the medicaid program authorized by 57858  
a waiver granted by the United States department of health and 57859  
human services under section 1115 or 1915 of the "Social Security 57860  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 57861  
waiver component" does not include a ~~managed~~ care management 57862  
system established under section ~~5111.17~~ 5111.16 of the Revised 57863  
Code. 57864

(B) The director of job and family services may adopt rules 57865  
under Chapter 119. of the Revised Code governing medicaid waiver 57866  
components that establish all of the following: 57867

(1) Eligibility requirements for the medicaid waiver 57868  
components; 57869

(2) The type, amount, duration, and scope of services the 57870  
medicaid waiver components provide; 57871

(3) The conditions under which the medicaid waiver components 57872  
cover services; 57873

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	57874 57875
(5) The manner in which the medicaid waiver components pay for services;	57876 57877
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	57878 57879
(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.	57880 57881 57882 57883 57884 57885
(8) Other policies necessary for the efficient administration of the medicaid waiver components.	57886 57887
(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.	57888 57889 57890 57891
(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 the violator in accordance with rules adopted under division (B) of this section.	57892 57893 57894 57895 57896 57897 57898 57899 57900 57901 57902
<b>Sec. 5111.87.</b> As used in this section and section 5111.871 of	57903

the Revised Code, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

The director of job and family services may apply to the United States secretary of health and human services for one or more medicaid waivers under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded. ~~Before the director applies~~ The director of mental retardation and developmental disabilities may request that the director of job and family services apply for one or more medicaid waivers under this section.

Before applying for a waiver under this section, the director of job and family services shall seek, accept, and consider public comments.

**Sec. 5111.871.** The department of job and family services shall enter into a contract with the department of mental retardation and developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the component components of the medicaid program established by the department of job and family services under one or more of the medicaid waivers ~~from the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide eligible medicaid recipients with home and community based services as an alternative to placement in an intermediate care facility for the mentally retarded sought under section 5111.87 of the Revised Code.~~ The contract shall provide for the department of mental retardation and developmental disabilities to administer the ~~component~~ components in accordance with the terms of the

~~waiver~~ waivers. The directors of job and family services and 57935  
mental retardation and developmental disabilities shall adopt 57936  
rules in accordance with Chapter 119. of the Revised Code 57937  
governing the ~~component~~ components. 57938

If the department of mental retardation and developmental 57939  
disabilities or the department of job and family services denies 57940  
an individual's application for home and community-based services 57941  
provided under ~~this~~ any of these medicaid ~~component~~ components, 57942  
the department that denied the services shall give timely notice 57943  
to the individual that the individual may request a hearing under 57944  
section 5101.35 of the Revised Code. 57945

The departments of mental retardation and developmental 57946  
disabilities and job and family services may approve, reduce, 57947  
deny, or terminate a service included in the individualized 57948  
service plan developed for a medicaid recipient eligible for home 57949  
and community-based services provided under ~~this~~ any of these 57950  
medicaid ~~component~~ components. The departments shall consider the 57951  
recommendations a county board of mental retardation and 57952  
developmental disabilities makes under division (A)(1)(c) of 57953  
section 5126.055 of the Revised Code. If either department 57954  
approves, reduces, denies, or terminates a service, that 57955  
department shall give timely notice to the medicaid recipient that 57956  
the recipient may request a hearing under section 5101.35 of the 57957  
Revised Code. 57958

If supported living or residential services, as defined in 57959  
section 5126.01 of the Revised Code, are to be provided under ~~this~~ 57960  
~~component~~ any of these components, any person or government entity 57961  
with a current, valid medicaid provider agreement and a current, 57962  
valid license under section 5123.19 or certificate under section 57963  
5123.045 or 5126.431 of the Revised Code may provide the services. 57964

**Sec. 5111.872.** When the department of mental retardation and 57965

developmental disabilities allocates enrollment numbers to a 57966  
county board of mental retardation and developmental disabilities 57967  
for home and community-based services provided under any of the 57968  
~~component~~ components of the medicaid program that the department 57969  
administers under section 5111.871 of the Revised Code, the 57970  
department shall consider all of the following: 57971

(A) The number of individuals with mental retardation or 57972  
other developmental disability who are on a waiting list the 57973  
county board establishes under division (C) of section 5126.042 of 57974  
the Revised Code for those services and are given priority on the 57975  
waiting list pursuant to division (D) or (E) of that section; 57976

(B) The implementation component required by division (A)(4) 57977  
of section 5126.054 of the Revised Code of the county board's plan 57978  
approved under section 5123.046 of the Revised Code; 57979

(C) Anything else the department considers necessary to 57980  
enable county boards to provide those services to individuals in 57981  
accordance with the priority requirements of ~~division~~ divisions 57982  
(D) and (E) of section 5126.042 of the Revised Code. 57983

**Sec. 5111.873.** (A) Not later than the effective date of the 57984  
first of any medicaid waivers the United States secretary of 57985  
health and human services grants pursuant to a request made under 57986  
section 5111.87 of the Revised Code, the director of job and 57987  
family services shall adopt rules in accordance with Chapter 119. 57988  
of the Revised Code establishing statewide fee schedules for home 57989  
and community-based services provided under the ~~component~~ 57990  
components of the medicaid program that the department of mental 57991  
retardation and developmental disabilities administers under 57992  
section 5111.871 of the Revised Code. The rules shall provide for 57993  
all of the following: 57994

(1) The department of mental retardation and developmental 57995  
disabilities arranging for the initial and ongoing collection of 57996

cost information from a comprehensive, statistically valid sample 57997  
of persons and government entities providing the services at the 57998  
time the information is obtained; 57999

(2) The collection of consumer-specific information through 58000  
an assessment instrument the department of mental retardation and 58001  
developmental disabilities shall provide to the department of job 58002  
and family services; 58003

(3) With the information collected pursuant to divisions 58004  
(A)(1) and (2) of this section, an analysis of that information, 58005  
and other information the director determines relevant, methods 58006  
and standards for calculating the fee schedules that do all of the 58007  
following: 58008

(a) Assure that the fees are consistent with efficiency, 58009  
economy, and quality of care; 58010

(b) Consider the intensity of consumer resource need; 58011

(c) Recognize variations in different geographic areas 58012  
regarding the resources necessary to assure the health and welfare 58013  
of consumers; 58014

(d) Recognize variations in environmental supports available 58015  
to consumers. 58016

(B) As part of the process of adopting rules under this 58017  
section, the director shall consult with the director of mental 58018  
retardation and developmental disabilities, representatives of 58019  
county boards of mental retardation and developmental 58020  
disabilities, persons who provide the home and community-based 58021  
services, and other persons and government entities the director 58022  
identifies. 58023

(C) The directors of job and family services and mental 58024  
retardation and developmental disabilities shall review the rules 58025  
adopted under this section at times they determine to ensure that 58026

the methods and standards established by the rules for calculating 58027  
the fee schedules continue to do everything that division (A)(3) 58028  
of this section requires. 58029

Sec. 5111.911. Any contract the department of job and family 58030  
services enters into with the department of mental health or 58031  
department of alcohol and drug addiction services under section 58032  
5111.91 of the Revised Code is subject to the approval of the 58033  
director of budget and management and shall require or specify all 58034  
of the following: 58035

(A) In the case of a contract with the department of mental 58036  
health, that section 5111.912 of the Revised Code be complied 58037  
with; 58038

(B) In the case of a contract with the department of alcohol 58039  
and drug addiction services, that section 5111.913 of the Revised 58040  
Code be complied with; 58041

(C) How providers will be paid for providing the services; 58042

(D) The department of mental health's or department of 58043  
alcohol and drug addiction services' responsibilities for 58044  
reimbursing providers, including program oversight and quality 58045  
assurance. 58046

Sec. 5111.912. If the department of job and family services 58047  
enters into a contract with the department of mental health under 58048  
section 5111.91 of the Revised Code, the department of mental 58049  
health and boards of alcohol, drug addiction, and mental health 58050  
services shall pay the nonfederal share of any medicaid payment to 58051  
a provider for services under the component, or aspect of the 58052  
component, the department of mental health administers. 58053

Sec. 5111.913. If the department of job and family services 58054  
enters into a contract with the department of alcohol and drug 58055

addiction services under section 5111.91 of the Revised Code, the 58056  
department of alcohol and drug addiction services and boards of 58057  
alcohol, drug addiction, and mental health services shall pay the 58058  
nonfederal share of any medicaid payment to a provider for 58059  
services under the component, or aspect of the component, the 58060  
department of alcohol and drug addiction services administers. 58061

**Sec. 5111.92.** (A)(1) Except as provided in division (B) of 58062  
this section, if a state agency or political subdivision 58063  
administers one or more components of the medicaid program that 58064  
the United States department of health and human services 58065  
approved, and for which federal financial participation was 58066  
initially obtained, prior to January 1, 2002, or administers one 58067  
or more aspects of such a component, the department of job and 58068  
family services may retain or collect not more than ten per cent 58069  
of the federal financial participation the state agency or 58070  
political subdivision obtains through an approved, administrative 58071  
claim regarding the component or aspect of the component. If the 58072  
department retains or collects a percentage of such federal 58073  
financial participation, the percentage the department retains or 58074  
collects shall be specified in a contract the department enters 58075  
into with the state agency or political subdivision under section 58076  
5111.91 of the Revised Code. 58077

(2) Except as provided in division (B) of this section, if a 58078  
state agency or political subdivision administers one or more 58079  
components of the medicaid program that the United States 58080  
department of health and human services approved on or after 58081  
January 1, 2002, or administers one or more aspects of such a 58082  
component, the department of job and family services shall retain 58083  
or collect not less than three and not more than ten per cent of 58084  
the federal financial participation the state agency or political 58085  
subdivision obtains through an approved, administrative claim 58086  
regarding the component or aspect of the component. The percentage 58087



the department retains or collects shall be specified in a 58088  
contract the department enters into with the state agency or 58089  
political subdivision under section 5111.91 of the Revised Code. 58090

(B) The department of job and family services may retain or 58091  
collect a percentage of federal financial participation under 58092  
divisions (A)(1) and (2) of this section only to the extent 58093  
permitted by federal statutes and regulations and shall not retain 58094  
or collect a percentage of federal financial participation 58095  
obtained pursuant to section 5126.058 of the Revised Code. 58096

(C) All amounts the department retains or collects under this 58097  
section shall be deposited into the health care services 58098  
administration fund created under section 5111.94 of the Revised 58099  
Code. 58100

**Sec. 5111.94.** (A) As used in this section, "vendor offset" 58101  
means a reduction of a medicaid payment to a medicaid provider to 58102  
correct a previous, incorrect medicaid payment to that provider. 58103

(B) There is hereby created in the state treasury the health 58104  
care services administration fund. Except as provided in division 58105  
(C) of this section, all the following shall be deposited into the 58106  
fund: 58107

(1) Amounts deposited into the fund pursuant to sections 58108  
5111.92 and 5111.93 of the Revised Code; 58109

(2) The amount of the state share of all money the department 58110  
of job and family services, in fiscal year 2003 and each fiscal 58111  
year thereafter, recovers pursuant to a tort action under the 58112  
department's right of recovery under section 5101.58 of the 58113  
Revised Code that exceeds the state share of all money the 58114  
department, in fiscal year 2002, recovers pursuant to a tort 58115  
action under that right of recovery; 58116

(3) Subject to division (D) of this section, the amount of 58117

the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.

**Sec. 5111.95. (A) As used in this section:**

(1) "Applicant" means a person who is under final consideration for employment or, after the effective date of this section, an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. "Applicant" also means an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person

with disabilities after the effective date of this section. 58148

(2) "Criminal records check" has the same meaning as in 58149  
section 109.572 of the Revised Code. 58150

(3) "Waiver agency" means a person or government entity that 58151  
is not certified under the medicare program and is accredited by 58152  
the community health accreditation program or the joint commission 58153  
on accreditation of health care organizations or a company that 58154  
provides home and community-based waiver services to persons with 58155  
disabilities through department of job and family services 58156  
administered home and community-based waiver programs. "Waiver 58157  
agency" does not include a person or government entity that 58158  
provides home and community-based waiver services through 58159  
components of the medicaid program being administered by the 58160  
department of mental retardation and developmental disabilities 58161  
pursuant to a contract entered into with the department of job and 58162  
family services under section 5111.871 of the Revised Code. 58163

(4) "Home and community-based waiver services" means services 58164  
furnished under the provision of 42 C.F.R. 441, subpart G, that 58165  
permit individuals to live in a home setting rather than a nursing 58166  
facility or hospital. Home and community-based waiver services are 58167  
approved by the centers for medicare and medicaid for specific 58168  
populations and are not otherwise available under the medicaid 58169  
state plan. 58170

(B)(1) The chief administrator of a waiver agency shall 58171  
request that the superintendent of the bureau of criminal 58172  
identification and investigation conduct a criminal records check 58173  
with respect to each applicant. If an applicant for whom a 58174  
criminal records check request is required under this division 58175  
does not present proof of having been a resident of this state for 58176  
the five-year period immediately prior to the date the criminal 58177  
records check is requested or provide evidence that within that 58178  
five-year period the superintendent has requested information 58179

about the applicant from the federal bureau of investigation in a 58180  
criminal records check, the chief administrator shall request that 58181  
the superintendent obtain information from the federal bureau of 58182  
investigation as part of the criminal records check of the 58183  
applicant. Even if an applicant for whom a criminal records check 58184  
request is required under this division presents proof of having 58185  
been a resident of this state for the five-year period, the chief 58186  
administrator may request that the superintendent include 58187  
information from the federal bureau of investigation in the 58188  
criminal records check. 58189

(2) A person required by division (B)(1) of this section to 58190  
request a criminal records check shall do both of the following: 58191

(a) Provide to each applicant for whom a criminal records 58192  
check request is required under division (B)(1) of this section a 58193  
copy of the form prescribed pursuant to division (C)(1) of section 58194  
109.572 of the Revised Code and a standard fingerprint impression 58195  
sheet prescribed pursuant to division (C)(2) of that section, and 58196  
obtain the completed form and impression sheet from the applicant; 58197

(b) Forward the completed form and impression sheet to the 58198  
superintendent of the bureau of criminal identification and 58199  
investigation. 58200

(3) An applicant provided the form and fingerprint impression 58201  
sheet under division (B)(2)(a) of this section who fails to 58202  
complete the form or provide fingerprint impressions shall not be 58203  
employed in any position in a waiver agency for which a criminal 58204  
records check is required by this section. 58205

(C)(1) Except as provided in rules adopted by the department 58206  
of job and family services in accordance with division (F) of this 58207  
section and subject to division (C)(2) of this section, no waiver 58208  
agency shall employ a person in a position that involves providing 58209  
home and community-based waiver services to persons with 58210

disabilities if the person has been convicted of or pleaded guilty 58211  
to any of the following: 58212

(a) A violation of section 2903.01, 2903.02, 2903.03, 58213  
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 58214  
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 58215  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 58216  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 58217  
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 58218  
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 58219  
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 58220  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 58221  
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 58222  
Revised Code, felonious sexual penetration in violation of former 58223  
section 2907.12 of the Revised Code, a violation of section 58224  
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 58225  
violation of section 2919.23 of the Revised Code that would have 58226  
been a violation of section 2905.04 of the Revised Code as it 58227  
existed prior to July 1, 1996, had the violation been committed 58228  
prior to that date; 58229

(b) An existing or former law of this state, any other state, 58230  
or the United States that is substantially equivalent to any of 58231  
the offenses listed in division (C)(1)(a) of this section. 58232

(2)(a) A waiver agency may employ conditionally an applicant 58233  
for whom a criminal records check request is required under 58234  
division (B) of this section prior to obtaining the results of a 58235  
criminal records check regarding the individual, provided that the 58236  
agency shall request a criminal records check regarding the 58237  
individual in accordance with division (B)(1) of this section not 58238  
later than five business days after the individual begins 58239  
conditional employment. 58240

(b) A waiver agency that employs an individual conditionally 58241  
under authority of division (C)(2)(a) of this section shall 58242

terminate the individual's employment if the results of the 58243  
criminal records check request under division (B) of this section, 58244  
other than the results of any request for information from the 58245  
federal bureau of investigation, are not obtained within the 58246  
period ending sixty days after the date the request is made. 58247  
Regardless of when the results of the criminal records check are 58248  
obtained, if the results indicate that the individual has been 58249  
convicted of or pleaded guilty to any of the offenses listed or 58250  
described in division (C)(1) of this section, the agency shall 58251  
terminate the individual's employment unless the agency chooses to 58252  
employ the individual pursuant to division (F) of this section. 58253  
Termination of employment under this division shall be considered 58254  
just cause for discharge for purposes of division (D)(2) of 58255  
section 4141.29 of the Revised Code if the individual makes any 58256  
attempt to deceive the agency about the individual's criminal 58257  
record. 58258

(D)(1) Each waiver agency shall pay to the bureau of criminal 58259  
identification and investigation the fee prescribed pursuant to 58260  
division (C)(3) of section 109.572 of the Revised Code for each 58261  
criminal records check conducted pursuant to a request made under 58262  
division (B) of this section. 58263

(2) A waiver agency may charge an applicant a fee not 58264  
exceeding the amount the agency pays under division (D)(1) of this 58265  
section. An agency may collect a fee only if the agency notifies 58266  
the person at the time of initial application for employment of 58267  
the amount of the fee and that, unless the fee is paid, the person 58268  
will not be considered for employment. 58269

(E) The report of any criminal records check conducted 58270  
pursuant to a request made under this section is not a public 58271  
record for the purposes of section 149.43 of the Revised Code and 58272  
shall not be made available to any person other than the 58273  
following: 58274

<u>(1) The individual who is the subject of the criminal records check or the individual's representative;</u>	58275
	58276
<u>(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative;</u>	58277
	58278
<u>(3) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant.</u>	58279
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<u>(F) 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 a waiver agency may employ a person 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.</u>	58283
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<u>(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.</u>	58289
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<u>(H)(1) A person who, on the effective date of this section, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after the effective date of this section unless division (H)(2) of this section applies.</u>	58296
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<u>(2) This section shall not apply to a person to whom all of the following apply:</u>	58303
	58304

(a) On the effective date of this section, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. 58305  
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(b) The person previously had been the subject of a criminal background check relating to that position; 58309  
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(c) The person has been continuously employed in that position since that criminal background check had been conducted. 58311  
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**Sec. 5111.96. (A) As used in this section:** 58313

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after the effective date of this section. 58314  
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 58317  
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(3) "The department" means the department of job and family services or its designee. 58319  
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(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities. 58321  
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(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code. 58327  
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(B)(1) The department shall inform each independent provider, at the time of initial application for a provider 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 58329  
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criminal records check is required to be conducted if the person 58334  
is to become an independent provider in a department administered 58335  
home and community-based waiver program. 58336

(2) Beginning on the effective date of this section, the 58337  
department shall inform each enrolled medicaid independent 58338  
provider on or before time of the anniversary date of the provider 58339  
agreement that involves providing home and community-based waiver 58340  
services to consumers with disabilities that the independent 58341  
provider is required to provide a set of fingerprint impressions 58342  
and that a criminal records check is required to be conducted. 58343

(C)(1) The department shall require the independent provider 58344  
to complete a criminal records check prior to entering into a 58345  
provider agreement with the independent provider and at least 58346  
annually thereafter. If an independent provider for whom a 58347  
criminal records check is required under this division does not 58348  
present proof of having been a resident of this state for the 58349  
five-year period immediately prior to the date the criminal 58350  
records check is requested or provide evidence that within that 58351  
five-year period the superintendent has requested information 58352  
about the applicant from the federal bureau of investigation in a 58353  
criminal records check, the department shall request the 58354  
independent provider obtain through the superintendent a criminal 58355  
records request from the federal bureau of investigation as part 58356  
of the criminal records check of the independent provider. Even if 58357  
an independent provider for whom a criminal records check request 58358  
is required under this division presents proof of having been a 58359  
resident of this state for the five-year period, the department 58360  
may request that the independent provider obtain information 58361  
through the superintendent from the federal bureau of 58362  
investigation in the criminal records check. 58363

(2) The department shall do both of the following: 58364

(a) Provide information to each independent provider for whom 58365

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;

(b) Forward the completed form, impression sheet, and fee to the superintendent of the bureau of criminal identification and investigation.

(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.

(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:

(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 58398  
violation of section 2919.23 of the Revised Code that would have 58399  
been a violation of section 2905.04 of the Revised Code as it 58400  
existed prior to July 1, 1996, had the violation been committed 58401  
prior to that date; 58402

(2) An existing or former law of this state, any other state, 58403  
or the United States that is substantially equivalent to any of 58404  
the offenses listed in division (D)(1) of this section. 58405

(E) Each independent provider shall pay to the bureau of 58406  
criminal identification and investigation the fee prescribed 58407  
pursuant to division (C)(3) of section 109.572 of the Revised Code 58408  
for each criminal records check conducted pursuant to a request 58409  
made under division (C) of this section. 58410

(F) The report of any criminal records check conducted by the 58411  
bureau of criminal identification and investigation in accordance 58412  
with section 109.572 of the Revised Code and pursuant to a request 58413  
made under division (C) of this section is not a public record for 58414  
the purposes of section 149.43 of the Revised Code and shall not 58415  
be made available to any person other than the following: 58416

(1) The person who is the subject of the criminal records 58417  
check or the person's representative; 58418

(2) The administrator at the department who is requesting the 58419  
criminal records check or the administrator's representative; 58420

(3) Any court, hearing officer, or other necessary individual 58421  
involved in a case dealing with a denial or termination of a 58422  
provider agreement related to the criminal records check. 58423

(G) The department shall adopt rules in accordance with 58424  
Chapter 119. of the Revised Code to implement this section. The 58425  
rules shall specify circumstances under which the department may 58426  
issue a provider agreement to an independent provider who has been 58427  
convicted of or pleaded guilty to an offense listed or described 58428

in division (C)(1) of this section but meets personal character 58429  
standards set by the department. 58430

Sec. 5111.97. (A) The director of job and family services may 58431  
submit a request to the United States secretary of health and 58432  
human services pursuant to section 1915 of the "Social Security 58433  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 58434  
waivers of federal medicaid requirements that would otherwise be 58435  
violated in the creation and implementation of two medicaid home 58436  
and community-based services programs to replace the Ohio home 58437  
care program being operated pursuant to rules adopted under 58438  
sections 5111.01 and 5111.02 of the Revised Code and a medicaid 58439  
waiver granted prior to the effective date of this section. In the 58440  
request, the director may specify the following: 58441

(1) That one of the replacement programs will provide home 58442  
and community-based services to individuals in need of nursing 58443  
facility care, including individuals enrolled in the Ohio home 58444  
care program; 58445

(2) That the other replacement program will provide services 58446  
to individuals in need of hospital care, including individuals 58447  
enrolled in the Ohio home care program; 58448

(3) That there will be a maximum number of individuals who 58449  
may be enrolled in the replacement programs in addition to the 58450  
number of individuals to be transferred from the Ohio home care 58451  
program; 58452

(4) That there will be a maximum amount the department may 58453  
expend each year for each individual enrolled in the replacement 58454  
programs; 58455

(5) That there will be a maximum aggregate amount the 58456  
department may expend each year for all individuals enrolled in 58457  
the replacement programs; 58458

(6) Any other requirement the director selects for the replacement programs. 58459  
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(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 replacement programs. 58461  
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As the replacement programs are implemented, the director shall reduce the maximum number of individuals who may be enrolled in the Ohio home care program by the number of individuals who are transferred to the replacement programs. When all individuals who are eligible to be transferred to the replacement programs have been transferred, the director may submit to the secretary an amendment to the state medicaid plan to provide for the elimination of the Ohio home care program. 58466  
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**Sec. 5112.03.** (A) The director of job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following: 58474  
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(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate; 58479  
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(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code; 58484  
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(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section; 58486  
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(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;	58489 58490 58491 58492 58493
(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;	58494 58495 58496
(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;	58497 58498 58499 58500 58501
(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.	58502 58503 58504
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.	58505 58506 58507
(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:	58508 58509 58510
(1) Recipients of the medical assistance program;	58511
(2) <u>Recipients of financial assistance provided under Chapter 5115. of the Revised Code;</u>	58512 58513
<u>(3)</u> Recipients of <del>disability assistance</del> medical assistance provided under Chapter 5115. of the Revised Code;	58514 58515
<del>(3)</del> <u>(4)</u> Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;	58516 58517
<del>(4)</del> <u>(5)</u> Recipients of the medicare program established under	58518

Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended: 58519  
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~~(5)~~(6) Recipients of Title V of the "Social Security Act"; 58521

~~(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. 58522  
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**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: 58525  
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(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group. 58529  
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(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. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate: 58532  
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(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations; 58538  
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(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and disability recipients of financial or medical assistance established provided under Chapter 5115. of the Revised Code; 58541  
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(3) The amount of uncompensated care provided by the hospital 58548

or group of hospitals; 58549

(4) Other factors that the director considers to be 58550  
appropriate indicators of indigent care. 58551

(C) The department shall distribute funds to each hospital or 58552  
group of hospitals in a manner that first may provide for an 58553  
additional distribution to individual hospitals that provide a 58554  
high proportion of indigent care in relation to the total care 58555  
provided by the hospital or in relation to other hospitals. The 58556  
department shall establish a formula to distribute the remainder 58557  
of the funds. The formula shall be consistent with section 1923 of 58558  
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 58559  
be based on any combination of the indicators of indigent care 58560  
listed in division (B) of this section that the director considers 58561  
appropriate. 58562

(D) The department shall distribute funds to each hospital in 58563  
installments not later than ten working days after the deadline 58564  
established in rules for each hospital to pay an installment on 58565  
its assessment under section 5112.06 of the Revised Code. In the 58566  
case of a governmental hospital that makes intergovernmental 58567  
transfers, the department shall pay an installment under this 58568  
section not later than ten working days after the earlier of that 58569  
deadline or the deadline established in rules for the governmental 58570  
hospital to pay an installment on its intergovernmental transfer. 58571  
If the amount in the hospital care assurance program fund and the 58572  
hospital care assurance match fund created under section 5112.18 58573  
of the Revised Code is insufficient to make the total 58574  
distributions for which hospitals are eligible to receive in any 58575  
period, the department shall reduce the amount of each 58576  
distribution by the percentage by which the amount is 58577  
insufficient. The department shall distribute to hospitals any 58578  
amounts not distributed in the period in which they are due as 58579  
soon as moneys are available in the funds. 58580



Sec. 5112.17. (A) As used in this section: 58581

(1) "Federal poverty guideline" means the official poverty 58582  
guideline as revised annually by the United States secretary of 58583  
health and human services in accordance with section 673 of the 58584  
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 58585  
U.S.C.A. 9902, as amended, for a family size equal to the size of 58586  
the family of the person whose income is being determined. 58587

(2) "Third-party payer" means any private or public entity or 58588  
program that may be liable by law or contract to make payment to 58589  
or on behalf of an individual for health care services. 58590  
"Third-party payer" does not include a hospital. 58591

(B) Each hospital that receives funds distributed under 58592  
sections 5112.01 to 5112.21 of the Revised Code shall provide, 58593  
without charge to the individual, basic, medically necessary 58594  
hospital-level services to individuals who are residents of this 58595  
state, are not recipients of the medical assistance program, and 58596  
whose income is at or below the federal poverty guideline. 58597  
Recipients of disability financial assistance and recipients of 58598  
disability medical assistance provided under Chapter 5115. of the 58599  
Revised Code qualify for services under this section. The director 58600  
of job and family services shall adopt rules under section 5112.03 58601  
of the Revised Code specifying the hospital services to be 58602  
provided under this section. 58603

(C) Nothing in this section shall be construed to prevent a 58604  
hospital from requiring an individual to apply for eligibility 58605  
under the medical assistance program before the hospital processes 58606  
an application under this section. Hospitals may bill any 58607  
third-party payer for services rendered under this section. 58608  
Hospitals may bill the medical assistance program, in accordance 58609  
with Chapter 5111. of the Revised Code and the rules adopted under 58610  
that chapter, for services rendered under this section if the 58611

individual becomes a recipient of the program. Hospitals may bill 58612  
individuals for services under this section if all of the 58613  
following apply: 58614

(1) The hospital has an established post-billing procedure 58615  
for determining the individual's income and canceling the charges 58616  
if the individual is found to qualify for services under this 58617  
section. 58618

(2) The initial bill, and at least the first follow-up bill, 58619  
is accompanied by a written statement that does all of the 58620  
following: 58621

(a) Explains that individuals with income at or below the 58622  
federal poverty guideline are eligible for services without 58623  
charge; 58624

(b) Specifies the federal poverty guideline for individuals 58625  
and families of various sizes at the time the bill is sent; 58626

(c) Describes the procedure required by division (C)(1) of 58627  
this section. 58628

(3) The hospital complies with any additional rules the 58629  
department adopts under section 5112.03 of the Revised Code. 58630

Notwithstanding division (B) of this section, a hospital 58631  
providing care to an individual under this section is subrogated 58632  
to the rights of any individual to receive compensation or 58633  
benefits from any person or governmental entity for the hospital 58634  
goods and services rendered. 58635

(D) Each hospital shall collect and report to the department, 58636  
in the form and manner prescribed by the department, information 58637  
on the number and identity of patients served pursuant to this 58638  
section. 58639

(E) This section applies beginning May 22, 1992, regardless 58640  
of whether the department has adopted rules specifying the 58641

services to be provided. Nothing in this section alters the scope 58642  
or limits the obligation of any governmental entity or program, 58643  
including the program awarding reparations to victims of crime 58644  
under sections 2743.51 to 2743.72 of the Revised Code and the 58645  
program for medically handicapped children established under 58646  
section 3701.023 of the Revised Code, to pay for hospital services 58647  
in accordance with state or local law. 58648

**Sec. 5112.31.** The department of job and family services 58649  
shall: 58650

(A) For the purpose of providing home and community-based 58651  
services for mentally retarded and developmentally disabled 58652  
persons, annually assess each intermediate care facility for the 58653  
mentally retarded a franchise permit fee equal to nine dollars and 58654  
~~twenty-four~~ sixty-three cents multiplied by the product of the 58655  
following: 58656

(1) The number of beds certified under Title XIX of the 58657  
"Social Security Act" on the first day of May of the calendar year 58658  
in which the assessment is determined pursuant to division (A) of 58659  
section 5112.33 of the Revised Code; 58660

(2) The number of days in the fiscal year beginning on the 58661  
first day of July of the same calendar year. 58662

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first 58663  
day of each July thereafter, adjust fees determined under division 58664  
(A) of this section in accordance with the composite inflation 58665  
factor established in rules adopted under section 5112.39 of the 58666  
Revised Code. 58667

If the United States secretary of health and human services 58668  
determines that the franchise permit fee established by sections 58669  
5112.30 to 5112.39 of the Revised Code would be an impermissible 58670  
health care-related tax under section 1903(w) of the "Social 58671

Security Act," 42 U.S.C.A. 1396b(w), as amended, the department 58672  
shall take all necessary actions to cease implementation of those 58673  
sections in accordance with rules adopted under section 5112.39 of 58674  
the Revised Code. 58675

**Sec. 5112.99.** (A) The director of job and family services 58676  
shall impose a penalty ~~of one hundred dollars~~ for each day that a 58677  
hospital fails to report the information required under section 58678  
5112.04 of the Revised Code on or before the dates specified in 58679  
that section. The amount of the penalty shall be established by 58680  
the director in rules adopted under section 5112.03 of the Revised 58681  
Code. 58682

(B) In addition to any other remedy available to the 58683  
department of job and family services under law to collect unpaid 58684  
assessments and transfers, the director shall impose a penalty of 58685  
ten per cent of the amount due, ~~not to exceed twenty thousand~~ 58686  
~~dollars,~~ on any hospital that fails to pay assessments or make 58687  
intergovernmental transfers by the dates required by rules adopted 58688  
under section 5112.03 of the Revised Code. 58689

(C) The director shall waive the penalties provided for in 58690  
divisions (A) and (B) of this section for good cause shown by the 58691  
hospital. 58692

(D) All penalties imposed under this section shall be 58693  
deposited into the ~~general revenue~~ health care administration fund 58694  
created by section 5111.94 of the Revised Code. 58695

**Sec. 5115.01.** (A) ~~There is hereby established~~ The director of 58696  
job and family services shall establish the disability financial 58697  
assistance program. ~~Except as provided in division (D) of this~~ 58698  
~~section, a disability assistance recipient shall receive financial~~ 58699  
~~assistance. Except as provided in section 5115.11 of the Revised~~ 58700  
~~Code, a disability assistance recipient also shall receive~~ 58701

~~disability assistance medical assistance.~~ 58702

~~Except as provided by division (B) of this section, a person~~ 58703  
~~who meets all of the following requirements is (B) Subject to all~~ 58704  
~~other eligibility requirements established by this chapter and the~~ 58705  
~~rules adopted under it for the disability financial assistance~~ 58706  
~~program, a person may be eligible for disability financial~~ 58707  
~~assistance only if one of the following applies:~~ 58708

~~(1) The person is ineligible to participate in the Ohio works~~ 58709  
~~first program established under Chapter 5107. of the Revised Code~~ 58710  
~~and to receive supplemental security income provided pursuant to~~ 58711  
~~Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42~~ 58712  
~~U.S.C.A. 1383, as amended;~~ 58713

~~(2) The person is at least one of the following:~~ 58714

~~(a) Under age eighteen;~~ 58715

~~(b) Age sixty or older;~~ 58716

~~(c) Pregnant;~~ 58717

~~(d) Unable unable to do any substantial or gainful activity~~ 58718  
~~by reason of a medically determinable physical or mental~~ 58719  
~~impairment that can be expected to result in death or has lasted~~ 58720  
~~or can be expected to last for not less than nine months;~~ 58721

~~(e) A resident of a residential treatment center certified as~~ 58722  
~~an alcohol or drug addiction program by the department of alcohol~~ 58723  
~~and drug addiction services under section 3793.06 of the Revised~~ 58724  
~~Code.~~ 58725

~~(f) Medication dependent as determined by a physician, as~~ 58726  
~~defined in section 4730.01 of the Revised Code, who has certified~~ 58727  
~~to the county department of job and family services that the~~ 58728  
~~person is receiving ongoing treatment for a chronic medical~~ 58729  
~~condition requiring continuous prescription medication for an~~ 58730  
~~indefinite, long term period of time and for whom the loss of the~~ 58731

~~medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.~~ 58732  
58733

~~(3) The (2) On the day before the effective date of this amendment, the person meets the eligibility requirements established in rules adopted under section 5115.05 of the Revised Code was sixty years of age or older and one of the following is the case:~~ 58734  
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~~(a) The person was receiving or was scheduled to begin receiving financial assistance under this chapter on the basis of being sixty years of age or older;~~ 58739  
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~~(b) An eligibility determination was pending regarding the person's application to receive financial assistance under this chapter on the basis of being sixty years of age or older and, on or after the effective date of this amendment, the person receives a determination of eligibility based on that application.~~ 58742  
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~~(B)(1) A person is ineligible for disability assistance if the person is ineligible to participate in the Ohio works first program because of any of the following:~~ 58747  
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58749

~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~ 58750

~~(b) The time limit established by section 5107.18 of the Revised Code;~~ 58751  
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~~(c) Failure to comply with an application or verification procedure;~~ 58753  
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~~(d) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.~~ 58755  
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~~(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the assistance group to be ineligible to participate in the Ohio works first program or resides with a person age eighteen or older who was a member of the same~~ 58757  
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~~ineligible assistance group. A person age eighteen or older is 58762  
ineligible for disability assistance pursuant to division 58763  
(B)(1)(a) of this section regardless of whether the person caused 58764  
the assistance group to be ineligible to participate in the Ohio 58765  
works first program. 58766~~

~~(C) The county department of job and family services that 58767  
serves the county in which a person receiving disability 58768  
assistance pursuant to division (A)(2)(c) of this section 58769  
participates in an alcohol or drug addiction program shall 58770  
designate a representative payee for purposes of receiving and 58771  
distributing financial assistance provided under the disability 58772  
assistance program to the person. 58773~~

~~(D) A person eligible for disability assistance pursuant to 58774  
division (A)(2)(f) of this section shall not receive financial 58775  
assistance. 58776~~

~~(E) The director of job and family services shall adopt rules 58777  
in accordance with section 111.15 of the Revised Code defining 58778  
terms and establishing standards for determining whether a person 58779  
meets a condition of disability assistance eligibility pursuant to 58780  
this section. 58781~~

**Sec. 5115.04 5115.02.** (A) An individual is not eligible for 58782  
disability financial assistance under this chapter if ~~either~~ any 58783  
of the following apply: 58784

~~(A)(1) The individual is eligible to participate in the Ohio 58785  
works first program established under Chapter 5107. of the Revised 58786  
Code; eligible to receive supplemental security income provided 58787  
pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 58788  
(1972), 42 U.S.C. 1383, as amended; or eligible to participate in 58789  
or receive assistance through another state or federal program 58790  
that provides financial assistance similar to disability financial 58791  
assistance, as determined by the director of job and family 58792~~

<u>services;</u>	58793
<u>(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:</u>	58794
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58795
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58796
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58797
<u>(b) Failure to comply with an application or verification procedure;</u>	58798
<u>(b) Failure to comply with an application or verification procedure;</u>	58799
<u>(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;</u>	58800
<u>(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;</u>	58801
<u>(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;</u>	58802
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	58803
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	58804
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	58805
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	58806
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	58807
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	58808
<u>(5) The individual, or any of the other individuals included in determining the individual's eligibility, is involved in a strike, as defined in section 5107.10 of the Revised Code;</u>	58809
<u>(5) The individual, or any of the other individuals included in determining the individual's eligibility, is involved in a strike, as defined in section 5107.10 of the Revised Code;</u>	58810
<u>(5) The individual, or any of the other individuals included in determining the individual's eligibility, is involved in a strike, as defined in section 5107.10 of the Revised Code;</u>	58811
<u>(6) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	58812
<u>(6) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	58813
<u>(6) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	58814
<u>(6) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	58815
<u>(6) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	58816
<u>(6) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	58817
<u>(7) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;</u>	58818
<u>(7) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;</u>	58819
<u>(7) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;</u>	58820
<u>(7) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;</u>	58821
<u>(8) The individual reside in a county home, city infirmary,</u>	58822



<u>jail, or public institution;</u>	58823
(9) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code;	58824 58825
<del>(B)</del> (10) The individual is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law.	58826 58827 58828
<u>(B)(1) As used in division (B)(2) of this section, "assistance group" has the same meaning as in section 5107.02 of the Revised Code.</u>	58829 58830 58831
<u>(2) Ineligibility under division (A)(2)(c) or (d) of this section applies as follows:</u>	58832 58833
<u>(a) In the case of an individual who is under eighteen years of age, the individual is ineligible only if the individual caused the assistance group to be ineligible to participate in the Ohio works first program or resides with an individual eighteen years of age or older who was a member of the same ineligible assistance group.</u>	58834 58835 58836 58837 58838 58839
<u>(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.</u>	58840 58841 58842 58843
<b>Sec. 5115.03.</b> <u>(A) The director of job and family services shall do both of the following:</u>	58844 58845
<del>(A) Adopt</del> <u>adopt</u> rules <u>in accordance with section 111.15 of the Revised Code</u> governing the <del>administration of</del> disability assistance, <del>including the administration of</del> financial assistance and disability assistance medical assistance program. The rules shall be binding on county departments of job and family services.	58846 58847 58848 58849 58850
<del>(B) Make investigations to determine whether disability assistance is being administered in compliance with the Revised</del>	58851 58852

<u>Code and rules adopted by the director. may establish or specify</u>	58853
<u>any or all of the following:</u>	58854
<u>(1) Maximum payment amounts under the disability financial</u>	58855
<u>assistance program, based on state appropriations for the program;</u>	58856
<u>(2) Limits on the length of time an individual may receive</u>	58857
<u>disability financial assistance;</u>	58858
<u>(3) Limits on the total number of individuals in the state</u>	58859
<u>who may receive disability financial assistance;</u>	58860
<u>(4) Income, resource, citizenship, age, residence, living</u>	58861
<u>arrangement, and other eligibility requirements for disability</u>	58862
<u>financial assistance;</u>	58863
<u>(5) Procedures for disregarding amounts of earned and</u>	58864
<u>unearned income for the purpose of determining eligibility for</u>	58865
<u>disability financial assistance and the amount of assistance to be</u>	58866
<u>provided;</u>	58867
<u>(6) Procedures for including the income and resources, or a</u>	58868
<u>certain amount of the income and resources, of a member of an</u>	58869
<u>individual's family when determining eligibility for disability</u>	58870
<u>financial assistance and the amount of assistance to be provided.</u>	58871
<u>(B) In establishing or specifying eligibility requirements</u>	58872
<u>for disability financial assistance, the director shall exclude</u>	58873
<u>the value of any tuition payment contract entered into under</u>	58874
<u>section 3334.09 of the Revised Code or any scholarship awarded</u>	58875
<u>under section 3334.18 of the Revised Code and the amount of</u>	58876
<u>payments made by the Ohio tuition trust authority under section</u>	58877
<u>3334.09 of the Revised Code pursuant to the contract or</u>	58878
<u>scholarship. The director shall not require any individual to</u>	58879
<u>terminate a tuition payment contract entered into under Chapter</u>	58880
<u>3334. of the Revised Code as a condition of eligibility for</u>	58881
<u>disability financial assistance. The director shall consider as</u>	58882
<u>income any refund paid under section 3334.10 of the Revised Code.</u>	58883

(C) Notwithstanding section 3109.01 of the Revised Code, when a disability financial assistance applicant or recipient who is at least 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. In the rules adopted under this section, the director shall specify procedures for determining the amount of income to be attributed to applicants and recipients in this age category. 58884  
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(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both of the following: 58893  
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(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements, the maximum payment amounts, or any other requirement or standard established or specified in the rules adopted by the director; 58896  
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(2) Suspend acceptance of applications for disability financial assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability financial assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of new applications. 58900  
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**Sec. 5115.02 5115.04.** (A) The department of job and family services shall supervise and administer the disability financial assistance program, except that the department may require county departments of job and family services to perform any 58911  
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administrative function specified in rules adopted by the director 58915  
of job and family services, ~~including making determinations of~~ 58916  
~~financial eligibility and initial determinations of whether an~~ 58917  
~~applicant meets a condition of eligibility under division~~ 58918  
~~(A)(2)(d) of section 5115.01 of the Revised Code, distributing~~ 58919  
~~financial assistance payments, reimbursing providers of medical~~ 58920  
~~services for services provided to disability assistance~~ 58921  
~~recipients, and any other function specified in the rules. The~~ 58922  
~~department may also require county departments to make a final~~ 58923  
~~determination of whether an applicant meets a condition for~~ 58924  
~~eligibility under division (A)(2)(a), (b), (c), (e), or (f) of~~ 58925  
~~section 5115.01 of the Revised Code. The department shall make the~~ 58926  
~~final determination of whether an applicant meets a condition of~~ 58927  
~~eligibility under division (A)(2)(d) of section 5115.01 of the~~ 58928  
~~Revised Code.~~ 58929

(B) If the department requires county departments to perform 58930  
administrative functions under this section, the director shall 58931  
adopt rules in accordance with section 111.15 of the Revised Code 58932  
governing the performance of the functions to be performed by 58933  
county departments. County departments shall perform the functions 58934  
in accordance with the rules. The director shall conduct 58935  
investigations to determine whether disability financial 58936  
assistance is being administered in compliance with the Revised 58937  
Code and rules adopted by the director. 58938

(C) If disability financial assistance payments ~~or medical~~ 58939  
~~services reimbursements~~ are made by the county department of job 58940  
and family services, the department shall advance sufficient funds 58941  
to provide the county treasurer with the amount estimated for the 58942  
payments ~~or reimbursements~~. Financial assistance payments shall be 58943  
distributed in accordance with sections 117.45, 319.16, and 329.03 58944  
of the Revised Code. 58945

Sec. 5115.05. (A) The director of job and family services 58946  
shall adopt rules in accordance with section 111.15 of the Revised 58947  
Code establishing application and verification procedures, 58948  
reapplication procedures, and ~~income, resource, citizenship, age,~~ 58949  
~~residence, living arrangement, assistance group composition, and~~ 58950  
other ~~eligibility~~ requirements the director considers necessary in 58951  
the administration of the application process for disability 58952  
financial assistance. The rules may ~~provide for disregarding~~ 58953  
~~amounts of earned and unearned income for the purpose of~~ 58954  
~~determining whether an assistance group is eligible for assistance~~ 58955  
~~and the amount of assistance provided under this chapter. The~~ 58956  
rules also may provide that the income and resources, or a certain 58957  
amount of the income and resources, of a member of an assistance 58958  
group's family group will be included in determining whether the 58959  
assistance group is eligible for aid and the amount of aid 58960  
provided under this chapter. 58961

~~If financial assistance under this chapter is to be paid by~~ 58962  
~~the auditor of state through the medium of direct deposit, the~~ 58963  
~~application shall be accompanied by information the auditor needs~~ 58964  
~~to make direct deposits.~~ 58965

~~The department of job and family services may require~~ 58966  
recipients of disability financial assistance to participate in a 58967  
reapplication process two months after initial approval for 58968  
assistance has been determined and at such other times as 58969  
specified in the department requires rules. 58970

~~If a recipient of disability assistance, or the spouse of or~~ 58971  
~~member of the assistance group of a recipient, becomes possessed~~ 58972  
~~of resources or income in excess of the amount allowed under rules~~ 58973  
~~adopted under this section, or if other changes occur that affect~~ 58974  
~~the person's eligibility or need for assistance, the recipient~~ 58975  
shall notify the department or county department of job and family 58976

~~services within the time limits specified in the rules. Failure of 58977  
a recipient to report possession of excess resources or income or 58978  
a change affecting eligibility or need within those time limits 58979  
shall be considered prima facie evidence of intent to defraud 58980  
under section 5115.15 of the Revised Code. 58981~~

~~Each applicant for or recipient of disability assistance 58982  
shall make reasonable efforts to secure support from persons 58983  
responsible for the applicant's or recipient's support, and from 58984  
other sources, as a means of preventing or reducing the provision 58985  
of disability assistance at public expense. The department or 58986  
county department may provide assistance to the applicant or 58987  
recipient in securing other forms of financial or medical 58988  
assistance. 58989~~

~~Notwithstanding section 3109.01 of the Revised Code, when a 58990  
disability assistance applicant or recipient who is at least 58991  
eighteen but under twenty two years of age resides with the 58992  
applicant's or recipient's parents, the income of the parents 58993  
shall be taken into account in determining the applicant's or 58994  
recipient's financial eligibility. The director shall adopt rules 58995  
for determining the amount of income to be attributed to the 58996  
assistance group of applicants in this age category. 58997~~

~~(B) Any person who applies for disability financial 58998  
assistance under this section shall receive a voter registration 58999  
application under section 3503.10 of the Revised Code. 59000~~

~~**Sec. 5115.07** **5115.06.** Financial assistance Assistance under 59001  
the disability financial assistance program may be given by 59002  
warrant, direct deposit, or, if provided by the director of job 59003  
and family services pursuant to section 5101.33 of the Revised 59004  
Code, by electronic benefit transfer. It shall be inalienable 59005  
whether by way of assignment, charge, or otherwise, and is exempt 59006  
from attachment, garnishment, or other like process. ~~Any~~ 59007~~

Any direct deposit shall be made to a financial institution 59008  
and account designated by the recipient. ~~The~~ If disability 59009  
financial assistance is to be paid by the auditor of state through 59010  
direct deposit, the application for assistance shall be 59011  
accompanied by information the auditor needs to make direct 59012  
deposits. 59013

The director of job and family services may adopt rules for 59014  
designation of financial institutions and accounts. ~~No~~ 59015

No financial institution shall impose any charge for direct 59016  
deposit of disability ~~assistance~~ financial assistance payments 59017  
that it does not charge all customers for similar services. 59018

~~The department of job and family services shall establish~~ 59019  
~~financial assistance payment amounts based on state~~ 59020  
~~appropriations.~~ 59021

~~Disability assistance may be given to persons living in their~~ 59022  
~~own homes or other suitable quarters, but shall not be given to~~ 59023  
~~persons who reside in a county home, city infirmary, jail, or~~ 59024  
~~public institution. Disability assistance shall not be given to an~~ 59025  
~~unemancipated child unless the child lives with the child's~~ 59026  
~~parents, guardians, or other persons standing in place of parents.~~ 59027  
~~For the purpose of this section, a child is emancipated if the~~ 59028  
~~child is married, serving in the armed forces, or has been~~ 59029  
~~emancipated by court order.~~ 59030

~~No person shall be eligible for disability assistance if, for~~ 59031  
~~the purpose of avoiding consideration of property in~~ 59032  
~~determinations of the person's eligibility for disability~~ 59033  
~~assistance or a greater amount of assistance, the person has~~ 59034  
~~transferred property during the two years preceding application~~ 59035  
~~for or most recent redetermination of eligibility for disability~~ 59036  
~~assistance.~~ 59037

~~Sec. 5115.13~~ 5115.07. The acceptance of ~~disability financial~~ 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.

~~Sec. 5115.10.~~ (A) The director of job and family services shall establish a disability ~~assistance~~ medical assistance program shall ~~consist of a system of managed primary care. Until July 1, 1992, the program shall also include limited hospital services, except that if prior to that date hospitals are required by section 5112.17 of the Revised Code to provide medical services without charge to persons specified in that section, the program shall cease to include hospital services at the time the requirement of section 5112.17 of the Revised Code takes effect.~~

~~The department of job and family services may require disability assistance medical assistance recipients to enroll in health insuring corporations or other managed care programs, or may limit the number or type of health care providers from which a recipient may receive services.~~



~~The director of job and family services shall adopt rules governing the disability assistance medical assistance program established under this division. The rules shall specify all of the following:~~

~~(1) Services that will be provided under the system of managed primary care;~~

~~(2) Hospital services that will be provided during the period that hospital services are provided under the program;~~

~~(3) The maximum authorized amount, scope, duration, or limit of payment for services.~~

~~(B) The director of job and family services shall designate medical services providers for the disability assistance medical assistance program. The first such designation shall be made not later than September 30, 1991. Services under the program shall be provided only by providers designated by the director. The 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.~~

~~(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:~~

~~(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;~~

~~(2) The person met all eligibility requirements for disability assistance at the time the care was rendered;~~ 59098  
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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.~~ 59100  
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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 department designates an employee of the hospital to conduct the interview, the interview shall be conducted by the hospital employee.~~ 59104  
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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~~ 59117  
59118  
(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. 59119  
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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: 59125  
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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: 59129  
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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; 59133  
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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. 59136  
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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; 59139  
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(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent. 59143  
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**Sec. 5115.11.** ~~If a member of an assistance group receiving disability assistance under this chapter~~ An individual who 59146  
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qualifies for the medical assistance program established under 59148  
Chapter 5111. of the Revised Code, ~~the member~~ shall receive 59149  
medical assistance through that program rather than through the 59150  
disability ~~assistance~~ medical assistance program. 59151

An individual is ineligible for disability medical assistance if, for the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability medical 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 medical assistance. 59152  
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Sec. 5115.12. (A) The director of job and family services 59159  
shall adopt rules in accordance with section 111.15 of the Revised 59160  
Code governing the disability medical assistance program. The 59161  
rules may establish or specify any or all of the following: 59162

(1) Income, resource, citizenship, age, residence, living 59163  
arrangement, and other eligibility requirements; 59164

(2) Health services to be included in the program; 59165

(3) The maximum authorized amount, scope, duration, or limit 59166  
of payment for services; 59167

(4) Limits on the length of time an individual may receive 59168  
disability medical assistance; 59169

(5) Limits on the total number of individuals in the state 59170  
who may receive disability medical assistance. 59171

(B) For purposes of limiting the cost of the disability 59172  
medical assistance program, the director may do either of the 59173  
following: 59174

(1) Adopt rules in accordance with section 111.15 of the 59175  
Revised Code that revise the program's eligibility requirements; 59176  
the maximum authorized amount, scope, duration, or limit of 59177  
payment for services included in the program; or any other 59178  
requirement or standard established or specified by rules adopted 59179  
under division (A) of this section or under section 5115.10 of the 59180  
Revised Code; 59181

(2) Suspend acceptance of applications for disability medical 59182  
assistance. While a suspension is in effect, no person shall 59183  
receive a determination or redetermination of eligibility for 59184  
disability medical assistance unless the person was receiving the 59185  
assistance during the month immediately preceding the suspension's 59186  
effective date or the person submitted an application prior to the 59187  
suspension's effective date and receives a determination of 59188

eligibility based on that application. The director may adopt 59189  
rules in accordance with section 111.15 of the Revised Code 59190  
establishing requirements and specifying procedures applicable to 59191  
the suspension of acceptance of new applications. 59192

**Sec. 5115.13.** (A) The department of job and family services 59193  
shall supervise and administer the disability medical program, 59194  
except as follows: 59195

(1) The department may require county departments of job and 59196  
family services to perform any administrative function specified 59197  
in rules adopted by the director of job and family services. 59198

(2) The director may contract with any private or public 59199  
entity in this state to perform any administrative function or to 59200  
administer any or all of the program. 59201

(B) If the department requires county departments to perform 59202  
administrative functions, the director of job and family services 59203  
shall adopt rules in accordance with section 111.15 of the Revised 59204  
Code governing the performance of the functions to be performed by 59205  
county departments. County departments shall perform the functions 59206  
in accordance with the rules. 59207

If the director contracts with a private or public entity to 59208  
perform administrative functions or to administer any or all of 59209  
the program, the director may either adopt rules in accordance 59210  
with section 111.15 of the Revised Code or include provisions in 59211  
the contract governing the performance of the functions by the 59212  
private or public entity. Entities under contract shall perform 59213  
the functions in accordance with the requirements established by 59214  
the director. 59215

(C) Whenever division (A)(1) or (2) of this section is 59216  
implemented, the director shall conduct investigations to 59217  
determine whether disability medical assistance is being 59218

administered in compliance with the Revised Code and rules adopted 59219  
by the director or in accordance with the terms of the contract. 59220

Sec. 5115.14. (A) The director of job and family services 59221  
shall adopt rules in accordance with section 111.15 of the Revised 59222  
Code establishing application and verification procedures, 59223  
reapplication procedures, and other requirements the director 59224  
considers necessary in the administration of the application 59225  
process for disability medical assistance. 59226

(B) Any person who applies for disability medical assistance 59227  
shall receive a voter registration application under section 59228  
3503.10 of the Revised Code. 59229

Sec. 5115.20. (A) The department of job and family services 59230  
shall establish a disability advocacy program and each county 59231  
department of job and family services shall establish a disability 59232  
advocacy program unit or join with other county departments of job 59233  
and family services to establish a joint county disability 59234  
advocacy program unit. Through the program the department and 59235  
county departments shall cooperate in efforts to assist applicants 59236  
for and recipients of assistance under ~~this chapter~~ the disability 59237  
financial assistance program and the disability medical assistance 59238  
program, who might be eligible for supplemental security income 59239  
benefits under Title XVI of the "Social Security Act," 86 Stat. 59240  
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 59241  
benefits. The 59242

As part of their disability advocacy programs, the state 59243  
department and county departments may enter into contracts for the 59244  
services ~~to applicants for and recipients of assistance under this~~ 59245  
~~chapter who might be eligible for supplemental security income~~ 59246  
~~benefits with~~ of persons and governmental government entities that 59247  
in the judgment of the department or county department have 59248

demonstrated expertise in representing persons seeking 59249  
supplemental security income benefits. Each contract shall require 59250  
the person or entity with which a department contracts to assess 59251  
each person referred to it by the department to determine whether 59252  
the person appears to be eligible for supplemental security income 59253  
benefits, and, if the person appears to be eligible, assist the 59254  
person in applying and represent the person in any proceeding of 59255  
the social security administration, including any appeal or 59256  
reconsideration of a denial of benefits. The department or county 59257  
department shall provide to the person or entity with which it 59258  
contracts all records in its possession relevant to the 59259  
application for supplemental security income benefits. The 59260  
department shall require a county department with relevant records 59261  
to submit them to the person or entity. 59262

(B) Each applicant for or recipient of disability financial 59263  
assistance or disability medical assistance ~~under this chapter~~ 59264  
who, in the judgment of the department or a county department 59265  
might be eligible for supplemental security benefits, ~~must~~ shall, 59266  
as a condition of eligibility for assistance, apply for such 59267  
benefits if directed to do so by the department or county 59268  
department. 59269

(C) ~~Each~~ With regard to applicants for and recipients of 59270  
disability financial assistance or disability medical assistance, 59271  
each county department of job and family services shall do all of 59272  
the following: 59273

(1) Identify applicants ~~for~~ and recipients of ~~assistance~~ 59274  
~~under this chapter~~ who might be eligible for supplemental security 59275  
income benefits; 59276

(2) Assist applicants ~~for~~ and recipients of ~~assistance under~~ 59277  
~~this chapter~~ in securing documentation of disabling conditions or 59278  
refer them for such assistance to a person or government ~~agency~~ 59279  
entity with which the department or county department has 59280

contracted under division (A) of this section; 59281

(3) Inform applicants ~~for~~ and recipients ~~of assistance under~~ 59282  
~~this chapter~~ of available sources of representation, which may 59283  
include a person or government entity with which the department or 59284  
county department has contracted under division (A) of this 59285  
section, and of their right to represent themselves in 59286  
reconsiderations and appeals of social security administration 59287  
decisions that deny them supplemental security income benefits. 59288  
The county department may require the applicants and recipients, 59289  
as a condition of eligibility for assistance, to pursue 59290  
reconsiderations and appeals of social security administration 59291  
decisions that deny them supplemental security income benefits, 59292  
and shall assist applicants and recipients as necessary to obtain 59293  
such benefits or refer them to a person or government ~~agency~~ 59294  
entity with which the department or county department has 59295  
contracted under division (A) of this section. 59296

(4) Require applicants ~~for~~ and recipients ~~of assistance under~~ 59297  
~~this chapter~~ who, in the judgment of the county department, are or 59298  
may be aged, blind, or disabled, to apply for medical assistance 59299  
under Chapter 5111. of the Revised Code, make determinations when 59300  
appropriate as to eligibility for medical assistance, and refer 59301  
their applications when necessary to the disability determination 59302  
unit established in accordance with division (F) of this section 59303  
for expedited review; 59304

(5) Require each applicant ~~for~~ and ~~each~~ recipient ~~of~~ 59305  
~~assistance under this chapter~~ who in the judgment of the 59306  
department or the county department might be eligible for 59307  
supplemental security income benefits, as a condition of 59308  
eligibility for disability financial assistance or disability 59309  
medical assistance ~~under this chapter~~, to execute a written 59310  
authorization for the secretary of health and human services to 59311  
withhold benefits due that individual and pay to the director of 59312



job and family services or the director's designee an amount 59313  
sufficient to reimburse the state and county shares of interim 59314  
assistance furnished to the individual. For the purposes of 59315  
division (C)(5) of this section, "benefits" and "interim 59316  
assistance" have the meanings given in Title XVI of the "Social 59317  
Security Act." 59318

(D) The director of job and family services shall adopt rules 59319  
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 59320  
for the effective administration of the disability advocacy 59321  
program. The rules shall include all of the following: 59322

(1) Methods to be used in collecting information from and 59323  
disseminating it to county departments, including the following: 59324

(a) The number of individuals in the county who are disabled 59325  
recipients of disability financial assistance or disability 59326  
medical assistance ~~under this chapter in the county;~~ 59327

(b) The final decision made either by the social security 59328  
administration or by a court for each application or 59329  
reconsideration in which an individual was assisted pursuant to 59330  
this section. 59331

(2) The type and process of training to be provided by the 59332  
department of job and family services to the employees of the 59333  
county department of job and family services who perform duties 59334  
under this section; 59335

(3) Requirements for the written authorization required by 59336  
division (C)(5) of this section. 59337

(E) The department shall provide basic and continuing 59338  
training to employees of the county department of job and family 59339  
services who perform duties under this section. Training shall 59340  
include but not be limited to all processes necessary to obtain 59341  
federal disability benefits, and methods of advocacy. 59342

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or ~~agencies~~ government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

**Sec. 5115.22.** (A) If a recipient of disability financial assistance or disability medical assistance, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence

of intent to defraud under section 5115.23 of the Revised Code. 59374

(B) As a condition of eligibility for disability financial 59375  
assistance or disability medical assistance, and as a means of 59376  
preventing or reducing the provision of assistance at public 59377  
expense, each applicant for or recipient of the assistance shall 59378  
make reasonable efforts to secure support from persons responsible 59379  
for the applicant's or recipient's support, and from other 59380  
sources, including any federal program designed to provide 59381  
assistance to individuals with disabilities. The state or county 59382  
department of job and family services may provide assistance to 59383  
the applicant or recipient in securing other forms of financial 59384  
assistance. 59385

**Sec. 5115.15 5115.23.** As used in this section, "erroneous 59386  
payments" means disability financial assistance payments, 59387  
~~including~~ or disability ~~assistance~~ medical assistance payments, 59388  
made to persons who are not entitled to receive them, including 59389  
payments made as a result of misrepresentation or fraud, and 59390  
payments made due to an error by the recipient or by the county 59391  
department of job and family services that made the payment. 59392

The department of job and family services shall adopt rules 59393  
in accordance with section 111.15 of the Revised Code specifying 59394  
the circumstances under which action is to be taken under this 59395  
section to recover erroneous payments. The department, or a county 59396  
department of job and family services at the request of the 59397  
department, shall take action to recover erroneous payments in the 59398  
circumstances specified in the rules. The department or county 59399  
department may institute a civil action to recover erroneous 59400  
payments. 59401

Whenever disability financial assistance or disability 59402  
medical assistance has been furnished to a recipient for whose 59403  
support another person is responsible, the other person shall, in 59404

addition to the liability otherwise imposed, as a consequence of 59405  
failure to support the recipient, be liable for all ~~disability~~ 59406  
assistance furnished the recipient. The value of the assistance so 59407  
furnished may be recovered in a civil action brought by the county 59408  
department of job and family services. 59409

Each county department of job and family services shall 59410  
retain fifty per cent of the erroneous payments it recovers under 59411  
this section. The department of job and family services shall 59412  
receive the remaining fifty per cent. 59413

**Sec. 5119.61.** Any provision in this chapter that refers to a 59414  
board of alcohol, drug addiction, and mental health services also 59415  
refers to the community mental health board in an alcohol, drug 59416  
addiction, and mental health service district that has a community 59417  
mental health board. 59418

The director of mental health with respect to all facilities 59419  
and programs established and operated under Chapter 340. of the 59420  
Revised Code for mentally ill and emotionally disturbed persons, 59421  
shall do all of the following: 59422

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 59423  
that may be necessary to carry out the purposes of Chapter 340. 59424  
and sections 5119.61 to 5119.63 of the Revised Code. 59425

(1) The rules shall include all of the following: 59426

(a) Rules governing a community mental health agency's 59427  
services under section 340.091 of the Revised Code to an 59428  
individual referred to the agency under division (C)(2) of section 59429  
173.35 of the Revised Code; 59430

(b) For the purpose of division (A)(16) of section 340.03 of 59431  
the Revised Code, rules governing the duties of mental health 59432  
agencies and boards of alcohol, drug addiction, and mental health 59433  
services under section 3722.18 of the Revised Code regarding 59434

referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)(2) of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility ~~described, as defined in division (B) of~~ section 5111.022 of the Revised Code, for providing services ~~established by~~ listed in division ~~(A)(B)~~ of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under ~~division (E) of that~~ section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state

mental health plan, including the needs of residents of the 59466  
district now residing in state mental institutions, approve and 59467  
allocate funds to support community programs, and make 59468  
recommendations for needed improvements to boards of alcohol, drug 59469  
addiction, and mental health services; 59470

(C) Withhold state and federal funds for any program, in 59471  
whole or in part, from a board of alcohol, drug addiction, and 59472  
mental health services in the event of failure of that program to 59473  
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 59474  
or 5119.62 of the Revised Code or rules of the department of 59475  
mental health. The director shall identify the areas of 59476  
noncompliance and the action necessary to achieve compliance. The 59477  
director shall offer technical assistance to the board to achieve 59478  
compliance. The director shall give the board a reasonable time 59479  
within which to comply or to present its position that it is in 59480  
compliance. Before withholding funds, a hearing shall be conducted 59481  
to determine if there are continuing violations and that either 59482  
assistance is rejected or the board is unable to achieve 59483  
compliance. Subsequent to the hearing process, if it is determined 59484  
that compliance has not been achieved, the director may allocate 59485  
all or part of the withheld funds to a public or private agency to 59486  
provide the services not in compliance until the time that there 59487  
is compliance. The director shall establish rules pursuant to 59488  
Chapter 119. of the Revised Code to implement this division. 59489

(D) Withhold state or federal funds from a board of alcohol, 59490  
drug addiction, and mental health services that denies available 59491  
service on the basis of religion, race, color, creed, sex, 59492  
national origin, age, disability as defined in section 4112.01 of 59493  
the Revised Code, developmental disability, or the inability to 59494  
pay; 59495

(E) Provide consultative services to community mental health 59496  
agencies with the knowledge and cooperation of the board of 59497

alcohol, drug addiction, and mental health services; 59498

(F) Provide to boards of alcohol, drug addiction, and mental 59499  
health services state or federal funds, in addition to those 59500  
allocated under section 5119.62 of the Revised Code, for special 59501  
programs or projects the director considers necessary but for 59502  
which local funds are not available; 59503

(G) Establish criteria by which a board of alcohol, drug 59504  
addiction, and mental health services reviews and evaluates the 59505  
quality, effectiveness, and efficiency of services provided 59506  
through its community mental health plan. The criteria shall 59507  
include requirements ensuring appropriate service utilization. The 59508  
department shall assess a board's evaluation of services and the 59509  
compliance of each board with this section, Chapter 340. or 59510  
section 5119.62 of the Revised Code, and other state or federal 59511  
law and regulations. The department, in cooperation with the 59512  
board, periodically shall review and evaluate the quality, 59513  
effectiveness, and efficiency of services provided through each 59514  
board. The department shall collect information that is necessary 59515  
to perform these functions. 59516

(H) Develop and operate a community mental health information 59517  
system. 59518

Boards of alcohol, drug abuse, and mental health services 59519  
shall submit information requested by the department in the form 59520  
and manner prescribed by the department. Information collected by 59521  
the department shall include, but not be limited to, all of the 59522  
following: 59523

(1) Information regarding units of services provided in whole 59524  
or in part under contract with a board, including diagnosis and 59525  
special needs, demographic information, the number of units of 59526  
service provided, past treatment, financial status, and service 59527  
dates in accordance with rules adopted by the department in 59528

accordance with Chapter 119. of the Revised Code; 59529

(2) Financial information other than price or price-related 59530  
data regarding expenditures of boards and community mental health 59531  
agencies, including units of service provided, budgeted and actual 59532  
expenses by type, and sources of funds. 59533

Boards shall submit the information specified in division 59534  
(H)(1) of this section no less frequently than annually for each 59535  
client, and each time the client's case is opened or closed. The 59536  
department shall not collect any information for the purpose of 59537  
identifying by name any person who receives a service through a 59538  
board of alcohol, drug addiction, and mental health services, 59539  
except as required by state or federal law to validate appropriate 59540  
reimbursement. For the purposes of division (H)(1) of this 59541  
section, the department shall use an identification system that is 59542  
consistent with applicable nationally recognized standards. 59543

(I) Review each board's community mental health plan 59544  
submitted pursuant to section 340.03 of the Revised Code and 59545  
approve or disapprove it in whole or in part. Periodically, in 59546  
consultation with representatives of boards and after considering 59547  
the recommendations of the medical director, the director shall 59548  
issue criteria for determining when a plan is complete, criteria 59549  
for plan approval or disapproval, and provisions for conditional 59550  
approval. The factors that the director considers may include, but 59551  
are not limited to, the following: 59552

(1) The mental health needs of all persons residing within 59553  
the board's service district, especially severely mentally 59554  
disabled children, adolescents, and adults; 59555

(2) The demonstrated quality, effectiveness, efficiency, and 59556  
cultural relevance of the services provided in each service 59557  
district, the extent to which any services are duplicative of 59558  
other available services, and whether the services meet the needs 59559



identified above; 59560

(3) The adequacy of the board's accounting for the 59561  
expenditure of funds. 59562

If the director disapproves all or part of any plan, the 59563  
director shall provide the board an opportunity to present its 59564  
position. The director shall inform the board of the reasons for 59565  
the disapproval and of the criteria that must be met before the 59566  
plan may be approved. The director shall give the board a 59567  
reasonable time within which to meet the criteria, and shall offer 59568  
technical assistance to the board to help it meet the criteria. 59569

If the approval of a plan remains in dispute thirty days 59570  
prior to the conclusion of the fiscal year in which the board's 59571  
current plan is scheduled to expire, the board or the director may 59572  
request that the dispute be submitted to a mutually agreed upon 59573  
third-party mediator with the cost to be shared by the board and 59574  
the department. The mediator shall issue to the board and the 59575  
department recommendations for resolution of the dispute. Prior to 59576  
the conclusion of the fiscal year in which the current plan is 59577  
scheduled to expire, the director, taking into consideration the 59578  
recommendations of the mediator, shall make a final determination 59579  
and approve or disapprove the plan, in whole or in part. 59580

**Sec. 5119.611.** (A) A board of alcohol, drug addiction, and 59581  
mental health services may not contract with a community mental 59582  
health agency under division (A)(8)(a) of section 340.03 of the 59583  
Revised Code to provide community mental health services included 59584  
in the board's community mental health plan unless the services 59585  
are certified by the director of mental health under this section. 59586

A community mental health agency that seeks the director's 59587  
certification of its community mental health services shall submit 59588  
an application to the director. On receipt of the application, the 59589  
director may visit and shall evaluate the agency to determine 59590

whether its services satisfy the standards established by rules 59591  
adopted under division (C) of this section. The director shall 59592  
make the evaluation, and, if the director visits the agency, shall 59593  
make the visit, in cooperation with the board of alcohol, drug 59594  
addiction, and mental health services with which the agency seeks 59595  
to contract. 59596

If the director determines that a community mental health 59597  
agency's services satisfy the standards, the director shall 59598  
certify the services. 59599

If the director determines that a community mental health 59600  
agency's services do not satisfy the standards, the director shall 59601  
identify the areas of noncompliance, specify what action is 59602  
necessary to satisfy the standards, and offer technical assistance 59603  
to the board of alcohol, drug addiction, and mental health 59604  
services so that the board may assist the agency in satisfying the 59605  
standards. The director shall give the agency a reasonable time 59606  
within which to demonstrate that its services satisfy the 59607  
standards or to bring the services into compliance with the 59608  
standards. If the director concludes that the services continue to 59609  
fail to satisfy the standards, the director may request that the 59610  
board reallocate the funds for the community mental health 59611  
services the agency was to provide to another community mental 59612  
health agency whose community mental health services satisfy the 59613  
standards. If the board does not reallocate those funds in a 59614  
reasonable period of time, the director may withhold state and 59615  
federal funds for the community mental health services and 59616  
allocate those funds directly to a community mental health agency 59617  
whose community mental health services satisfy the standards. 59618

(B) Each community mental health agency seeking certification 59619  
of its community mental health services under this section shall 59620  
pay a fee for the certification review required by this section. 59621  
Fees shall be paid into the sale of goods and services fund 59622

created pursuant to section 5119.161 of the Revised Code. 59623

(C) The director shall adopt rules in accordance with Chapter 59624  
119. of the Revised Code to implement this section. The rules 59625  
shall do all of the following: 59626

(1) Establish certification standards for community mental 59627  
health services, including assertive community treatment and 59628  
intensive home-based mental health services, that are consistent 59629  
with nationally recognized applicable standards and facilitate 59630  
participation in federal assistance programs. The rules shall 59631  
include as certification standards only requirements that improve 59632  
the quality of services or the health and safety of clients of 59633  
community mental health services. The standards shall address at a 59634  
minimum all of the following: 59635

(a) Reporting major unusual incidents to the director; 59636

(b) Procedures for applicants for and clients of community 59637  
mental health services to file grievances and complaints; 59638

(c) Seclusion; 59639

(d) Restraint; 59640

(e) Development of written policies addressing the rights of 59641  
clients, including all of the following: 59642

(i) The right to a copy of the written policies addressing 59643  
client rights; 59644

(ii) The right at all times to be treated with consideration 59645  
and respect for the client's privacy and dignity; 59646

(iii) The right to have access to the client's own 59647  
psychiatric, medical, or other treatment records unless access is 59648  
specifically restricted in the client's treatment plan for clear 59649  
treatment reasons; 59650

(iv) The right to have a client rights officer provided by 59651  
the agency or board of alcohol, drug addiction, and mental health 59652

services advise the client of the client's rights, including the 59653  
client's rights under Chapter 5122. of the Revised Code if the 59654  
client is committed to the agency or board. 59655

(2) Establish standards for qualifications of mental health 59656  
professionals as defined in section 340.02 of the Revised Code and 59657  
personnel who provide the community mental health services; 59658

(3) Establish the process for certification of community 59659  
mental health services; 59660

(4) Set the amount of certification review fees based on a 59661  
portion of the cost of performing the review; 59662

(5) Specify the type of notice and hearing to be provided 59663  
prior to a decision on whether to reallocate funds. 59664

(D) The rules adopted under division (C)(1) of this section 59665  
to establish certification standards for assertive community 59666  
treatment and intensive home-based mental health services shall be 59667  
adopted not later than July 1, 2004. 59668

**Sec. 5120.52.** The department of rehabilitation and correction 59669  
may enter into a contract ~~with a political subdivision in under~~ 59670  
which a state correctional institution is ~~located under which the~~ 59671  
~~institution will provide sewage treatment services for the~~ 59672  
~~political subdivision if the institution that~~ has a water or 59673  
sewage treatment facility with sufficient excess capacity to 59674  
provide ~~the water or sewage treatment services will provide the~~ 59675  
services for the other contracting party. The 59676

~~Any such~~ contract shall include all of the following that 59677  
apply: 59678

(A) Limitations on the quantity of sewage that the facility 59679  
will accept ~~that~~ which are compatible with the needs of the state 59680  
correctional institution; 59681

(B) Limitations on the quantity of potable water that the 59682

facility will provide which are compatible with the needs of the 59683  
state correctional institution; 59684

(C) The bases for calculating reasonable rates to be charged 59685  
the ~~political subdivision~~ contracting party for potable water or 59686  
sewage treatment services and for adjusting the rates; 59687

~~(C)~~(D) All other provisions the department considers 59688  
necessary or proper to protect the interests of the state in the 59689  
facility and the purpose for which it was constructed. 59690

All amounts due the department under the contract shall be 59691  
paid to the department by the ~~political subdivision~~ contracting 59692  
party at the times specified in the contract. The department shall 59693  
deposit all ~~such~~ of those amounts in the state treasury to the 59694  
credit of the correctional institution water and sewage treatment 59695  
facility services fund, which is hereby created. The fund shall be 59696  
used by the department to pay costs associated with operating and 59697  
maintaining the water and sewage treatment ~~facility~~ facilities. 59698

**Sec. 5123.01.** As used in this chapter: 59699

(A) "Chief medical officer" means the licensed physician 59700  
appointed by the managing officer of an institution for the 59701  
mentally retarded with the approval of the director of mental 59702  
retardation and developmental disabilities to provide medical 59703  
treatment for residents of the institution. 59704

(B) "Chief program director" means a person with special 59705  
training and experience in the diagnosis and management of the 59706  
mentally retarded, certified according to division (C) of this 59707  
section in at least one of the designated fields, and appointed by 59708  
the managing officer of an institution for the mentally retarded 59709  
with the approval of the director to provide habilitation and care 59710  
for residents of the institution. 59711

(C) "Comprehensive evaluation" means a study, including a 59712

sequence of observations and examinations, of a person leading to 59713  
conclusions and recommendations formulated jointly, with 59714  
dissenting opinions if any, by a group of persons with special 59715  
training and experience in the diagnosis and management of persons 59716  
with mental retardation or a developmental disability, which group 59717  
shall include individuals who are professionally qualified in the 59718  
fields of medicine, psychology, and social work, together with 59719  
such other specialists as the individual case may require. 59720

(D) "Education" means the process of formal training and 59721  
instruction to facilitate the intellectual and emotional 59722  
development of residents. 59723

(E) "Habilitation" means the process by which the staff of 59724  
the institution assists the resident in acquiring and maintaining 59725  
those life skills that enable the resident to cope more 59726  
effectively with the demands of the resident's own person and of 59727  
the resident's environment and in raising the level of the 59728  
resident's physical, mental, social, and vocational efficiency. 59729  
Habilitation includes but is not limited to programs of formal, 59730  
structured education and training. 59731

(F) "Habilitation center services" means services provided by 59732  
a habilitation center certified by the department of mental 59733  
retardation and developmental disabilities under section 5123.041 59734  
of the Revised Code and covered by the medicaid program pursuant 59735  
to rules adopted under section 5111.041 of the Revised Code. 59736

(G) "Health officer" means any public health physician, 59737  
public health nurse, or other person authorized or designated by a 59738  
city or general health district. 59739

(H) "Home and community-based services" means medicaid-funded 59740  
home and community-based services provided under a the medicaid 59741  
~~component~~ components the department of mental retardation and 59742  
developmental disabilities administers pursuant to section 59743

5111.871 of the Revised Code. 59744

(I) "Indigent person" means a person who is unable, without 59745  
substantial financial hardship, to provide for the payment of an 59746  
attorney and for other necessary expenses of legal representation, 59747  
including expert testimony. 59748

(J) "Institution" means a public or private facility, or a 59749  
part of a public or private facility, that is licensed by the 59750  
appropriate state department and is equipped to provide 59751  
residential habilitation, care, and treatment for the mentally 59752  
retarded. 59753

(K) "Licensed physician" means a person who holds a valid 59754  
certificate issued under Chapter 4731. of the Revised Code 59755  
authorizing the person to practice medicine and surgery or 59756  
osteopathic medicine and surgery, or a medical officer of the 59757  
government of the United States while in the performance of the 59758  
officer's official duties. 59759

(L) "Managing officer" means a person who is appointed by the 59760  
director of mental retardation and developmental disabilities to 59761  
be in executive control of an institution for the mentally 59762  
retarded under the jurisdiction of the department. 59763

(M) "Medicaid" has the same meaning as in section 5111.01 of 59764  
the Revised Code. 59765

(N) "Medicaid case management services" means case management 59766  
services provided to an individual with mental retardation or 59767  
other developmental disability that the state medicaid plan 59768  
requires. 59769

(O) "Mentally retarded person" means a person having 59770  
significantly subaverage general intellectual functioning existing 59771  
concurrently with deficiencies in adaptive behavior, manifested 59772  
during the developmental period. 59773

(P) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(Q) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(R) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.



(2) It is manifested before age twenty-two.	59804
(3) It is likely to continue indefinitely.	59805
(4) It results in one of the following:	59806
(a) In the case of a person under three years of age, at least one developmental delay or an established risk;	59807 59808
(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;	59809 59810 59811
(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.	59812 59813 59814 59815 59816 59817 59818
(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.	59819 59820 59821 59822
(S) "Developmentally disabled person" means a person with a developmental disability.	59823 59824
(T) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.	59825 59826
(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, <del>disability</del> <u>financial</u> 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	59827 59828 59829 59830 59831 59832 59833

state shall be considered as having legal settlement in the 59834  
assistance area in which the person resides. No adult person 59835  
coming into this state and having a spouse or minor children 59836  
residing in another state shall obtain a legal settlement in this 59837  
state as long as the spouse or minor children are receiving public 59838  
assistance, care, or support at the expense of the other state or 59839  
its subdivisions. For the purpose of determining the legal 59840  
settlement of a person who is living in a public or private 59841  
institution or in a home subject to licensing by the department of 59842  
job and family services, the department of mental health, or the 59843  
department of mental retardation and developmental disabilities, 59844  
the residence of the person shall be considered as though the 59845  
person were residing in the county in which the person was living 59846  
prior to the person's entrance into the institution or home. 59847  
Settlement once acquired shall continue until a person has been 59848  
continuously absent from Ohio for a period of one year or has 59849  
acquired a legal residence in another state. A woman who marries a 59850  
man with legal settlement in any county immediately acquires the 59851  
settlement of her husband. The legal settlement of a minor is that 59852  
of the parents, surviving parent, sole parent, parent who is 59853  
designated the residential parent and legal custodian by a court, 59854  
other adult having permanent custody awarded by a court, or 59855  
guardian of the person of the minor, provided that: 59856

(1) A minor female who marries shall be considered to have 59857  
the legal settlement of her husband and, in the case of death of 59858  
her husband or divorce, she shall not thereby lose her legal 59859  
settlement obtained by the marriage. 59860

(2) A minor male who marries, establishes a home, and who has 59861  
resided in this state for one year without receiving general 59862  
assistance prior to July 17, 1995, under former Chapter 5113. of 59863  
the Revised Code, ~~disability~~ financial assistance under Chapter 59864  
5115. of the Revised Code, or assistance from a private agency 59865

that maintains records of assistance given shall be considered to 59866  
have obtained a legal settlement in this state. 59867

(3) The legal settlement of a child under eighteen years of 59868  
age who is in the care or custody of a public or private child 59869  
caring agency shall not change if the legal settlement of the 59870  
parent changes until after the child has been in the home of the 59871  
parent for a period of one year. 59872

No person, adult or minor, may establish a legal settlement 59873  
in this state for the purpose of gaining admission to any state 59874  
institution. 59875

(V)(1) "Resident" means, subject to division (R)(2) of this 59876  
section, a person who is admitted either voluntarily or 59877  
involuntarily to an institution or other facility pursuant to 59878  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 59879  
Code subsequent to a finding of not guilty by reason of insanity 59880  
or incompetence to stand trial or under this chapter who is under 59881  
observation or receiving habilitation and care in an institution. 59882

(2) "Resident" does not include a person admitted to an 59883  
institution or other facility under section 2945.39, 2945.40, 59884  
2945.401, or 2945.402 of the Revised Code to the extent that the 59885  
reference in this chapter to resident, or the context in which the 59886  
reference occurs, is in conflict with any provision of sections 59887  
2945.37 to 2945.402 of the Revised Code. 59888

(W) "Respondent" means the person whose detention, 59889  
commitment, or continued commitment is being sought in any 59890  
proceeding under this chapter. 59891

(X) "Working day" and "court day" mean Monday, Tuesday, 59892  
Wednesday, Thursday, and Friday, except when such day is a legal 59893  
holiday. 59894

(Y) "Prosecutor" means the prosecuting attorney, village 59895  
solicitor, city director of law, or similar chief legal officer 59896

who prosecuted a criminal case in which a person was found not 59897  
guilty by reason of insanity, who would have had the authority to 59898  
prosecute a criminal case against a person if the person had not 59899  
been found incompetent to stand trial, or who prosecuted a case in 59900  
which a person was found guilty. 59901

(Z) "Court" means the probate division of the court of common 59902  
pleas. 59903

**Sec. 5123.051.** (A) If the department of mental retardation 59904  
and developmental disabilities determines pursuant to an audit 59905  
conducted under section 5123.05 of the Revised Code or a 59906  
reconciliation conducted under section 5123.18 or ~~5111.252~~ 59907  
5123.199 of the Revised Code that money is owed the state by a 59908  
provider of a service or program, the department may enter into a 59909  
payment agreement with the provider. The agreement shall include 59910  
the following: 59911

(1) A schedule of installment payments whereby the money owed 59912  
the state is to be paid in full within a period not to exceed one 59913  
year; 59914

(2) A provision that the provider may pay the entire balance 59915  
owed at any time during the term of the agreement; 59916

(3) A provision that if any installment is not paid in full 59917  
within forty-five days after it is due, the entire balance owed is 59918  
immediately due and payable; 59919

(4) Any other terms and conditions that are agreed to by the 59920  
department and the provider. 59921

(B) The department may include a provision in a payment 59922  
agreement that requires the provider to pay interest on the money 59923  
owed the state. The department, in its discretion, shall determine 59924  
whether to require the payment of interest and, if it so requires, 59925  
the rate of interest. Neither the obligation to pay interest nor 59926

the rate of interest is subject to negotiation between the 59927  
department and the provider. 59928

(C) If the provider fails to pay any installment in full 59929  
within forty-five days after its due date, the department shall 59930  
certify the entire balance owed to the attorney general for 59931  
collection under section 131.02 of the Revised Code. The 59932  
department may withhold funds from payments made to a provider 59933  
under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code to 59934  
satisfy a judgment secured by the attorney general. 59935

(D) The purchase of service fund is hereby created. Money 59936  
credited to the fund shall be used solely for purposes of section 59937  
5123.05 of the Revised Code. 59938

**Sec. 5123.19.** (A) As used in this section and in sections 59939  
5123.191, 5123.194, 5123.196, 5123.198, 5123.1910, and 5123.20 of 59940  
the Revised Code: 59941

(1)(a) "Residential facility" means a home or facility in 59942  
which a mentally retarded or developmentally disabled person 59943  
resides, except the home of a relative or legal guardian in which 59944  
a mentally retarded or developmentally disabled person resides, a 59945  
respite care home certified under section 5126.05 of the Revised 59946  
Code, a county home or district home operated pursuant to Chapter 59947  
5155. of the Revised Code, or a dwelling in which the only 59948  
mentally retarded or developmentally disabled residents are in an 59949  
independent living arrangement or are being provided supported 59950  
living. 59951

(b) "Intermediate care facility for the mentally retarded" 59952  
means a residential facility that is considered an intermediate 59953  
care facility for the mentally retarded for the purposes of 59954  
Chapter 5111. of the Revised Code. 59955

(2) "Political subdivision" means a municipal corporation, 59956

county, or township. 59957

(3) "Independent living arrangement" means an arrangement in 59958  
which a mentally retarded or developmentally disabled person 59959  
resides in an individualized setting chosen by the person or the 59960  
person's guardian, which is not dedicated principally to the 59961  
provision of residential services for mentally retarded or 59962  
developmentally disabled persons, and for which no financial 59963  
support is received for rendering such service from any 59964  
governmental agency by a provider of residential services. 59965

(4) "Supported living" has the same meaning as in section 59966  
5126.01 of the Revised Code. 59967

(5) "Licensee" means the person or government agency that has 59968  
applied for a license to operate a residential facility and to 59969  
which the license was issued under this section. 59970

(B) Every person or government agency desiring to operate a 59971  
residential facility shall apply for licensure of the facility to 59972  
the director of mental retardation and developmental disabilities 59973  
unless the residential facility is subject to section 3721.02, 59974  
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 59975  
Chapter 3721. of the Revised Code, a nursing home that is 59976  
certified as an intermediate care facility for the mentally 59977  
retarded under Title XIX of the "Social Security Act," 79 Stat. 59978  
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 59979  
licensure of the portion of the home that is certified as an 59980  
intermediate care facility for the mentally retarded. 59981

(C) ~~The~~ Subject to section 5123.196 of the Revised Code, the 59982  
director of mental retardation and developmental disabilities 59983  
shall license the operation of residential facilities. An initial 59984  
license shall be issued for a period that does not exceed one 59985  
year, unless the director denies the license under division (D) of 59986  
this section. A license shall be renewed for a period that does 59987

not exceed three years, unless the director refuses to renew the 59988  
license under division (D) of this section. The director, when 59989  
issuing or renewing a license, shall specify the period for which 59990  
the license is being issued or renewed. A license remains valid 59991  
for the length of the licensing period specified by the director, 59992  
unless the license is terminated, revoked, or voluntarily 59993  
surrendered. 59994

(D) If it is determined that an applicant or licensee is not 59995  
in compliance with a provision of this chapter that applies to 59996  
residential facilities or the rules adopted under such a 59997  
provision, the director may deny issuance of a license, refuse to 59998  
renew a license, terminate a license, revoke a license, issue an 59999  
order for the suspension of admissions to a facility, issue an 60000  
order for the placement of a monitor at a facility, issue an order 60001  
for the immediate removal of residents, or take any other action 60002  
the director considers necessary consistent with the director's 60003  
authority under this chapter regarding residential facilities. In 60004  
the director's selection and administration of the sanction to be 60005  
imposed, all of the following apply: 60006

(1) The director may deny, refuse to renew, or revoke a 60007  
license, if the director determines that the applicant or licensee 60008  
has demonstrated a pattern of serious noncompliance or that a 60009  
violation creates a substantial risk to the health and safety of 60010  
residents of a residential facility. 60011

(2) The director may terminate a license if more than twelve 60012  
consecutive months have elapsed since the residential facility was 60013  
last occupied by a resident or a notice required by division (J) 60014  
of this section is not given. 60015

(3) The director may issue an order for the suspension of 60016  
admissions to a facility for any violation that may result in 60017  
sanctions under division (D)(1) of this section and for any other 60018  
violation specified in rules adopted under division (G)(2) of this 60019

section. If the suspension of admissions is imposed for a 60020  
violation that may result in sanctions under division (D)(1) of 60021  
this section, the director may impose the suspension before 60022  
providing an opportunity for an adjudication under Chapter 119. of 60023  
the Revised Code. The director shall lift an order for the 60024  
suspension of admissions when the director determines that the 60025  
violation that formed the basis for the order has been corrected. 60026

(4) The director may order the placement of a monitor at a 60027  
residential facility for any violation specified in rules adopted 60028  
under division (G)(2) of this section. The director shall lift the 60029  
order when the director determines that the violation that formed 60030  
the basis for the order has been corrected. 60031

(5) If the director determines that two or more residential 60032  
facilities owned or operated by the same person or government 60033  
entity are not being operated in compliance with a provision of 60034  
this chapter that applies to residential facilities or the rules 60035  
adopted under such a provision, and the director's findings are 60036  
based on the same or a substantially similar action, practice, 60037  
circumstance, or incident that creates a substantial risk to the 60038  
health and safety of the residents, the director shall conduct a 60039  
survey as soon as practicable at each residential facility owned 60040  
or operated by that person or government entity. The director may 60041  
take any action authorized by this section with respect to any 60042  
facility found to be operating in violation of a provision of this 60043  
chapter that applies to residential facilities or the rules 60044  
adopted under such a provision. 60045

(6) When the director initiates license revocation 60046  
proceedings, no opportunity for submitting a plan of correction 60047  
shall be given. The director shall notify the licensee by letter 60048  
of the initiation of such proceedings. The letter shall list the 60049  
deficiencies of the residential facility and inform the licensee 60050  
that no plan of correction will be accepted. The director shall 60051



also notify each affected resident, the resident's guardian if the 60052  
resident is an adult for whom a guardian has been appointed, the 60053  
resident's parent or guardian if the resident is a minor, and the 60054  
county board of mental retardation and developmental disabilities. 60055

(7) Pursuant to rules which shall be adopted in accordance 60056  
with Chapter 119. of the Revised Code, the director may order the 60057  
immediate removal of residents from a residential facility 60058  
whenever conditions at the facility present an immediate danger of 60059  
physical or psychological harm to the residents. 60060

(8) In determining whether a residential facility is being 60061  
operated in compliance with a provision of this chapter that 60062  
applies to residential facilities or the rules adopted under such 60063  
a provision, or whether conditions at a residential facility 60064  
present an immediate danger of physical or psychological harm to 60065  
the residents, the director may rely on information obtained by a 60066  
county board of mental retardation and developmental disabilities 60067  
or other governmental agencies. 60068

(9) In proceedings initiated to deny, refuse to renew, or 60069  
revoke licenses, the director may deny, refuse to renew, or revoke 60070  
a license regardless of whether some or all of the deficiencies 60071  
that prompted the proceedings have been corrected at the time of 60072  
the hearing. 60073

(E) The director shall establish a program under which public 60074  
notification may be made when the director has initiated license 60075  
revocation proceedings or has issued an order for the suspension 60076  
of admissions, placement of a monitor, or removal of residents. 60077  
The director shall adopt rules in accordance with Chapter 119. of 60078  
the Revised Code to implement this division. The rules shall 60079  
establish the procedures by which the public notification will be 60080  
made and specify the circumstances for which the notification must 60081  
be made. The rules shall require that public notification be made 60082  
if the director has taken action against the facility in the 60083

eighteen-month period immediately preceding the director's latest 60084  
action against the facility and the latest action is being taken 60085  
for the same or a substantially similar violation of a provision 60086  
of this chapter that applies to residential facilities or the 60087  
rules adopted under such a provision. The rules shall specify a 60088  
method for removing or amending the public notification if the 60089  
director's action is found to have been unjustified or the 60090  
violation at the residential facility has been corrected. 60091

(F)(1) Except as provided in division (F)(2) of this section, 60092  
appeals from proceedings initiated to impose a sanction under 60093  
division (D) of this section shall be conducted in accordance with 60094  
Chapter 119. of the Revised Code. 60095

(2) Appeals from proceedings initiated to order the 60096  
suspension of admissions to a facility shall be conducted in 60097  
accordance with Chapter 119. of the Revised Code, unless the order 60098  
was issued before providing an opportunity for an adjudication, in 60099  
which case all of the following apply: 60100

(a) The licensee may request a hearing not later than ten 60101  
days after receiving the notice specified in section 119.07 of the 60102  
Revised Code. 60103

(b) If a timely request for a hearing is made, the hearing 60104  
shall commence not later than thirty days after the department 60105  
receives the request. 60106

(c) After commencing, the hearing shall continue 60107  
uninterrupted, except for Saturdays, Sundays, and legal holidays, 60108  
unless other interruptions are agreed to by the licensee and the 60109  
director. 60110

(d) If the hearing is conducted by a hearing examiner, the 60111  
hearing examiner shall file a report and recommendations not later 60112  
than ten days after the close of the hearing. 60113

(e) Not later than five days after the hearing examiner files 60114

the report and recommendations, the licensee may file objections 60115  
to the report and recommendations. 60116

(f) Not later than fifteen days after the hearing examiner 60117  
files the report and recommendations, the director shall issue an 60118  
order approving, modifying, or disapproving the report and 60119  
recommendations. 60120

(g) Notwithstanding the pendency of the hearing, the director 60121  
shall lift the order for the suspension of admissions when the 60122  
director determines that the violation that formed the basis for 60123  
the order has been corrected. 60124

(G) In accordance with Chapter 119. of the Revised Code, the 60125  
director shall adopt and may amend and rescind rules for licensing 60126  
and regulating the operation of residential facilities, including 60127  
intermediate care facilities for the mentally retarded. The rules 60128  
for intermediate care facilities for the mentally retarded may 60129  
differ from those for other residential facilities. The rules 60130  
shall establish and specify the following: 60131

(1) Procedures and criteria for issuing and renewing 60132  
licenses, including procedures and criteria for determining the 60133  
length of the licensing period that the director must specify for 60134  
each license when it is issued or renewed; 60135

(2) Procedures and criteria for denying, refusing to renew, 60136  
terminating, and revoking licenses and for ordering the suspension 60137  
of admissions to a facility, placement of a monitor at a facility, 60138  
and the immediate removal of residents from a facility; 60139

(3) Fees for issuing and renewing licenses; 60140

(4) Procedures for surveying residential facilities; 60141

(5) Requirements for the training of residential facility 60142  
personnel; 60143

(6) Classifications for the various types of residential 60144

facilities;	60145
(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;	60146 60147 60148 60149
(8) The maximum number of persons who may be served in a particular type of residential facility;	60150 60151
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	60152 60153
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	60154 60155
(11) Procedures for waiving any provision of any rule adopted under this section.	60156 60157
(H) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.	60158 60159 60160 60161 60162 60163 60164 60165 60166
In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.	60167 60168 60169 60170 60171 60172 60173 60174 60175

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section and except as provided in section 5123.1910 of the Revised Code, 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 60207  
a significant change of ownership is proposed, the director shall 60208  
consider the proposed change to be an application for development 60209  
by a new operator pursuant to section 5123.042 of the Revised Code 60210  
and shall advise the applicant within sixty days of such 60211  
notification that the current license shall continue in effect or 60212  
a new license will be required pursuant to this section. If the 60213  
director requires a new license, the director shall permit the 60214  
facility to continue to operate under the current license until 60215  
the new license is issued, unless the current license is revoked, 60216  
refused to be renewed, or terminated in accordance with Chapter 60217  
119. of the Revised Code. 60218

(K) A county board of mental retardation and developmental 60219  
disabilities, the legal rights service, and any interested person 60220  
may file complaints alleging violations of statute or department 60221  
rule relating to residential facilities with the department. All 60222  
complaints shall be in writing and shall state the facts 60223  
constituting the basis of the allegation. The department shall not 60224  
reveal the source of any complaint unless the complainant agrees 60225  
in writing to waive the right to confidentiality or until so 60226  
ordered by a court of competent jurisdiction. 60227

The department shall adopt rules in accordance with Chapter 60228  
119. of the Revised Code establishing procedures for the receipt, 60229  
referral, investigation, and disposition of complaints filed with 60230  
the department under this division. 60231

(L) The department shall establish procedures for the 60232  
notification of interested parties of the transfer or interim care 60233  
of residents from residential facilities that are closing or are 60234  
losing their license. 60235

(M) Before issuing a license under this section to a 60236  
residential facility that will accommodate at any time more than 60237  
one mentally retarded or developmentally disabled individual, the 60238

director shall, by first class mail, notify the following: 60239

(1) If the facility will be located in a municipal 60240  
corporation, the clerk of the legislative authority of the 60241  
municipal corporation; 60242

(2) If the facility will be located in unincorporated 60243  
territory, the clerk of the appropriate board of county 60244  
commissioners and the clerk of the appropriate board of township 60245  
trustees. 60246

The director shall not issue the license for ten days after 60247  
mailing the notice, excluding Saturdays, Sundays, and legal 60248  
holidays, in order to give the notified local officials time in 60249  
which to comment on the proposed issuance. 60250

Any legislative authority of a municipal corporation, board 60251  
of county commissioners, or board of township trustees that 60252  
receives notice under this division of the proposed issuance of a 60253  
license for a residential facility may comment on it in writing to 60254  
the director within ten days after the director mailed the notice, 60255  
excluding Saturdays, Sundays, and legal holidays. If the director 60256  
receives written comments from any notified officials within the 60257  
specified time, the director shall make written findings 60258  
concerning the comments and the director's decision on the 60259  
issuance of the license. If the director does not receive written 60260  
comments from any notified local officials within the specified 60261  
time, the director shall continue the process for issuance of the 60262  
license. 60263

(N) Any person may operate a licensed residential facility 60264  
that provides room and board, personal care, habilitation 60265  
services, and supervision in a family setting for at least six but 60266  
not more than eight persons with mental retardation or a 60267  
developmental disability as a permitted use in any residential 60268  
district or zone, including any single-family residential district 60269

or zone, of any political subdivision. These residential 60270  
facilities may be required to comply with area, height, yard, and 60271  
architectural compatibility requirements that are uniformly 60272  
imposed upon all single-family residences within the district or 60273  
zone. 60274

(O) Any person may operate a licensed residential facility 60275  
that provides room and board, personal care, habilitation 60276  
services, and supervision in a family setting for at least nine 60277  
but not more than sixteen persons with mental retardation or a 60278  
developmental disability as a permitted use in any multiple-family 60279  
residential district or zone of any political subdivision, except 60280  
that a political subdivision that has enacted a zoning ordinance 60281  
or resolution establishing planned unit development districts may 60282  
exclude these residential facilities from such districts, and a 60283  
political subdivision that has enacted a zoning ordinance or 60284  
resolution may regulate these residential facilities in 60285  
multiple-family residential districts or zones as a conditionally 60286  
permitted use or special exception, in either case, under 60287  
reasonable and specific standards and conditions set out in the 60288  
zoning ordinance or resolution to: 60289

(1) Require the architectural design and site layout of the 60290  
residential facility and the location, nature, and height of any 60291  
walls, screens, and fences to be compatible with adjoining land 60292  
uses and the residential character of the neighborhood; 60293

(2) Require compliance with yard, parking, and sign 60294  
regulation; 60295

(3) Limit excessive concentration of these residential 60296  
facilities. 60297

(P) This section does not prohibit a political subdivision 60298  
from applying to residential facilities nondiscriminatory 60299  
regulations requiring compliance with health, fire, and safety 60300



regulations and building standards and regulations. 60301

(Q) Divisions (N) and (O) of this section are not applicable 60302  
to municipal corporations that had in effect on June 15, 1977, an 60303  
ordinance specifically permitting in residential zones licensed 60304  
residential facilities by means of permitted uses, conditional 60305  
uses, or special exception, so long as such ordinance remains in 60306  
effect without any substantive modification. 60307

(R)(1) The director may issue an interim license to operate a 60308  
residential facility to an applicant for a license under this 60309  
section if either of the following is the case: 60310

(a) The director determines that an emergency exists 60311  
requiring immediate placement of persons in a residential 60312  
facility, that insufficient licensed beds are available, and that 60313  
the residential facility is likely to receive a permanent license 60314  
under this section within thirty days after issuance of the 60315  
interim license. 60316

(b) The director determines that the issuance of an interim 60317  
license is necessary to meet a temporary need for a residential 60318  
facility. 60319

(2) To be eligible to receive an interim license, an 60320  
applicant must meet the same criteria that must be met to receive 60321  
a permanent license under this section, except for any differing 60322  
procedures and time frames that may apply to issuance of a 60323  
permanent license. 60324

(3) An interim license shall be valid for thirty days and may 60325  
be renewed by the director for a period not to exceed one hundred 60326  
fifty days. 60327

(4) The director shall adopt rules in accordance with Chapter 60328  
119. of the Revised Code as the director considers necessary to 60329  
administer the issuance of interim licenses. 60330

(S) Notwithstanding rules adopted pursuant to this section 60331  
establishing the maximum number of persons who may be served in a 60332  
particular type of residential facility, a residential facility 60333  
shall be permitted to serve the same number of persons being 60334  
served by the facility on the effective date of such rules or the 60335  
number of persons for which the facility is authorized pursuant to 60336  
a current application for a certificate of need with a letter of 60337  
support from the department of mental retardation and 60338  
developmental disabilities and which is in the review process 60339  
prior to April 4, 1986. 60340

(T) The director or the director's designee may enter at any 60341  
time, for purposes of investigation, any home, facility, or other 60342  
structure that has been reported to the director or that the 60343  
director has reasonable cause to believe is being operated as a 60344  
residential facility without a license issued under this section. 60345

The director may petition the court of common pleas of the 60346  
county in which an unlicensed residential facility is located for 60347  
an order enjoining the person or governmental agency operating the 60348  
facility from continuing to operate without a license. The court 60349  
may grant the injunction on a showing that the person or 60350  
governmental agency named in the petition is operating a 60351  
residential facility without a license. The court may grant the 60352  
injunction, regardless of whether the residential facility meets 60353  
the requirements for receiving a license under this section. 60354

(U) Except as provided in section 5123.198 of the Revised 60355  
Code, whenever a resident of a residential facility is committed 60356  
to a state-operated intermediate care facility for the mentally 60357  
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 60358  
Code, the department shall reduce by one the maximum number of 60359  
residents for which the facility is licensed. 60360

**Sec. 5123.196.** (A) Except as provided in divisions (E) and 60361

(F) of this section, 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, both of the following:

(1) The number of such beds taken out of service on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered;

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, 2003.

(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.

(D) The director shall maintain an up-to-date written record of the maximum number of residential facility beds provided for by division (B) of this section.

(E) If required by section 5123.1910 of the Revised Code to issue a license under section 5123.19 of the Revised Code, the director shall issue the license regardless of whether 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.

(F) The director may issue an interim license under division

(R) of section 5123.19 of the Revised Code and issue, pursuant to 60393  
rules adopted under division (G)(11) of that section, a waiver 60394  
allowing a residential facility to admit more residents than the 60395  
facility is licensed to admit regardless of whether the interim 60396  
license or waiver will result in there being more beds in all 60397  
residential facilities licensed under that section than is 60398  
permitted under division (B) of this section. 60399

Sec. 5123.198. (A) Except as provided in division (B) of this 60400  
section, whenever a resident of a residential facility is 60401  
committed to a state-operated intermediate care facility for the 60402  
mentally retarded pursuant to sections 5123.71 to 5123.76 of the 60403  
Revised Code, the department of mental retardation and 60404  
developmental disabilities, pursuant to an adjudication order 60405  
issued in accordance with Chapter 119. of the Revised code, shall 60406  
reduce by one the number of residents for which the facility in 60407  
which the resident resided is licensed. 60408

(B) The department shall not reduce under division (A) of 60409  
this section the number of residents for which a residential 60410  
facility is licensed if any of the following are the case: 60411

(1) The residential facility admits an individual who resides 60412  
in a state-operated intermediate care facility for the mentally 60413  
retarded on the date of the commitment of the resident of the 60414  
residential facility to the state-operated intermediate care 60415  
facility for the mentally retarded; 60416

(2) There are no individuals residing in a state-operated 60417  
intermediate care facility for the mentally retarded on the date 60418  
of the commitment who have needs that the residential facility can 60419  
meet; 60420

(3) The residential facility admits an individual who resides 60421  
in another residential facility on the date of the commitment, has 60422  
needs the residential facility can meet, and is designated for 60423

transfer to the residential facility by the department not later 60424  
than ninety days after the date of the commitment; 60425

(4) There are no individuals residing in another residential 60426  
facility on the date of the commitment who have needs that the 60427  
residential facility can meet; 60428

(5) The department fails within the time specified in 60429  
division (B)(3) of this section to designate for transfer to the 60430  
residential facility an individual who has needs that the 60431  
residential facility can meet and resides in another residential 60432  
facility on the date of the commitment; 60433

(6) Every individual the department designates within the 60434  
time specified in division (B)(3) of this section for transfer to 60435  
the residential facility, or the parents or guardians of every 60436  
such individual, refuses placement in the facility. 60437

(C) A residential facility that admits, discharges, or 60438  
transfers a resident under this section shall comply with the 60439  
uniform procedures for admissions, transfers, and discharges 60440  
established by rules adopted under division (G)(9) of section 60441  
5123.19 of the Revised Code. 60442

(D) The department of mental retardation and developmental 60443  
disabilities may notify the department of job and family services 60444  
of any reduction under this section in the number of residents for 60445  
which a residential facility that is an intermediate care facility 60446  
for the mentally retarded is licensed. On receiving the notice, 60447  
the department of job and family services may transfer to the 60448  
department of mental retardation and developmental disabilities 60449  
the savings in the nonfederal share of medicaid expenditures for 60450  
each fiscal year after the year of the commitment to be used for 60451  
costs of the resident's care in the state-operated intermediate 60452  
care facility for the mentally retarded. In determining the amount 60453  
saved, the department of job and family services shall consider 60454

medicaid payments for the remaining residents of the facility in 60455  
which the resident resided. 60456

**Sec. ~~5111.252~~ 5123.199.** (A) As used in this section: 60457

(1) "Contractor" means a person or government agency that has 60458  
entered into a contract with the department of mental retardation 60459  
and developmental disabilities under this section. 60460

(2) "Government agency" and "residential services" have the 60461  
same meanings as in section 5123.18 of the Revised Code. 60462

(3) "Intermediate care facility for the mentally retarded" 60463  
has the same meaning as in section 5111.20 of the Revised Code. 60464

(4) "Respite care services" has the same meaning as in 60465  
section 5123.171 of the Revised Code. 60466

(B) The department of mental retardation and developmental 60467  
disabilities may enter into a contract with a person or government 60468  
agency to do any of the following: 60469

(1) Provide residential services in an intermediate care 60470  
facility for the mentally retarded to an individual who meets the 60471  
criteria for admission to such a facility but is not eligible for 60472  
assistance under ~~this chapter~~ Chapter 5111. of the Revised Code 60473  
due to unliquidated assets subject to final probate action; 60474

(2) Provide respite care services in an intermediate care 60475  
facility for the mentally retarded; 60476

(3) Provide residential services in a facility for which the 60477  
person or government agency has applied for, but has not received, 60478  
certification and payment as an intermediate care facility for the 60479  
mentally retarded if the person or government agency is making a 60480  
good faith effort to bring the facility into compliance with 60481  
requirements for certification and payment as an intermediate care 60482  
facility for the mentally retarded. In assigning payment amounts 60483  
to such contracts, the department shall take into account costs 60484

incurred in attempting to meet certification requirements. 60485

(4) Reimburse an intermediate care facility for the mentally 60486  
retarded for costs not otherwise reimbursed under ~~this chapter~~ 60487  
Chapter 5111. of the Revised Code for clothing for individuals who 60488  
are mentally retarded or developmentally disabled. Reimbursement 60489  
under such contracts shall not exceed a maximum amount per 60490  
individual per year specified in rules that the department shall 60491  
adopt in accordance with Chapter 119. of the Revised Code. 60492

(C) The amount paid to a contractor under divisions (B)(1) to 60493  
(3) of this section shall not exceed the reimbursement that would 60494  
be made under ~~this chapter~~ Chapter 5111. of the Revised Code by 60495  
the department of job and family services for the same goods and 60496  
services. 60497

(D) The department of mental retardation and developmental 60498  
disabilities shall adopt rules as necessary to implement this 60499  
section, including rules establishing standards and procedures for 60500  
the submission of cost reports by contractors and the department's 60501  
conduct of audits and reconciliations regarding the contracts. The 60502  
rules shall be adopted in accordance with Chapter 119. of the 60503  
Revised Code. 60504

Sec. 5123.1910. (A) The director of mental retardation and 60505  
developmental disabilities shall issue one or more residential 60506  
facility licenses under section 5123.19 of the Revised Code to an 60507  
applicant without requiring the applicant to have plans submitted, 60508  
reviewed, or approved under section 5123.042 of the Revised Code 60509  
for the residential facility if all of the following requirements 60510  
are met: 60511

(1) The applicant satisfies the requirements for the license 60512  
established by section 5123.19 of the Revised Code and rules 60513  
adopted under that section, other than any rule that requires an 60514  
applicant for a residential facility license to have plans 60515

submitted, reviewed, or approved under section 5123.042 of the 60516  
Revised Code for the residential facility. 60517

(2) The applicant operates at least one residential facility 60518  
licensed under section 5123.19 of the Revised Code on the 60519  
effective date of this section. 60520

(3) The applicant provides services to individuals with 60521  
mental retardation or a developmental disability who have a 60522  
chronic, medically complex, or technology-dependent condition that 60523  
requires special supervision or care, the majority of whom 60524  
received habilitation services from the applicant before attaining 60525  
eighteen years of age. 60526

(4) The applicant has created directly or through a corporate 60527  
affiliate a research center that has the mission of funding, 60528  
promoting, and carrying on scientific research in the public 60529  
interest related to individuals with mental retardation or a 60530  
developmental disability for the purpose of improving the lives of 60531  
such individuals. 60532

(5) If the applicant seeks two or more residential facility 60533  
licenses, the residential facilities for which a license is sought 60534  
after the effective date of this section are located on the same 60535  
or adjoining property sites. 60536

(6) The residential facilities for which the applicant seeks 60537  
licensure have not more than eight beds each and forty-eight beds 60538  
total. 60539

(7) The applicant, one or more of the applicant's corporate 60540  
affiliates, or both employ or contract for, on a full-time basis, 60541  
at least one licensed physician who is certified by the American 60542  
board of pediatrics or would be eligible for certification from 60543  
that board if the physician passed an examination necessary to 60544  
obtain certification from that board. 60545

(8) The applicant, one or more of the applicant's corporate 60546



affiliates, or both have educational facilities suitable for the 60547  
instruction of individuals under eighteen years of age with mental 60548  
retardation or a developmental disability who have a medically 60549  
complex or technology-dependent condition. 60550

(9) The applicant has a policy for giving individuals with 60551  
mental retardation or a developmental disability who meet all of 60552  
the following conditions priority over all others in admissions to 60553  
one of the residential facilities licensed under section 5123.19 60554  
of the Revised Code that the applicant operates on the effective 60555  
date of this section: 60556

(a) Are under eighteen years of age; 60557

(b) Have a chronic, medically complex, or 60558  
technology-dependent condition that requires special supervision 60559  
or care; 60560

(c) Are eligible for medicaid; 60561

(d) Reside in a nursing home, as defined in section 3721.01 60562  
of the Revised Code, or a hospital, as defined in section 3727.01, 60563  
prior to being admitted to the residential facility. 60564

(B) The director shall issue one or more residential facility 60565  
licenses under section 5123.19 of the Revised Code to an applicant 60566  
who meets all of the requirements of this section regardless of 60567  
whether the requirements for approval of a plan for a proposed 60568  
residential facility established by rules adopted under section 60569  
5123.042 of the Revised Code are met. 60570

**Sec. 5123.38.** (A) Except as provided in division (B) and (C) 60571  
of this section, if an individual receiving supported living or 60572  
home and community-based services, as defined in section 5126.01 60573  
of the Revised Code, funded by a county board of mental 60574  
retardation and developmental disabilities is committed to a 60575  
state-operated intermediate care facility for the mentally 60576

retarded pursuant to sections 5123.71 to 5123.76 of the Revised 60577  
Code, the department of mental retardation and developmental 60578  
disabilities shall use the funds otherwise allocated to the county 60579  
board as the nonfederal share of medicaid expenditures for the 60580  
individual's care in the state-operated facility. 60581

(B) Division (A) of this section does not apply if the county 60582  
board, not later than ninety days after the date of the commitment 60583  
of a person receiving supported services, commences funding of 60584  
supported living for an individual who resides in a state-operated 60585  
intermediate care facility for the mentally retarded on the date 60586  
of the commitment or another eligible individual designated by the 60587  
department. 60588

(C) Division (A) of this section does not apply if the county 60589  
board, not later than ninety days after the date of the commitment 60590  
of a person receiving home and community-based services, commences 60591  
funding of home and community-based services for an individual who 60592  
resides in a state-operated intermediate care facility for the 60593  
mentally retarded on the date of the commitment or another 60594  
eligible individual designated by the department. 60595

**Sec. 5123.60.** (A) A legal rights service is hereby created 60596  
and established to protect and advocate the rights of mentally ill 60597  
persons, mentally retarded persons, developmentally disabled 60598  
persons, and other disabled persons who may be represented by the 60599  
service pursuant to division (L) of this section; to receive and 60600  
act upon complaints concerning institutional and hospital 60601  
practices and conditions of institutions for mentally retarded or 60602  
developmentally disabled persons and hospitals for the mentally 60603  
ill; and to assure that all persons detained, hospitalized, 60604  
discharged, or institutionalized, and all persons whose detention, 60605  
hospitalization, discharge, or institutionalization is sought or 60606  
has been sought under this chapter or Chapter 5122. of the Revised 60607

Code are fully informed of their rights and adequately represented 60608  
by counsel in proceedings under this chapter or Chapter 5122. of 60609  
the Revised Code and in any proceedings to secure the rights of 60610  
those persons. Notwithstanding the definitions of "mentally 60611  
retarded person" and "developmentally disabled person" in section 60612  
5123.01 of the Revised Code, the legal rights service shall 60613  
determine who is a mentally retarded or developmentally disabled 60614  
person for purposes of this section and sections 5123.601 to 60615  
5123.604 of the Revised Code. 60616

(B) In regard to those persons detained, hospitalized, or 60617  
institutionalized under Chapter 5122. of the Revised Code, the 60618  
legal rights service shall undertake formal representation only of 60619  
those persons who are involuntarily detained, hospitalized, or 60620  
institutionalized pursuant to sections 5122.10 to 5122.15 of the 60621  
Revised Code, and those voluntarily detained, hospitalized, or 60622  
institutionalized who are minors, who have been adjudicated 60623  
incompetent, who have been detained, hospitalized, or 60624  
institutionalized in a public hospital, or who have requested 60625  
representation by the legal rights service. If a person referred 60626  
to in division (A) of this section voluntarily requests in writing 60627  
that the legal rights service terminate participation in the 60628  
person's case, such involvement shall cease. 60629

(C) Any person voluntarily hospitalized or institutionalized 60630  
in a public hospital under division (A) of section 5122.02 of the 60631  
Revised Code, after being fully informed of the person's rights 60632  
under division (A) of this section, may, by written request, waive 60633  
assistance by the legal rights service if the waiver is knowingly 60634  
and intelligently made, without duress or coercion. 60635

The waiver may be rescinded at any time by the voluntary 60636  
patient or resident, or by the voluntary patient's or resident's 60637  
legal guardian. 60638

(D)(1) The legal rights service commission is hereby created 60639

for the purposes of appointing an administrator of the legal 60640  
rights service, advising the administrator, assisting the 60641  
administrator in developing a budget, advising the administrator 60642  
in establishing and annually reviewing a strategic plan, creating 60643  
a procedure for filing and determination of grievances against the 60644  
legal rights service, and establishing general policy guidelines, 60645  
including guidelines for the commencement of litigation, for the 60646  
legal rights service. The commission may adopt rules to carry 60647  
these purposes into effect and may receive and act upon appeals of 60648  
personnel decisions by the administrator. 60649

(2) The commission shall consist of seven members. One 60650  
member, who shall serve as chairperson, shall be appointed by the 60651  
chief justice of the supreme court, three members shall be 60652  
appointed by the speaker of the house of representatives, and 60653  
three members shall be appointed by the president of the senate. 60654  
At least two members shall have experience in the field of 60655  
developmental disabilities, and at least two members shall have 60656  
experience in the field of mental health. No member shall be a 60657  
provider or related to a provider of services to mentally 60658  
retarded, developmentally disabled, or mentally ill persons. 60659

(3) Terms of office of the members of the commission shall be 60660  
for three years, each term ending on the same day of the month of 60661  
the year as did the term which it succeeds. Each member shall 60662  
serve subsequent to the expiration of the member's term until a 60663  
successor is appointed and qualifies, or until sixty days has 60664  
elapsed, whichever occurs first. No member shall serve more than 60665  
two consecutive terms. 60666

All vacancies in the membership of the commission shall be 60667  
filled in the manner prescribed for regular appointments to the 60668  
commission and shall be limited to the unexpired terms. 60669

(4) The commission shall meet at least four times each year. 60670  
Members shall be reimbursed for their necessary and actual 60671

expenses incurred in the performance of their official duties. 60672

(5) The administrator of the legal rights service shall be 60673  
~~appointed for a five year term, subject to removal for mental or~~ 60674  
~~physical incapacity to perform the duties of the office,~~ 60675  
~~conviction of violation of any law relating to the administrator's~~ 60676  
~~powers and duties, or other good cause shown~~ serve at the pleasure 60677  
of the commission. 60678

The administrator shall be a person who has had special 60679  
training and experience in the type of work with which the legal 60680  
rights service is charged. If the administrator is not an 60681  
attorney, the administrator shall seek legal counsel when 60682  
appropriate. The salary of the administrator shall be established 60683  
in accordance with section 124.14 of the Revised Code. 60684

(E) The legal rights service shall be completely independent 60685  
of the department of mental health and the department of mental 60686  
retardation and developmental disabilities and, notwithstanding 60687  
section 109.02 of the Revised Code, shall also be independent of 60688  
the office of the attorney general. The administrator of the legal 60689  
rights service, staff, and attorneys designated by the 60690  
administrator to represent persons detained, hospitalized, or 60691  
institutionalized under this chapter or Chapter 5122. of the 60692  
Revised Code shall have ready access to the following: 60693

(1) During normal business hours and at other reasonable 60694  
times, all records relating to expenditures of state and federal 60695  
funds or to the commitment, care, treatment, and habilitation of 60696  
all persons represented by the legal rights service, including 60697  
those who may be represented pursuant to division (L) of this 60698  
section, or persons detained, hospitalized, institutionalized, or 60699  
receiving services under this chapter or Chapter 340., 5119., 60700  
5122., or 5126. of the Revised Code that are records maintained by 60701  
the following entities providing services for those persons: 60702  
departments; institutions; hospitals; community residential 60703

facilities; boards of alcohol, drug addiction, and mental health 60704  
services; county boards of mental retardation and developmental 60705  
disabilities; contract agencies of those boards; and any other 60706  
entity providing services to persons who may be represented by the 60707  
service pursuant to division (L) of this section; 60708

(2) Any records maintained in computerized data banks of the 60709  
departments or boards or, in the case of persons who may be 60710  
represented by the service pursuant to division (L) of this 60711  
section, any other entity that provides services to those persons; 60712

(3) During their normal working hours, personnel of the 60713  
departments, facilities, boards, agencies, institutions, 60714  
hospitals, and other service-providing entities; 60715

(4) At any time, all persons detained, hospitalized, or 60716  
institutionalized; persons receiving services under this chapter 60717  
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 60718  
persons who may be represented by the service pursuant to division 60719  
(L) of this section. 60720

(F) The administrator of the legal rights service shall do 60721  
the following: 60722

(1) Administer and organize the work of the legal rights 60723  
service and establish administrative or geographic divisions as 60724  
the administrator considers necessary, proper, and expedient; 60725

(2) Adopt and promulgate rules that are not in conflict with 60726  
rules adopted by the commission and prescribe duties for the 60727  
efficient conduct of the business and general administration of 60728  
the legal rights service; 60729

(3) Appoint and discharge employees, and hire experts, 60730  
consultants, advisors, or other professionally qualified persons 60731  
as the administrator considers necessary to carry out the duties 60732  
of the legal rights service; 60733

(4) Apply for and accept grants of funds, and accept charitable gifts and bequests; 60734  
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(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator. 60736  
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(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service; 60743  
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(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of mental retardation and developmental disabilities, and make the report available to the public; 60745  
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(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities. 60751  
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(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section. 60754  
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(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section. 60757  
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(3) The administrator may not pursue a class action lawsuit 60764  
under division (G)(2) of this section when attempts at 60765  
administrative resolution of a complaint prove unsatisfactory 60766  
under that division unless both of the following have first 60767  
occurred: 60768

(a) At least four members of the commission, by their 60769  
affirmative vote, have consented to the pursuit of the class 60770  
action lawsuit; 60771

(b) At least five members of the commission are present at 60772  
the meeting of the commission at which that consent is obtained. 60773

(4) ~~Relationships~~ Subject to division (G)(5) of this section, 60774  
relationships between personnel and the agents of the legal rights 60775  
service and its clients shall be fiduciary relationships, and all 60776  
communications shall be confidential, as if between attorney and 60777  
client. 60778

(5) Any person who has been represented by the legal rights 60779  
service or who has applied for and been denied representation and 60780  
who files a grievance with the service concerning the 60781  
representation or application may appeal the decision of the 60782  
service on the grievance to the commission. The person may appeal 60783  
notwithstanding any objections of the person's legal guardian. The 60784  
commission may examine any records relevant to the appeal and 60785  
shall maintain the confidentiality of any records that are 60786  
required to be kept confidential. 60787

(H) The legal rights service, on the order of the 60788  
administrator, with the approval by an affirmative vote of at 60789  
least four members of the commission, may compel by subpoena the 60790  
appearance and sworn testimony of any person the administrator 60791  
reasonably believes may be able to provide information or to 60792  
produce any documents, books, records, papers, or other 60793  
information necessary to carry out its duties. 60794



(I) The legal rights service may conduct public hearings. 60795

(J) The legal rights service may request from any 60796  
governmental agency any cooperation, assistance, services, or data 60797  
that will enable it to perform its duties. 60798

(K) In any malpractice action filed against the administrator 60799  
of the legal rights service, a member of the staff of the legal 60800  
rights service, or an attorney designated by the administrator to 60801  
perform legal services under division (E) of this section, the 60802  
state shall, when the administrator, member, or attorney has acted 60803  
in good faith and in the scope of employment, indemnify the 60804  
administrator, member, or attorney for any judgment awarded or 60805  
amount negotiated in settlement, and for any court costs or legal 60806  
fees incurred in defense of the claim. 60807

This division does not limit or waive, and shall not be 60808  
construed to limit or waive, any defense that is available to the 60809  
legal rights service, its administrator or employees, persons 60810  
under a personal services contract with it, or persons designated 60811  
under division (E) of this section, including, but not limited to, 60812  
any defense available under section 9.86 of the Revised Code. 60813

(L) In addition to providing services to mentally ill, 60814  
mentally retarded, or developmentally disabled persons, when a 60815  
grant authorizing the provision of services to other individuals 60816  
is accepted pursuant to division (F)(4) of this section, the legal 60817  
rights service and its ombudsperson section may provide advocacy 60818  
or ombudsperson services to those other individuals and exercise 60819  
any other authority granted by this section or sections 5123.601 60820  
to 5123.604 of the Revised Code on behalf of those individuals. 60821  
Determinations of whether an individual is eligible for services 60822  
under this division shall be made by the legal rights service. 60823

**Sec. 5123.801.** If neither a discharged resident, nor a 60824

resident granted trial visit, nor the persons requesting the 60825  
resident's trial visit or discharge are financially able to bear 60826  
the expense of the resident's trial visit or discharge, the 60827  
managing officer of an institution under the control of the 60828  
department of mental retardation and developmental disabilities 60829  
may then provide actual traveling and escort expenses to the 60830  
township of which the resident resided at the time of 60831  
institutionalization. The amount payable shall be charged to the 60832  
current expense fund of the institution. 60833

The expense of the return of a resident on trial visit from 60834  
an institution, if it cannot be paid by the responsible relatives, 60835  
shall be borne by the county of institutionalization. 60836

~~The managing officer of the institution shall take all proper 60837  
measures for the apprehension of an escaped resident. The expense 60838  
of the return of an escaped resident shall be borne by the 60839  
institution where the resident is institutionalized. 60840~~

The managing officer of the institution shall provide 60841  
sufficient and proper clothing for traveling if neither the 60842  
resident nor the persons requesting the resident's trial visit or 60843  
discharge are financially able to provide that clothing. 60844

Sec. 5123.851. When a resident institutionalized pursuant to 60845  
this chapter is discharged from the institution, the managing 60846  
officer of the institution may provide the resident with all 60847  
personal items that were purchased in implementing the resident's 60848  
habilitation plan established pursuant to section 5123.85 of the 60849  
Revised Code. The personal items may be provided to the resident, 60850  
regardless of the source of the funds that were used to purchase 60851  
the items. 60852

**Sec. 5126.01.** As used in this chapter: 60853

(A) As used in this division, "adult" means an individual who 60854

is eighteen years of age or over and not enrolled in a program or 60855  
service under Chapter 3323. of the Revised Code and an individual 60856  
sixteen or seventeen years of age who is eligible for adult 60857  
services under rules adopted by the director of mental retardation 60858  
and developmental disabilities pursuant to Chapter 119. of the 60859  
Revised Code. 60860

(1) "Adult services" means services provided to an adult 60861  
outside the home, except when they are provided within the home 60862  
according to an individual's assessed needs and identified in an 60863  
individual service plan, that support learning and assistance in 60864  
the area of self-care, sensory and motor development, 60865  
socialization, daily living skills, communication, community 60866  
living, social skills, or vocational skills. 60867

(2) "Adult services" includes all of the following: 60868

(a) Adult day habilitation services; 60869

(b) Adult day care; 60870

(c) Prevocational services; 60871

(d) Sheltered employment; 60872

(e) Educational experiences and training obtained through 60873  
entities and activities that are not expressly intended for 60874  
individuals with mental retardation and developmental 60875  
disabilities, including trade schools, vocational or technical 60876  
schools, adult education, job exploration and sampling, unpaid 60877  
work experience in the community, volunteer activities, and 60878  
spectator sports; 60879

(f) Community employment services and supported employment 60880  
services. 60881

(B)(1) "Adult day habilitation services" means adult services 60882  
that do the following: 60883

(a) Provide access to and participation in typical activities 60884

and functions of community life that are desired and chosen by the 60885  
general population, including such activities and functions as 60886  
opportunities to experience and participate in community 60887  
exploration, companionship with friends and peers, leisure 60888  
activities, hobbies, maintaining family contacts, community 60889  
events, and activities where individuals without disabilities are 60890  
involved; 60891

(b) Provide supports or a combination of training and 60892  
supports that afford an individual a wide variety of opportunities 60893  
to facilitate and build relationships and social supports in the 60894  
community. 60895

(2) "Adult day habilitation services" includes all of the 60896  
following: 60897

(a) Personal care services needed to ensure an individual's 60898  
ability to experience and participate in vocational services, 60899  
educational services, community activities, and any other adult 60900  
day habilitation services; 60901

(b) Skilled services provided while receiving adult day 60902  
habilitation services, including such skilled services as behavior 60903  
management intervention, occupational therapy, speech and language 60904  
therapy, physical therapy, and nursing services; 60905

(c) Training and education in self-determination designed to 60906  
help the individual do one or more of the following: develop 60907  
self-advocacy skills, exercise the individual's civil rights, 60908  
acquire skills that enable the individual to exercise control and 60909  
responsibility over the services received, and acquire skills that 60910  
enable the individual to become more independent, integrated, or 60911  
productive in the community; 60912

(d) Recreational and leisure activities identified in the 60913  
individual's service plan as therapeutic in nature or assistive in 60914  
developing or maintaining social supports; 60915

(e) Counseling and assistance provided to obtain housing, 60916  
including such counseling as identifying options for either rental 60917  
or purchase, identifying financial resources, assessing needs for 60918  
environmental modifications, locating housing, and planning for 60919  
ongoing management and maintenance of the housing selected; 60920

(f) Transportation necessary to access adult day habilitation 60921  
services; 60922

(g) Habilitation management, as described in section 5126.14 60923  
of the Revised Code. 60924

(3) "Adult day habilitation services" does not include 60925  
activities that are components of the provision of residential 60926  
services, family support services, or supported living services. 60927

(C) "Community employment services" or "supported employment 60928  
services" means job training and other services related to 60929  
employment outside a sheltered workshop. "Community employment 60930  
services" or "supported employment services" include all of the 60931  
following: 60932

(1) Job training resulting in the attainment of competitive 60933  
work, supported work in a typical work environment, or 60934  
self-employment; 60935

(2) Supervised work experience through an employer paid to 60936  
provide the supervised work experience; 60937

(3) Ongoing work in a competitive work environment at a wage 60938  
commensurate with workers without disabilities; 60939

(4) Ongoing supervision by an employer paid to provide the 60940  
supervision. 60941

(D) As used in this division, "substantial functional 60942  
limitation," "developmental delay," and "established risk" have 60943  
the meanings established pursuant to section 5123.011 of the 60944  
Revised Code. 60945

"Developmental disability" means a severe, chronic disability 60946  
that is characterized by all of the following: 60947

(1) It is attributable to a mental or physical impairment or 60948  
a combination of mental and physical impairments, other than a 60949  
mental or physical impairment solely caused by mental illness as 60950  
defined in division (A) of section 5122.01 of the Revised Code; 60951

(2) It is manifested before age twenty-two; 60952

(3) It is likely to continue indefinitely; 60953

(4) It results in one of the following: 60954

(a) In the case of a person under age three, at least one 60955  
developmental delay or an established risk; 60956

(b) In the case of a person at least age three but under age 60957  
six, at least two developmental delays or an established risk; 60958

(c) In the case of a person age six or older, a substantial 60959  
functional limitation in at least three of the following areas of 60960  
major life activity, as appropriate for the person's age: 60961  
self-care, receptive and expressive language, learning, mobility, 60962  
self-direction, capacity for independent living, and, if the 60963  
person is at least age sixteen, capacity for economic 60964  
self-sufficiency. 60965

(5) It causes the person to need a combination and sequence 60966  
of special, interdisciplinary, or other type of care, treatment, 60967  
or provision of services for an extended period of time that is 60968  
individually planned and coordinated for the person. 60969

(E) "Early childhood services" means a planned program of 60970  
habilitation designed to meet the needs of individuals with mental 60971  
retardation or other developmental disabilities who have not 60972  
attained compulsory school age. 60973

(F)(1) "Environmental modifications" means the physical 60974  
adaptations to an individual's home, specified in the individual's 60975

service plan, that are necessary to ensure the individual's 60976  
health, safety, and welfare or that enable the individual to 60977  
function with greater independence in the home, and without which 60978  
the individual would require institutionalization. 60979

(2) "Environmental modifications" includes such adaptations 60980  
as installation of ramps and grab-bars, widening of doorways, 60981  
modification of bathroom facilities, and installation of 60982  
specialized electric and plumbing systems necessary to accommodate 60983  
the individual's medical equipment and supplies. 60984

(3) "Environmental modifications" does not include physical 60985  
adaptations or improvements to the home that are of general 60986  
utility or not of direct medical or remedial benefit to the 60987  
individual, including such adaptations or improvements as 60988  
carpeting, roof repair, and central air conditioning. 60989

(G) "Family support services" means the services provided 60990  
under a family support services program operated under section 60991  
5126.11 of the Revised Code. 60992

(H) "Habilitation" means the process by which the staff of 60993  
the facility or agency assists an individual with mental 60994  
retardation or other developmental disability in acquiring and 60995  
maintaining those life skills that enable the individual to cope 60996  
more effectively with the demands of the individual's own person 60997  
and environment, and in raising the level of the individual's 60998  
personal, physical, mental, social, and vocational efficiency. 60999  
Habilitation includes, but is not limited to, programs of formal, 61000  
structured education and training. 61001

(I) "Habilitation center services" means services provided by 61002  
a habilitation center certified by the department of mental 61003  
retardation and developmental disabilities under section 5123.041 61004  
of the Revised Code and covered by the medicaid program pursuant 61005  
to rules adopted under section 5111.041 of the Revised Code. 61006

(J) "Home and community-based services" means medicaid-funded home and community-based services provided under a ~~the~~ the medicaid ~~component~~ components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(L) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(M) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(N) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

(O) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(P) "Service and support administration" means the duties



performed by a service and support administrator pursuant to 61038  
section 5126.15 of the Revised Code. 61039

(Q)(1) "Specialized medical, adaptive, and assistive 61040  
equipment, supplies, and supports" means equipment, supplies, and 61041  
supports that enable an individual to increase the ability to 61042  
perform activities of daily living or to perceive, control, or 61043  
communicate within the environment. 61044

(2) "Specialized medical, adaptive, and assistive equipment, 61045  
supplies, and supports" includes the following: 61046

(a) Eating utensils, adaptive feeding dishes, plate guards, 61047  
mylatex straps, hand splints, reaches, feeder seats, adjustable 61048  
pointer sticks, interpreter services, telecommunication devices 61049  
for the deaf, computerized communications boards, other 61050  
communication devices, support animals, veterinary care for 61051  
support animals, adaptive beds, supine boards, prone boards, 61052  
wedges, sand bags, sidelayers, bolsters, adaptive electrical 61053  
switches, hand-held shower heads, air conditioners, humidifiers, 61054  
emergency response systems, folding shopping carts, vehicle lifts, 61055  
vehicle hand controls, other adaptations of vehicles for 61056  
accessibility, and repair of the equipment received. 61057

(b) Nondisposable items not covered by medicaid that are 61058  
intended to assist an individual in activities of daily living or 61059  
instrumental activities of daily living. 61060

(R) "Supportive home services" means a range of services to 61061  
families of individuals with mental retardation or other 61062  
developmental disabilities to develop and maintain increased 61063  
acceptance and understanding of such persons, increased ability of 61064  
family members to teach the person, better coordination between 61065  
school and home, skills in performing specific therapeutic and 61066  
management techniques, and ability to cope with specific 61067  
situations. 61068

(S)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications

to the physical structure of the residence;	61099
(e) Respite care services;	61100
(f) Program management, as described in section 5126.14 of the Revised Code.	61101 61102
<b>Sec. 5126.042.</b> (A) As used in this section:	61103
<del>(1) "Emergency", "emergency"</del> 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:	61104 61105 61106 61107 61108
<del>(a)(1)</del> Loss of present residence for any reason, including legal action;	61109 61110
<del>(b)(2)</del> 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;	61111 61112 61113 61114
<del>(c)(3)</del> Abuse, neglect, or exploitation of the individual;	61115
<del>(d)(4)</del> Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;	61116 61117
<del>(e)(5)</del> 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.	61118 61119 61120
<del>(2) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.</del>	61121 61122
(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 services, it shall establish waiting lists for services. The board	61123 61124 61125 61126 61127

may establish priorities for making placements on its waiting 61128  
lists according to an individual's emergency status and shall 61129  
establish priorities in accordance with ~~division~~ divisions (D) and 61130  
(E) of this section. 61131

The individuals who may be placed on a waiting list include 61132  
individuals with a need for services on an emergency basis and 61133  
individuals who have requested services for which resources are 61134  
not available. 61135

Except for an individual who is to receive priority for 61136  
services pursuant to division (D)(3) of this section, an 61137  
individual who currently receives a service but would like to 61138  
change to another service shall not be placed on a waiting list 61139  
but shall be placed on a service substitution list. The board 61140  
shall work with the individual, service providers, and all 61141  
appropriate entities to facilitate the change in service as 61142  
expeditiously as possible. The board may establish priorities for 61143  
making placements on its service substitution lists according to 61144  
an individual's emergency status. 61145

In addition to maintaining waiting lists and service 61146  
substitution lists, a board shall maintain a long-term service 61147  
planning registry for individuals who wish to record their 61148  
intention to request in the future a service they are not 61149  
currently receiving. The purpose of the registry is to enable the 61150  
board to document requests and to plan appropriately. The board 61151  
may not place an individual on the registry who meets the 61152  
conditions for receipt of services on an emergency basis. 61153

(C) A county board shall establish a separate waiting list 61154  
for each of the following categories of services, and may 61155  
establish separate waiting lists within the waiting lists: 61156

(1) Early childhood services; 61157

(2) Educational programs for preschool and school age 61158

children;	61159
(3) Adult services;	61160
(4) Service and support administration;	61161
(5) Residential services and supported living;	61162
(6) Transportation services;	61163
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	61164 61165 61166
(8) Family support services provided under section 5126.11 of the Revised Code.	61167 61168
(D) Except as provided in division <del>(F)</del> (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:	61169 61170 61171 61172 61173
(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:	61174 61175 61176 61177
(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:	61178 61179 61180 61181 61182 61183
(i) Is twenty-two years of age or older;	61184
(ii) Receives supported living or family support services.	61185
(b) Give an individual who is eligible for home and community-based services and meets both of the following	61186 61187

requirements priority over any other individual on a waiting list	61188
established under division (C) of this section for home and	61189
community-based services that include adult services:	61190
(i) Resides in the individual's own home or the home of the	61191
individual's family and will continue to reside in that home after	61192
enrollment in home and community-based services;	61193
(ii) Receives adult services from the county board.	61194
(2) As federal medicaid funds become available pursuant to	61195
division (D)(1) of this section, give an individual who is	61196
eligible for home and community-based services and meets any of	61197
the following requirements priority for such services over any	61198
other individual on a waiting list established under division (C)	61199
of this section:	61200
(a) Does not receive residential services or supported	61201
living, either needs services in the individual's current living	61202
arrangement or will need services in a new living arrangement, and	61203
has a primary caregiver who is sixty years of age or older;	61204
(b) Is less than twenty-two years of age and has at least one	61205
of the following service needs that are unusual in scope or	61206
intensity:	61207
(i) Severe behavior problems for which a behavior support	61208
plan is needed;	61209
(ii) An emotional disorder for which anti-psychotic	61210
medication is needed;	61211
(iii) A medical condition that leaves the individual	61212
dependent on life-support medical technology;	61213
(iv) A condition affecting multiple body systems for which a	61214
combination of specialized medical, psychological, educational, or	61215
habilitation services are needed;	61216
(v) A condition the county board determines to be comparable	61217

in severity to any condition described in division (D)(2)(b)(i) to 61218  
(iv) of this section and places the individual at significant risk 61219  
of institutionalization. 61220

(c) Is twenty-two years of age or older, does not receive 61221  
residential services or supported living, and is determined by the 61222  
county board to have intensive needs for home and community-based 61223  
services on an in-home or out-of-home basis. 61224

(3) In fiscal years 2002 and 2003, give an individual who is 61225  
eligible for home and community-based services, resides in an 61226  
intermediate care facility for the mentally retarded or nursing 61227  
facility, chooses to move to another setting with the help of home 61228  
and community-based services, and has been determined by the 61229  
department of mental retardation and developmental disabilities to 61230  
be capable of residing in the other setting, priority over any 61231  
other individual on a waiting list established under division (C) 61232  
of this section for home and community-based services who does not 61233  
meet these criteria. The department of mental retardation and 61234  
developmental disabilities shall identify the individuals to 61235  
receive priority under division (D)(3) of this section, assess the 61236  
needs of the individuals, and notify the county boards that are to 61237  
provide the individuals priority under division (D)(3) of this 61238  
section of the individuals identified by the department and the 61239  
individuals' assessed needs. 61240

(E) Except as provided in division (G) of this section and 61241  
for a number of years and beginning on a date specified in rules 61242  
adopted under division (K) of this section, a county board shall 61243  
give an individual who is eligible for home and community-based 61244  
services, resides in a nursing facility, and chooses to move to 61245  
another setting with the help of home and community-based 61246  
services, priority over any other individual on a waiting list 61247  
established under division (C) of this section for home and 61248  
community-based services who does not meet these criteria. 61249

(F) If two or more individuals on a waiting list established 61250  
under division (C) of this section for home and community-based 61251  
services have priority for the services pursuant to division 61252  
(D)(1) or (2) or (E) of this section, a county board may use, 61253  
until December 31, ~~2003~~ 2005, criteria specified in rules adopted 61254  
under division ~~(J)~~(K)(2) of this section in determining the order 61255  
in which the individuals with priority will be offered the 61256  
services. Otherwise, the county board shall offer the home and 61257  
community-based services to such individuals in the order they are 61258  
placed on the waiting list. 61259

~~(F)~~(G)(1) No individual may receive priority for services 61260  
pursuant to division (D) or (E) of this section over an individual 61261  
placed on a waiting list established under division (C) of this 61262  
section on an emergency status. 61263

(2) No more than four hundred individuals in the state may 61264  
receive priority for services during the ~~2002~~ 2004 and ~~2003~~ 2005 61265  
biennium pursuant to division (D)(2)(b) of this section. 61266

(3) No more than a total of seventy-five individuals in the 61267  
state may receive priority for services during state fiscal years 61268  
2002 and 2003 pursuant to division (D)(3) of this section. 61269

~~(G)~~(4) No more than forty individuals in the state may 61270  
receive priority for services pursuant to division (E) of this 61271  
section for each year that priority category is in effect as 61272  
specified in rules adopted under division (K) of this section. 61273

(H) Prior to establishing any waiting list under this 61274  
section, a county board shall develop and implement a policy for 61275  
waiting lists that complies with this section and rules adopted 61276  
under division ~~(J)~~(K) of this section. 61277

Prior to placing an individual on a waiting list, the county 61278  
board shall assess the service needs of the individual in 61279  
accordance with all applicable state and federal laws. The county 61280



board shall place the individual on the appropriate waiting list 61281  
and may place the individual on more than one waiting list. The 61282  
county board shall notify the individual of the individual's 61283  
placement and position on each waiting list on which the 61284  
individual is placed. 61285

At least annually, the county board shall reassess the 61286  
service needs of each individual on a waiting list. If it 61287  
determines that an individual no longer needs a program or 61288  
service, the county board shall remove the individual from the 61289  
waiting list. If it determines that an individual needs a program 61290  
or service other than the one for which the individual is on the 61291  
waiting list, the county board shall provide the program or 61292  
service to the individual or place the individual on a waiting 61293  
list for the program or service in accordance with the board's 61294  
policy for waiting lists. 61295

When a program or service for which there is a waiting list 61296  
becomes available, the county board shall reassess the service 61297  
needs of the individual next scheduled on the waiting list to 61298  
receive that program or service. If the reassessment demonstrates 61299  
that the individual continues to need the program or service, the 61300  
board shall offer the program or service to the individual. If it 61301  
determines that an individual no longer needs a program or 61302  
service, the county board shall remove the individual from the 61303  
waiting list. If it determines that an individual needs a program 61304  
or service other than the one for which the individual is on the 61305  
waiting list, the county board shall provide the program or 61306  
service to the individual or place the individual on a waiting 61307  
list for the program or service in accordance with the board's 61308  
policy for waiting lists. The county board shall notify the 61309  
individual of the individual's placement and position on the 61310  
waiting list on which the individual is placed. 61311

~~(H)~~(I) A child subject to a determination made pursuant to 61312

section 121.38 of the Revised Code who requires the home and 61313  
community-based services provided through ~~the~~ a medicaid component 61314  
that the department of mental retardation and developmental 61315  
disabilities administers under section 5111.871 of the Revised 61316  
Code shall receive services through that medicaid component. For 61317  
all other services, a child subject to a determination made 61318  
pursuant to section 121.38 of the Revised Code shall be treated as 61319  
an emergency by the county boards and shall not be subject to a 61320  
waiting list. 61321

~~(I)~~(J) Not later than the fifteenth day of March of each 61322  
even-numbered year, each county board shall prepare and submit to 61323  
the director of mental retardation and developmental disabilities 61324  
its recommendations for the funding of services for individuals 61325  
with mental retardation and developmental disabilities and its 61326  
proposals for reducing the waiting lists for services. 61327

~~(J)~~(K)(1) The department of mental retardation and 61328  
developmental disabilities shall adopt rules in accordance with 61329  
Chapter 119. of the Revised Code governing waiting lists 61330  
established under this section. The rules shall include procedures 61331  
to be followed to ensure that the due process rights of 61332  
individuals placed on waiting lists are not violated. 61333

(2) As part of the rules adopted under this division, the 61334  
department shall adopt, ~~not later than December 31, 2001,~~ rules 61335  
establishing criteria a county board may use under division ~~(E)~~(F) 61336  
of this section in determining the order in which individuals with 61337  
priority for home and community-based services will be offered the 61338  
services. The rules shall also specify conditions under which a 61339  
county board, when there is no individual with priority for home 61340  
and community-based services pursuant to division (D)(1) or (2) or 61341  
(E) of this section available and appropriate for the services, 61342  
may offer the services to an individual on a waiting list for the 61343  
services but not given such priority for the services. The rules 61344

adopted under division ~~(J)~~(K)(2) of this section shall cease to 61345  
have effect December 31, ~~2003~~ 2005. 61346

~~(K)~~(3) As part of the rules adopted under this division, the 61347  
department shall adopt rules specifying both of the following for 61348  
the priority category established under division (E) of this 61349  
section: 61350

(a) The number of years, which shall not exceed five, that 61351  
the priority category will be in effect; 61352

(b) The date that the priority category is to go into effect. 61353

(L) The following shall take precedence over the applicable 61354  
provisions of this section: 61355

(1) Medicaid rules and regulations; 61356

(2) Any specific requirements that may be contained within a 61357  
medicaid state plan amendment or waiver program that a county 61358  
board has authority to administer or with respect to which it has 61359  
authority to provide services, programs, or supports. 61360

**Sec. 5126.058.** (A) The director of job and family services 61361  
shall seek federal financial participation for the administrative 61362  
costs for the following that each county board of mental 61363  
retardation and developmental disabilities incurs pursuant to its 61364  
medicaid local administrative authority under section 5126.055 of 61365  
the Revised Code and claims in accordance with rules adopted under 61366  
this section: 61367

(1) Home and community-based services; 61368

(2) Habilitation center services; 61369

(3) Service and support administration provided in 61370  
conjunction with any of the services listed in divisions (A)(1) 61371  
and (2) of this section. 61372

(B) The administrative costs for which the director shall 61373

<u>seek federal financial participation under this section shall</u>	61374
<u>include all of the following:</u>	61375
<u>(1) Business management;</u>	61376
<u>(2) Contract management;</u>	61377
<u>(3) General administration;</u>	61378
<u>(4) Personnel management;</u>	61379
<u>(5) Contract services for legal or representational</u>	61380
<u>activities that are conducted on a county-specific, multi-county,</u>	61381
<u>or statewide basis and provided as part of initiatives to</u>	61382
<u>refinance or reform the medicaid program, to improve the</u>	61383
<u>administration of the medicaid program, or to increase the</u>	61384
<u>services covered by the medicaid program.</u>	61385
<u>(C) Except as provided in division (D) of this section,</u>	61386
<u>federal financial participation obtained pursuant to a claim made</u>	61387
<u>under this section shall be paid to the county board that makes</u>	61388
<u>the claim.</u>	61389
<u>(D) The department of mental retardation and development</u>	61390
<u>disabilities shall collect one per cent of the federal financial</u>	61391
<u>participation obtained pursuant to each claim made under this</u>	61392
<u>section. The amount the department collects under this division</u>	61393
<u>shall be deposited into the ODMR/DD administrative and oversight</u>	61394
<u>fund created under section 5123.0412 of the Revised Code.</u>	61395
<u>(E) The director of job and family services shall adopt rules</u>	61396
<u>in accordance with Chapter 119. of the Revised Code as necessary</u>	61397
<u>for the implementation of this section. The director shall adopt</u>	61398
<u>the rules in consultation with the director of mental retardation</u>	61399
<u>and developmental disabilities. The rules shall be consistent with</u>	61400
<u>federal regulations governing the medicaid program and shall</u>	61401
<u>comply with all of the following:</u>	61402
<u>(1) A county board may not claim more than fifteen per cent</u>	61403

of its administrative costs for home and community-based services 61404  
and habilitation center services. 61405

(2) A county board may not claim more than fifty per cent of 61406  
its administrative costs for service and support administration 61407  
provided in conjunction with any of the services listed in 61408  
division (A)(1) or (2) of this section. 61409

(3) A county board shall verify the administrative costs for 61410  
which it seeks federal financial participation in accordance with 61411  
a time study or actual billing provided for by the rules. 61412

(4) A county board may make a claim for administrative costs 61413  
incurred before, on, or after the effective date of this section. 61414

**Sec. 5126.11.** (A) As used in this section, "respite care" 61415  
means appropriate, short-term, temporary care that is provided to 61416  
a mentally retarded or developmentally disabled person to sustain 61417  
the family structure or to meet planned or emergency needs of the 61418  
family. 61419

(B) Subject to rules adopted by the director of mental 61420  
retardation and developmental disabilities, and subject to the 61421  
availability of money from state and federal sources, the county 61422  
board of mental retardation and developmental disabilities shall 61423  
establish a family support services program. Under such a program, 61424  
the board shall make payments to an individual with mental 61425  
retardation or other developmental disability or the family of an 61426  
individual with mental retardation or other developmental 61427  
disability who desires to remain in and be supported in the family 61428  
home. Payments shall be made for all or part of costs incurred or 61429  
estimated to be incurred for services that would promote 61430  
self-sufficiency and normalization, prevent or reduce 61431  
inappropriate institutional care, and further the unity of the 61432  
family by enabling the family to meet the special needs of the 61433  
individual and to live as much like other families as possible. 61434

Payments may be made in the form of reimbursement for expenditures 61435  
or in the form of vouchers to be used to purchase services. 61436

(C) Payment shall not be made under this section to an 61437  
individual or the individual's family if the individual is living 61438  
in a residential facility that is providing residential services 61439  
under contract with the department of mental retardation and 61440  
developmental disabilities or a county board. 61441

(D) Payments may be made for the following services: 61442

(1) Respite care, in or out of the home; 61443

(2) Counseling, supervision, training, and education of the 61444  
individual, the individual's caregivers, and members of the 61445  
individual's family that aid the family in providing proper care 61446  
for the individual, provide for the special needs of the family, 61447  
and assist in all aspects of the individual's daily living; 61448

(3) Special diets, purchase or lease of special equipment, or 61449  
modifications of the home, if such diets, equipment, or 61450  
modifications are necessary to improve or facilitate the care and 61451  
living environment of the individual; 61452

(4) Providing support necessary for the individual's 61453  
continued skill development, including such services as 61454  
development of interventions to cope with unique problems that may 61455  
occur within the complexity of the family, enrollment of the 61456  
individual in special summer programs, provision of appropriate 61457  
leisure activities, and other social skills development 61458  
activities; 61459

(5) Any other services that are consistent with the purposes 61460  
specified in division (B) of this section and specified in the 61461  
individual's service plan. 61462

(E) In order to be eligible for payments under a family 61463  
support services program, the individual or the individual's 61464

family must reside in the county served by the county board, and 61465  
the individual must be in need of habilitation. Payments shall be 61466  
adjusted for income in accordance with the payment schedule 61467  
established in rules adopted under this section. Payments shall be 61468  
made only after the county board has taken into account all other 61469  
available assistance for which the individual or family is 61470  
eligible. 61471

(F) Before incurring expenses for a service for which payment 61472  
will be sought under a family support services program, the 61473  
individual or family shall apply to the county board for a 61474  
determination of eligibility and approval of the service. The 61475  
service need not be provided in the county served by the county 61476  
board. After being determined eligible and receiving approval for 61477  
the service, the individual or family may incur expenses for the 61478  
service or use the vouchers received from the county board for the 61479  
purchase of the service. 61480

If the county board refuses to approve a service, an appeal 61481  
may be made in accordance with rules adopted by the department 61482  
under this section. 61483

(G) To be reimbursed for expenses incurred for approved 61484  
services, the individual or family shall submit to the county 61485  
board a statement of the expenses incurred accompanied by any 61486  
evidence required by the board. To redeem vouchers used to 61487  
purchase approved services, the entity that provided the service 61488  
shall submit to the county board evidence that the service was 61489  
provided and a statement of the charges. The county board shall 61490  
make reimbursements and redeem vouchers no later than forty-five 61491  
days after it receives the statements and evidence required by 61492  
this division. 61493

(H) A county board shall consider the following objectives in 61494  
carrying out a family support services program: 61495

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of mental retardation and developmental disabilities;	61496 61497 61498
(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;	61499 61500 61501 61502
(3) Providing services to eligible children and adults currently residing in the community;	61503 61504
(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.	61505 61506
(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:	61507 61508 61509
(1) A payment schedule adjusted for income;	61510
(2) A formula for distributing to county boards the money appropriated for family support services;	61511 61512
(3) Standards for supervision, training, and quality control in the provision of respite care services;	61513 61514
(4) Eligibility standards and procedures for providing temporary emergency respite care;	61515 61516
(5) Procedures for hearing and deciding appeals made under division (F) of this section;	61517 61518
(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.	61519 61520
Rules adopted under divisions (I)(1) and (2) of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)(3) to (6) of this section shall be adopted in accordance with Chapter 119. of the Revised	61521 61522 61523 61524



Code. 61525

(J) All individuals certified by the superintendent of the 61526  
county board as eligible for temporary emergency respite care in 61527  
accordance with rules adopted under this section shall be 61528  
considered eligible for temporary emergency respite care for not 61529  
more than five days to permit the determination of eligibility for 61530  
family support services. The requirements of divisions (E) and (F) 61531  
of this section do not apply to temporary emergency respite care. 61532

(K) ~~On the first day of July of each year, the~~ The department 61533  
of mental retardation and developmental disabilities shall 61534  
distribute to county boards money appropriated for family support 61535  
services in quarterly installments of equal amounts. The 61536  
installments shall be made not later than the thirtieth day of 61537  
September, the thirty-first day of December, the thirty-first day 61538  
of March, and the thirtieth day of June. A county board shall use 61539  
no more than seven per cent of the funds for administrative costs. 61540  
Each county board shall submit reports to the department on 61541  
payments made under this section. The reports shall be submitted 61542  
at those times and in the manner specified in rules adopted under 61543  
this section. 61544

(L) The county board shall not be required to make payments 61545  
for family support services at a level that exceeds available 61546  
state and federal funds for such payments. 61547

**Sec. 5126.12.** (A) As used in this section: 61548

(1) "Approved school age class" means a class operated by a 61549  
county board of mental retardation and developmental disabilities 61550  
and funded by the department of education under section 3317.20 of 61551  
the Revised Code. 61552

(2) "Approved preschool unit" means a class or unit operated 61553  
by a county board of mental retardation and developmental 61554

disabilities and approved ~~by the state board of education~~ under 61555  
division (B) of section 3317.05 of the Revised Code. 61556

(3) "Active treatment" means a continuous treatment program, 61557  
which includes aggressive, consistent implementation of a program 61558  
of specialized and generic training, treatment, health services, 61559  
and related services, that is directed toward the acquisition of 61560  
behaviors necessary for an individual with mental retardation or 61561  
other developmental disability to function with as much 61562  
self-determination and independence as possible and toward the 61563  
prevention of deceleration, regression, or loss of current optimal 61564  
functional status. 61565

(4) "Eligible for active treatment" means that an individual 61566  
with mental retardation or other developmental disability resides 61567  
in an intermediate care facility for the mentally retarded 61568  
certified under Title XIX of the "Social Security Act," ~~49~~ 79 61569  
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1396, as amended; resides 61570  
in a state institution operated by the department of mental 61571  
retardation and developmental disabilities; or is enrolled in a 61572  
home and community-based services waiver program ~~administered by~~ 61573  
~~the department of mental retardation and developmental~~ 61574  
~~disabilities as part of the medical assistance program established~~ 61575  
~~under section 5111.01 of the Revised Code.~~ 61576

(5) "Community alternative funding system" means the program 61577  
under which habilitation center services are reimbursed under the 61578  
medicaid program pursuant to section 5111.041 of the Revised Code 61579  
and rules adopted under that section. 61580

(6) "Traditional adult services" means vocational and 61581  
nonvocational activities conducted within a sheltered workshop or 61582  
adult activity center or supportive home services. 61583

(B) Each county board of mental retardation and developmental 61584  
disabilities shall certify to the director of mental retardation 61585

and developmental disabilities all of the following: 61586

(1) On or before the fifteenth day of October, the average 61587  
daily membership for the first full week of programs and services 61588  
during October receiving: 61589

(a) Early childhood services provided pursuant to section 61590  
5126.05 of the Revised Code for children who are less than three 61591  
years of age on the thirtieth day of September of the academic 61592  
year; 61593

(b) Special education for handicapped children in approved 61594  
school age classes; 61595

(c) Adult services for persons sixteen years of age and older 61596  
operated pursuant to section 5126.05 and division (B) of section 61597  
5126.051 of the Revised Code. Separate counts shall be made for 61598  
the following: 61599

(i) Persons enrolled in traditional adult services who are 61600  
eligible for but not enrolled in active treatment under the 61601  
community alternative funding system; 61602

(ii) Persons enrolled in traditional adult services who are 61603  
eligible for and enrolled in active treatment under the community 61604  
alternative funding system; 61605

(iii) Persons enrolled in traditional adult services but who 61606  
are not eligible for active treatment under the community 61607  
alternative funding system; 61608

(iv) Persons participating in community employment services. 61609  
To be counted as participating in community employment services, a 61610  
person must have spent an average of no less than ten hours per 61611  
week in that employment during the preceding six months. 61612

(d) Other programs in the county for individuals with mental 61613  
retardation and developmental disabilities that have been approved 61614  
for payment of subsidy by the department of mental retardation and 61615

developmental disabilities. 61616

The membership in each such program and service in the county 61617  
shall be reported on forms prescribed by the department of mental 61618  
retardation and developmental disabilities. 61619

The department of mental retardation and developmental 61620  
disabilities shall adopt rules defining full-time equivalent 61621  
enrollees and for determining the average daily membership 61622  
therefrom, except that certification of average daily membership 61623  
in approved school age classes shall be in accordance with rules 61624  
adopted by the state board of education. The average daily 61625  
membership figure shall be determined by dividing the amount 61626  
representing the sum of the number of enrollees in each program or 61627  
service in the week for which the certification is made by the 61628  
number of days the program or service was offered in that week. No 61629  
enrollee may be counted in average daily membership for more than 61630  
one program or service. 61631

(2) By the fifteenth day of December, the number of children 61632  
enrolled in approved preschool units on the first day of December; 61633

(3) On or before the thirtieth day of March, an itemized 61634  
report of all income and operating expenditures for the 61635  
immediately preceding calendar year, in the format specified by 61636  
the department of mental retardation and developmental 61637  
disabilities; 61638

(4) By the fifteenth day of February, a report of the total 61639  
annual cost per enrollee for operation of programs and services in 61640  
the preceding calendar year. The report shall include a grand 61641  
total of all programs operated, the cost of the individual 61642  
programs, and the sources of funds applied to each program. 61643

(5) That each required certification and report is in 61644  
accordance with rules established by the department of mental 61645  
retardation and developmental disabilities and the state board of 61646

education for the operation and subsidization of the programs and 61647  
services. 61648

(C) To compute payments under this section to the board for 61649  
the fiscal year, the department of mental retardation and 61650  
developmental disabilities shall use the certification of average 61651  
daily membership required by division (B)(1) of this section 61652  
exclusive of the average daily membership in any approved school 61653  
age class and the number in any approved preschool unit. 61654

(D) The department shall pay each county board for each 61655  
fiscal year an amount equal to nine hundred fifty dollars times 61656  
the certified number of persons who on the first day of December 61657  
of the academic year are under three years of age and are not in 61658  
an approved preschool unit. For persons who are at least age 61659  
sixteen and are not in an approved school age class, the 61660  
department shall pay each county board for each fiscal year the 61661  
following amounts: 61662

(1) One thousand dollars times the certified average daily 61663  
membership of persons enrolled in traditional adult services who 61664  
are eligible for but not enrolled in active treatment under the 61665  
community alternative funding system; 61666

(2) One thousand two hundred dollars times the certified 61667  
average daily membership of persons enrolled in traditional adult 61668  
services who are eligible for and enrolled in active treatment 61669  
under the community alternative funding system; 61670

(3) No less than one thousand five hundred dollars times the 61671  
certified average daily membership of persons enrolled in 61672  
traditional adult services but who are not eligible for active 61673  
treatment under the community alternative funding system; 61674

(4) No less than one thousand five hundred dollars times the 61675  
certified average daily membership of persons participating in 61676  
community employment services. 61677

(E) The department shall distribute this subsidy to county boards in ~~semiannual~~ quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of ~~August and December,~~ the thirty-first day of ~~January~~ March, and the thirtieth day of June.

(F) The director of mental retardation and developmental disabilities shall make efforts to obtain increases in the subsidies for early childhood services and adult services so that the amount of the subsidies is equal to at least fifty per cent of the statewide average cost of those services minus any applicable federal reimbursements for those services. The director shall advise the director of budget and management of the need for any such increases when submitting the biennial appropriations request for the department.

(G) In determining the reimbursement of a county board for the provision of service and support administration, family support services, and other services required or approved by the director for which children three through twenty-one years of age are eligible, the department shall include the average daily membership in approved school age or preschool units. The department, in accordance with this section and upon receipt and approval of the certification required by this section and any other information it requires to enable it to determine a board's payments, shall pay the agency providing the specialized training the amounts payable under this section.

**Sec. 5126.121.** Each county board of mental retardation and developmental disabilities may be eligible to receive a subsidy from the department of mental retardation and developmental disabilities for the employment of a business manager as provided in this section. The department shall adopt rules in accordance with Chapter 119. of the Revised Code specifying standards for the

employment of such a business manager. The rules shall include the 61709  
minimum education and experience requirements for the position of 61710  
business manager and shall specify requirements for courses in 61711  
fiscal and business management that are annually sponsored or 61712  
certified by the department and that are applicable to the 61713  
position and designed to teach effective business practices. Each 61714  
county board of mental retardation and developmental disabilities 61715  
that employs a business manager in accordance with the standards 61716  
adopted under this section may receive a subsidy from the 61717  
department. 61718

The department shall distribute this subsidy to eligible 61719  
county boards in quarterly installments of equal amounts. The 61720  
installments shall be made not later than the thirtieth day of 61721  
September, the thirty-first day of December, the thirty-first day 61722  
of March, and the thirtieth day of June. 61723

**Sec. 5126.15.** (A) A county board of mental retardation and 61724  
developmental disabilities shall provide service and support 61725  
administration to each individual three years of age or older who 61726  
is eligible for service and support administration if the 61727  
individual requests, or a person on the individual's behalf 61728  
requests, service and support administration. A board shall 61729  
provide service and support administration to each individual 61730  
receiving home and community-based services. A board may provide, 61731  
in accordance with the service coordination requirements of 34 61732  
C.F.R. 303.23, service and support administration to an individual 61733  
under three years of age eligible for early intervention services 61734  
under 34 C.F.R. part 303. A board may provide service and support 61735  
administration to an individual who is not eligible for other 61736  
services of the board. Service and support administration shall be 61737  
provided in accordance with rules adopted under section 5126.08 of 61738  
the Revised Code. 61739

A board may provide service and support administration by 61740  
directly employing service and support administrators or by 61741  
contracting with entities for the performance of service and 61742  
support administration. Individuals employed or under contract as 61743  
service and support administrators shall not be in the same 61744  
collective bargaining unit as employees who perform duties that 61745  
are not administrative. 61746

Individuals employed by a board as service and support 61747  
administrators shall not be assigned responsibilities for 61748  
implementing other services for individuals and shall not be 61749  
employed by or serve in a decision-making or policy-making 61750  
capacity for any other entity that provides programs or services 61751  
to individuals with mental retardation or developmental 61752  
disabilities. An individual employed as a conditional status 61753  
service and support administrator shall perform the duties of 61754  
service and support administration only under the supervision of a 61755  
management employee who is a service and support administration 61756  
supervisor or a professional employee who is a service and support 61757  
administrator. 61758

(B) The individuals employed by or under contract with a 61759  
board to provide service and support administration shall do all 61760  
of the following: 61761

(1) Establish an individual's eligibility for the services of 61762  
the county board of mental retardation and developmental 61763  
disabilities; 61764

(2) Assess individual needs for services; 61765

(3) Develop individual service plans with the active 61766  
participation of the individual to be served, other persons 61767  
selected by the individual, and, when applicable, the provider 61768  
selected by the individual, and recommend the plans for approval 61769  
by the department of mental retardation and developmental 61770



disabilities when services included in the plans are funded	61771
through medicaid;	61772
(4) Establish budgets for services based on the individual's	61773
assessed needs and preferred ways of meeting those needs;	61774
(5) Assist individuals in making selections from among the	61775
providers they have chosen;	61776
(6) Ensure that services are effectively coordinated and	61777
provided by appropriate providers;	61778
(7) Establish and implement an ongoing system of monitoring	61779
the implementation of individual service plans to achieve	61780
consistent implementation and the desired outcomes for the	61781
individual;	61782
(8) Perform quality assurance reviews as a distinct function	61783
of service and support administration;	61784
(9) Incorporate the results of quality assurance reviews and	61785
identified trends and patterns of unusual incidents and major	61786
unusual incidents into amendments of an individual's service plan	61787
for the purpose of improving and enhancing the quality and	61788
appropriateness of services rendered to the individual;	61789
(10) Ensure that each individual receiving services has a	61790
designated person who is responsible on a continuing basis for	61791
providing the individual with representation, advocacy, advice,	61792
and assistance related to the day-to-day coordination of services	61793
in accordance with the individual's service plan. The service and	61794
support administrator shall give the individual receiving services	61795
an opportunity to designate the person to provide daily	61796
representation. If the individual declines to make a designation,	61797
the administrator shall make the designation. In either case, the	61798
individual receiving services may change at any time the person	61799
designated to provide daily representation.	61800

(C) Subject to available funds, the department of mental 61801  
retardation and developmental disabilities shall pay a county 61802  
board an annual subsidy for service and support administration. 61803  
The amount of the subsidy shall be equal to the greater of twenty 61804  
thousand dollars or two hundred dollars times the board's 61805  
certified average daily membership. The payments shall be made in 61806  
~~semiannual~~ quarterly installments of equal amounts, which shall be 61807  
made no later than the thirtieth day of September, the 61808  
thirty-first day of ~~August and December,~~ the thirty-first day of 61809  
~~January March, and the thirtieth day of June.~~ Funds received shall 61810  
be used solely for service and support administration. 61811

**Sec. 5126.18.** (A) As used in this section: 61812

(1) "County board" means a county board of mental retardation 61813  
and developmental disabilities. 61814

(2) Notwithstanding section 5126.01 of the Revised Code, 61815  
"adult services" means the following services, as they are 61816  
identified on individual information forms submitted by county 61817  
boards to the department of mental retardation and developmental 61818  
disabilities for the purpose of subsidies paid to county boards 61819  
under section 5126.12 of the Revised Code, provided to an 61820  
individual with mental retardation or other developmental 61821  
disability who is at least twenty-two years of age: 61822

(a) Assessment; 61823

(b) Home service; 61824

(c) Adult program; 61825

(d) Community employment services; 61826

(e) Retirement. 61827

(3) "Adult services enrollment" means a county board's 61828  
average daily membership in adult services, exclusive of such 61829

services provided to individuals served solely through service and 61830  
support administration provided pursuant to section 5126.15 of the 61831  
Revised Code or family support services provided pursuant to 61832  
section 5126.11 of the Revised Code. 61833

(4) "Taxable value" means the taxable value of a county board 61834  
certified under division (B)(1) of this section. 61835

(5) "Per-mill yield" of a county board means the quotient 61836  
obtained by dividing (a) the taxable value of the county board by 61837  
(b) one thousand. 61838

(6) "Local adult services cost" means a county board's 61839  
expenditures for adult services, excluding all federal and state 61840  
reimbursements and subsidy allocations received by such boards and 61841  
expended for such services, as certified under section 5126.12 of 61842  
the Revised Code. 61843

(7) "Statewide average millage" means one thousand multiplied 61844  
by the quotient obtained by dividing (a) the total of the local 61845  
adult services costs of all county boards by (b) the total of the 61846  
taxable values of all county boards. 61847

(8) "County yield" of a county board means the product 61848  
obtained by multiplying (a) the statewide average millage by (b) 61849  
the per-mill yield of the county board. 61850

(9) "County yield per enrollee" of a county board means the 61851  
quotient obtained by dividing (a) the county yield of the county 61852  
board by (b) the adult enrollment of the county board. 61853

(10) "Statewide yield per enrollee" means the quotient 61854  
obtained by dividing (a) the sum of the county yields of all 61855  
county boards by (b) the sum of the adult enrollments of all 61856  
county boards. 61857

(11) "Local tax effort for adult services" of a county board 61858  
means one thousand multiplied by the quotient obtained by dividing 61859

(a) the local adult services cost of the county board by (b) the taxable value of the county board. 61860  
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(12) "Funding percentage" for a fiscal year means the percentage that the amount appropriated to the department for the purpose of making payments under this section in the fiscal year is of the amount computed under division (C)(3) of this section for the fiscal year. 61862  
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(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year. 61867  
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(B)(1) On the request of the director of mental retardation and developmental disabilities, the tax commissioner shall provide to the department of mental retardation and developmental disabilities information specifying the taxable value of property on each county's tax list of real and public utility property and tax list of personal property for the most recent tax year for which such information is available. The director may request any other tax information necessary for the purposes of this section. 61870  
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(2) On the request of the director, each county board shall report the county board's adult services enrollment and local adult services cost. 61878  
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(C) Each year, the department of mental retardation and developmental disabilities shall compute the following: 61881  
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(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee; 61883  
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(2) For each county board, the amount of any excess computed under division (C)(1) of this section multiplied by the adult services enrollment of the county board; 61886  
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(3) The sum of the amounts computed under division (C)(2) of 61889