

As Reported by the Senate Judiciary--Criminal Justice Committee

125th General Assembly

Regular Session

2003-2004

Sub. S. B. No. 4

**Senators Spada, Amstutz, Goodman, Jacobson, Harris, Austria, Blessing,
Schuring, Stivers, Herington, Fedor, Dann**

A B I L L

To amend sections 109.572, 313.12, 2108.50, 2151.421, 1
2311.14, 2930.03, 5120.173, 5123.081, 5123.50, 2
5123.51, 5123.61, 5123.99, 5126.28, 5126.30, and 3
5126.33 and to enact sections 2108.521, 2152.821, 4
2903.341, 2930.061, 2945.482, 2945.491, 5123.032, 5
5123.541, and 5126.058 of the Revised Code to 6
implement the recommendations of the MR/DD Victims 7
of Crime Task Force, to make related changes in 8
the law, and to provide a mechanism for the 9
closing of developmental centers of the Department 10
of Mental Retardation and Developmental 11
Disabilities that involves independent studies and 12
public hearings, and to amend the version of 13
section 5123.50 of the Revised Code that is 14
scheduled to take effect December 31, 2003, to 15
continue the provisions of this act on and after 16
that effective date. 17

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

Section 1. That sections 109.572, 313.12, 2108.50, 2151.421, 18
2311.14, 2930.03, 5120.173, 5123.081, 5123.50, 5123.51, 5123.61, 19
5123.99, 5126.28, 5126.30, and 5126.33 be amended and sections 20

2108.521, 2152.821, 2903.341, 2930.061, 2945.482, 2945.491, 21
5123.032, 5123.541, and 5126.058 of the Revised Code be enacted to 22
read as follows: 23

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 24
section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, 25
or 5153.111 of the Revised Code, a completed form prescribed 26
pursuant to division (C)(1) of this section, and a set of 27
fingerprint impressions obtained in the manner described in 28
division (C)(2) of this section, the superintendent of the bureau 29
of criminal identification and investigation shall conduct a 30
criminal records check in the manner described in division (B) of 31
this section to determine whether any information exists that 32
indicates that the person who is the subject of the request 33
previously has been convicted of or pleaded guilty to any of the 34
following: 35

(a) A violation of section 2903.01, 2903.02, 2903.03, 36
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 37
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 38
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 39
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 40
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 41
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 42
2925.06, or 3716.11 of the Revised Code, felonious sexual 43
penetration in violation of former section 2907.12 of the Revised 44
Code, a violation of section 2905.04 of the Revised Code as it 45
existed prior to July 1, 1996, a violation of section 2919.23 of 46
the Revised Code that would have been a violation of section 47
2905.04 of the Revised Code as it existed prior to July 1, 1996, 48
had the violation been committed prior to that date, or a 49
violation of section 2925.11 of the Revised Code that is not a 50
minor drug possession offense; 51

(b) A violation of an existing or former law of this state, 52
any other state, or the United States that is substantially 53
equivalent to any of the offenses listed in division (A)(1)(a) of 54
this section. 55

(2) On receipt of a request pursuant to section 5123.081 of 56
the Revised Code with respect to an applicant for employment in 57
any position with the department of mental retardation and 58
developmental disabilities, pursuant to section 5126.28 of the 59
Revised Code with respect to an applicant for employment in any 60
position with a county board of mental retardation and 61
developmental disabilities, or pursuant to section 5126.281 of the 62
Revised Code with respect to an applicant for employment in a 63
direct services position with an entity contracting with a county 64
board for employment, a completed form prescribed pursuant to 65
division (C)(1) of this section, and a set of fingerprint 66
impressions obtained in the manner described in division (C)(2) of 67
this section, the superintendent of the bureau of criminal 68
identification and investigation shall conduct a criminal records 69
check. The superintendent shall conduct the criminal records check 70
in the manner described in division (B) of this section to 71
determine whether any information exists that indicates that the 72
person who is the subject of the request has been convicted of or 73
pleaded guilty to any of the following: 74

(a) A violation of section 2903.01, 2903.02, 2903.03, 75
2903.341, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 76
2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 77
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 78
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 79
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 80
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 81
2925.03, or 3716.11 of the Revised Code; 82

(b) An existing or former municipal ordinance or law of this 83

state, any other state, or the United States that is substantially
equivalent to any of the offenses listed in division (A)(2)(a) of
this section.

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

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(a) A violation of section 2903.01, 2903.02, 2903.03,
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05,
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 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, 2919.25, 2921.36,
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13,
2925.22, 2925.23, or 3716.11 of the Revised Code;

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(b) An existing or former law of this state, any other state,
or the United States that is substantially equivalent to any of
the offenses listed in division (A)(3)(a) of this section.

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(4) On receipt of a request pursuant to section 3701.881 of
the Revised Code with respect to an applicant for employment with
a home health agency as a person responsible for the care,

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custody, or control of a child, a completed form prescribed 115
pursuant to division (C)(1) of this section, and a set of 116
fingerprint impressions obtained in the manner described in 117
division (C)(2) of this section, the superintendent of the bureau 118
of criminal identification and investigation shall conduct a 119
criminal records check. The superintendent shall conduct the 120
criminal records check in the manner described in division (B) of 121
this section to determine whether any information exists that 122
indicates that the person who is the subject of the request 123
previously has been convicted of or pleaded guilty to any of the 124
following: 125

(a) A violation of section 2903.01, 2903.02, 2903.03, 126
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 127
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 128
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 129
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 130
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 131
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 132
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 133
violation of section 2925.11 of the Revised Code that is not a 134
minor drug possession offense; 135

(b) An existing or former law of this state, any other state, 136
or the United States that is substantially equivalent to any of 137
the offenses listed in division (A)(4)(a) of this section. 138

(5) On receipt of a request pursuant to section 3701.881 of 139
the Revised Code with respect to an applicant for employment with 140
a home health agency in a position that involves providing direct 141
care to an older adult, a completed form prescribed pursuant to 142
division (C)(1) of this section, and a set of fingerprint 143
impressions obtained in the manner described in division (C)(2) of 144
this section, the superintendent of the bureau of criminal 145
identification and investigation shall conduct a criminal records 146

check. The superintendent shall conduct the criminal records check 147
in the manner described in division (B) of this section to 148
determine whether any information exists that indicates that the 149
person who is the subject of the request previously has been 150
convicted of or pleaded guilty to any of the following: 151

(a) A violation of section 2903.01, 2903.02, 2903.03, 152
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 153
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 154
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 155
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 156
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 157
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 158
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 159
2925.22, 2925.23, or 3716.11 of the Revised Code; 160

(b) An existing or former law of this state, any other state, 161
or the United States that is substantially equivalent to any of 162
the offenses listed in division (A)(5)(a) of this section. 163

(6) When conducting a criminal records check upon a request 164
pursuant to section 3319.39 of the Revised Code for an applicant 165
who is a teacher, in addition to the determination made under 166
division (A)(1) of this section, the superintendent shall 167
determine whether any information exists that indicates that the 168
person who is the subject of the request previously has been 169
convicted of or pleaded guilty to any offense specified in section 170
3319.31 of the Revised Code. 171

(7) When conducting a criminal records check on a request 172
pursuant to section 2151.86 of the Revised Code for a person who 173
is a prospective foster caregiver or who is eighteen years old or 174
older and resides in the home of a prospective foster caregiver, 175
the superintendent, in addition to the determination made under 176
division (A)(1) of this section, shall determine whether any 177

information exists that indicates that the person has been 178
convicted of or pleaded guilty to a violation of: 179

(a) Section 2909.02 or 2909.03 of the Revised Code; 180

(b) An existing or former law of this state, any other state, 181
or the United States that is substantially equivalent to section 182
2909.02 or 2909.03 of the Revised Code. 183

(8) Not later than thirty days after the date the 184
superintendent receives the request, completed form, and 185
fingerprint impressions, the superintendent shall send the person, 186
board, or entity that made the request any information, other than 187
information the dissemination of which is prohibited by federal 188
law, the superintendent determines exists with respect to the 189
person who is the subject of the request that indicates that the 190
person previously has been convicted of or pleaded guilty to any 191
offense listed or described in division (A)(1), (2), (3), (4), 192
(5), (6), or (7) of this section, as appropriate. The 193
superintendent shall send the person, board, or entity that made 194
the request a copy of the list of offenses specified in division 195
(A)(1), (2), (3), (4), (5), (6), or (7) of this section, as 196
appropriate. If the request was made under section 3701.881 of the 197
Revised Code with regard to an applicant who may be both 198
responsible for the care, custody, or control of a child and 199
involved in providing direct care to an older adult, the 200
superintendent shall provide a list of the offenses specified in 201
divisions (A)(4) and (5) of this section. 202

(B) The superintendent shall conduct any criminal records 203
check requested under section 173.41, 2151.86, 3301.32, 3301.541, 204
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 205
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 206
Code as follows: 207

(1) The superintendent shall review or cause to be reviewed 208

any relevant information gathered and compiled by the bureau under 209
division (A) of section 109.57 of the Revised Code that relates to 210
the person who is the subject of the request, including any 211
relevant information contained in records that have been sealed 212
under section 2953.32 of the Revised Code; 213

(2) If the request received by the superintendent asks for 214
information from the federal bureau of investigation, the 215
superintendent shall request from the federal bureau of 216
investigation any information it has with respect to the person 217
who is the subject of the request and shall review or cause to be 218
reviewed any information the superintendent receives from that 219
bureau. 220

(C)(1) The superintendent shall prescribe a form to obtain 221
the information necessary to conduct a criminal records check from 222
any person for whom a criminal records check is required by 223
section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 224
3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5123.081, 225
5126.28, 5126.281, or 5153.111 of the Revised Code. The form that 226
the superintendent prescribes pursuant to this division may be in 227
a tangible format, in an electronic format, or in both tangible 228
and electronic formats. 229

(2) The superintendent shall prescribe standard impression 230
sheets to obtain the fingerprint impressions of any person for 231
whom a criminal records check is required by section 173.41, 232
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 233
3722.151, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 234
5153.111 of the Revised Code. Any person for whom a records check 235
is required by any of those sections shall obtain the fingerprint 236
impressions at a county sheriff's office, municipal police 237
department, or any other entity with the ability to make 238
fingerprint impressions on the standard impression sheets 239
prescribed by the superintendent. The office, department, or 240

entity may charge the person a reasonable fee for making the
impressions. The standard impression sheets the superintendent
prescribes pursuant to this division may be in a tangible format,
in an electronic format, or in both tangible and electronic
formats.

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

(4) The superintendent of the bureau of criminal
identification and investigation may prescribe methods of
forwarding fingerprint impressions and information necessary to
conduct a criminal records check, which methods shall include, but
not be limited to, an electronic method.

(D) A determination whether any information exists that
indicates that a person previously has been convicted of or
pleaded guilty to any offense listed or described in division
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or
(b), (A)(5)(a) or (b), (A)(6), or (A)(7)(a) or (b) of this section
that is made by the superintendent with respect to information
considered in a criminal records check in accordance with this

section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) As used in this section:

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

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

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

Sec. 313.12. (A) When any person dies as a result of criminal or other violent means, by casualty, by suicide, or in any suspicious or unusual manner, ~~or~~ when any person, including a child under two years of age, dies suddenly when in apparent good health, or when any mentally retarded person or developmentally disabled person dies regardless of the circumstances, the physician called in attendance, or any member of an ambulance service, emergency squad, or law enforcement agency who obtains knowledge thereof arising from ~~his~~ the person's duties, shall immediately notify the office of the coroner of the known facts concerning the time, place, manner, and circumstances of the death, and any other information ~~which~~ that is required pursuant to sections 313.01 to 313.22 of the Revised Code. In such cases,

if a request is made for cremation, the funeral director called in 303
attendance shall immediately notify the coroner. 304

(B) As used in this section, "mentally retarded person" and 305
"developmentally disabled person" have the same meanings as in 306
section 5123.01 of the Revised Code. 307

Sec. 2108.50. (A) An Subject to section 2105.521 of the 308
Revised Code, an autopsy or post-mortem examination may be 309
performed upon the body of a deceased person by a licensed 310
physician or surgeon if consent has been given in the order named 311
by one of the following persons of sound mind and eighteen years 312
of age or older in a written instrument executed by the person or 313
on the person's behalf at the person's express direction: 314

(1) The deceased person during the deceased person's 315
lifetime; 316

(2) The decedent's spouse; 317

(3) If there is no surviving spouse, if the address of the 318
surviving spouse is unknown or outside the United States, if the 319
surviving spouse is physically or mentally unable or incapable of 320
giving consent, or if the deceased person was separated and living 321
apart from such surviving spouse, then a person having the first 322
named degree of relationship in the following list in which a 323
relative of the deceased person survives and is physically and 324
mentally able and capable of giving consent may execute consent: 325

(a) Children; 326

(b) Parents; 327

(c) Brothers or sisters. 328

(4) If there are no surviving persons of any degree of 329
relationship listed in division (A)(3) of this section, any other 330
relative or person who assumes custody of the body for burial-i 331

(5) A person authorized by written instrument executed by the deceased person to make arrangements for burial-; 332
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(6) A person who, at the time of death of the deceased person, was serving as guardian of the person for the deceased person. 334
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(B) Consent to an autopsy or post-mortem examination given under this section may be revoked only by the person executing the consent and in the same manner as required for execution of consent under this section. 337
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(C) As used in this section, "written instrument" includes a telegram or cablegram. 341
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Sec. 2108.521. (A) If a mentally retarded person or a developmentally disabled person dies, if the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities has a good faith reason to believe that the deceased person's death occurred under suspicious circumstances, if the coroner was apprised of the circumstances of the death, and if the coroner after being so apprised of the circumstances declines to conduct an autopsy, the department or the board may file a petition in a court of common pleas seeking an order authorizing an autopsy or post-mortem examination under this section. 343
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(B) Upon the filing of a petition under division (A) of this section, the court may conduct, but is not required to conduct, a hearing on the petition. The court may determine whether to grant the petition without a hearing. The department or board, and all other interested parties, may submit information and statements to the court that are relevant to the petition, and, if the court conducts a hearing, may present evidence and testimony at the hearing. The court shall order the requested autopsy or 354
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post-mortem examination if it finds that, under the circumstances,
the department or board has demonstrated a need for the autopsy or
post-mortem examination. The court shall order an autopsy or
post-mortem examination in the circumstances specified in this
division regardless of whether any consent has been given, or has
been given and withdrawn, under section 2108.50 of the Revised
Code, and regardless of whether any information was presented to
the coroner pursuant to section 313.131 of the Revised Code or to
the court under this section regarding an autopsy being contrary
to the deceased person's religious beliefs.

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

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Sec. 2151.421. (A)(1)(a) No person described in division
(A)(1)(b) of this section who is acting in an official or
professional capacity and knows or suspects that a child under
eighteen years of age or a mentally retarded, developmentally
disabled, or physically impaired child under twenty-one years of
age has suffered or faces a threat of suffering any physical or
mental wound, injury, disability, or condition of a nature that
reasonably indicates abuse or neglect of the child, shall fail to
immediately report that knowledge or suspicion to the entity or
persons specified in this division. Except as provided in section
5120.173 of the Revised Code, the person making the report shall
make it to the public children services agency or a municipal or

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county peace officer in the county in which the child resides or 393
in which the abuse or neglect is occurring or has occurred. In the 394
circumstances described in section 5120.173 of the Revised Code, 395
the person making the report shall make it to the entity specified 396
in that section. 397

(b) Division (A)(1)(a) of this section applies to any person 398
who is an attorney; physician, including a hospital intern or 399
resident; dentist; podiatrist; practitioner of a limited branch of 400
medicine as specified in section 4731.15 of the Revised Code; 401
registered nurse; licensed practical nurse; visiting nurse; other 402
health care professional; licensed psychologist; licensed school 403
psychologist; independent marriage and family therapist or 404
marriage and family therapist; speech pathologist or audiologist; 405
coroner; administrator or employee of a child day-care center; 406
administrator or employee of a residential camp or child day camp; 407
administrator or employee of a certified child care agency or 408
other public or private children services agency; school teacher; 409
school employee; school authority; person engaged in social work 410
or the practice of professional counseling; agent of a county 411
humane society; ~~or~~ a person rendering spiritual treatment through 412
prayer in accordance with the tenets of a well-recognized 413
religion; superintendent, board member, or employee of a county 414
board of mental retardation; investigative agent contracted with 415
by a county board of mental retardation; or employee of the 416
department of mental retardation and developmental disabilities. 417

(2) An attorney or a physician is not required to make a 418
report pursuant to division (A)(1) of this section concerning any 419
communication the attorney or physician receives from a client or 420
patient in an attorney-client or physician-patient relationship, 421
if, in accordance with division (A) or (B) of section 2317.02 of 422
the Revised Code, the attorney or physician could not testify with 423
respect to that communication in a civil or criminal proceeding, 424

except that the client or patient is deemed to have waived any 425
testimonial privilege under division (A) or (B) of section 2317.02 426
of the Revised Code with respect to that communication and the 427
attorney or physician shall make a report pursuant to division 428
(A)(1) of this section with respect to that communication, if all 429
of the following apply: 430

(a) The client or patient, at the time of the communication, 431
is either a child under eighteen years of age or a mentally 432
retarded, developmentally disabled, or physically impaired person 433
under twenty-one years of age. 434

(b) The attorney or physician knows or suspects, as a result 435
of the communication or any observations made during that 436
communication, that the client or patient has suffered or faces a 437
threat of suffering any physical or mental wound, injury, 438
disability, or condition of a nature that reasonably indicates 439
abuse or neglect of the client or patient. 440

(c) The attorney-client or physician-patient relationship 441
does not arise out of the client's or patient's attempt to have an 442
abortion without the notification of her parents, guardian, or 443
custodian in accordance with section 2151.85 of the Revised Code. 444

(B) Anyone, who knows or suspects that a child under eighteen 445
years of age or a mentally retarded, developmentally disabled, or 446
physically impaired person under twenty-one years of age has 447
suffered or faces a threat of suffering any physical or mental 448
wound, injury, disability, or other condition of a nature that 449
reasonably indicates abuse or neglect of the child may report or 450
cause reports to be made of that knowledge or suspicion to the 451
entity or persons specified in this division. Except as provided 452
in section 5120.173 of the Revised Code, a person making a report 453
or causing a report to be made under this division shall make it 454
or cause it to be made to the public children services agency or 455
to a municipal or county peace officer. In the circumstances 456

described in section 5120.173 of the Revised Code, a person making 457
a report or causing a report to be made under this division shall 458
make it or cause it to be made to the entity specified in that 459
section. 460

(C) Any report made pursuant to division (A) or (B) of this 461
section shall be made forthwith either by telephone or in person 462
and shall be followed by a written report, if requested by the 463
receiving agency or officer. The written report shall contain: 464

(1) The names and addresses of the child and the child's 465
parents or the person or persons having custody of the child, if 466
known; 467

(2) The child's age and the nature and extent of the child's 468
known or suspected injuries, abuse, or neglect or of the known or 469
suspected threat of injury, abuse, or neglect, including any 470
evidence of previous injuries, abuse, or neglect; 471

(3) Any other information that might be helpful in 472
establishing the cause of the known or suspected injury, abuse, or 473
neglect or of the known or suspected threat of injury, abuse, or 474
neglect. 475

Any person, who is required by division (A) of this section 476
to report known or suspected child abuse or child neglect, may 477
take or cause to be taken color photographs of areas of trauma 478
visible on a child and, if medically indicated, cause to be 479
performed radiological examinations of the child. 480

(D)(1) When a municipal or county peace officer receives a 481
report concerning the possible abuse or neglect of a child or the 482
possible threat of abuse or neglect of a child, upon receipt of 483
the report, the municipal or county peace officer who receives the 484
report shall refer the report to the appropriate public children 485
services agency. 486

(2) When a public children services agency receives a report 487

pursuant to this division or division (A) or (B) of this section, 488
upon receipt of the report, the public children services agency 489
shall comply with section 2151.422 of the Revised Code. 490

(E) No township, municipal, or county peace officer shall 491
remove a child about whom a report is made pursuant to this 492
section from the child's parents, stepparents, or guardian or any 493
other persons having custody of the child without consultation 494
with the public children services agency, unless, in the judgment 495
of the officer, and, if the report was made by physician, the 496
physician, immediate removal is considered essential to protect 497
the child from further abuse or neglect. The agency that must be 498
consulted shall be the agency conducting the investigation of the 499
report as determined pursuant to section 2151.422 of the Revised 500
Code. 501

(F)(1) Except as provided in section 2151.422 of the Revised 502
Code, the public children services agency shall investigate, 503
within twenty-four hours, each report of known or suspected child 504
abuse or child neglect and of a known or suspected threat of child 505
abuse or child neglect that is referred to it under this section 506
to determine the circumstances surrounding the injuries, abuse, or 507
neglect or the threat of injury, abuse, or neglect, the cause of 508
the injuries, abuse, neglect, or threat, and the person or persons 509
responsible. The investigation shall be made in cooperation with 510
the law enforcement agency and in accordance with the memorandum 511
of understanding prepared under division (J) of this section. A 512
failure to make the investigation in accordance with the 513
memorandum is not grounds for, and shall not result in, the 514
dismissal of any charges or complaint arising from the report or 515
the suppression of any evidence obtained as a result of the report 516
and does not give, and shall not be construed as giving, any 517
rights or any grounds for appeal or post-conviction relief to any 518
person. The public children services agency shall report each case 519

to a central registry which the department of job and family 520
services shall maintain in order to determine whether prior 521
reports have been made in other counties concerning the child or 522
other principals in the case. The public children services agency 523
shall submit a report of its investigation, in writing, to the law 524
enforcement agency. 525

(2) The public children services agency shall make any 526
recommendations to the county prosecuting attorney or city 527
director of law that it considers necessary to protect any 528
children that are brought to its attention. 529

(G)(1)(a) Except as provided in division (H)(3) of this 530
section, anyone or any hospital, institution, school, health 531
department, or agency participating in the making of reports under 532
division (A) of this section, anyone or any hospital, institution, 533
school, health department, or agency participating in good faith 534
in the making of reports under division (B) of this section, and 535
anyone participating in good faith in a judicial proceeding 536
resulting from the reports, shall be immune from any civil or 537
criminal liability for injury, death, or loss to person or 538
property that otherwise might be incurred or imposed as a result 539
of the making of the reports or the participation in the judicial 540
proceeding. 541

(b) Notwithstanding section 4731.22 of the Revised Code, the 542
physician-patient privilege shall not be a ground for excluding 543
evidence regarding a child's injuries, abuse, or neglect, or the 544
cause of the injuries, abuse, or neglect in any judicial 545
proceeding resulting from a report submitted pursuant to this 546
section. 547

(2) In any civil or criminal action or proceeding in which it 548
is alleged and proved that participation in the making of a report 549
under this section was not in good faith or participation in a 550
judicial proceeding resulting from a report made under this 551

section was not in good faith, the court shall award the 552
prevailing party reasonable attorney's fees and costs and, if a 553
civil action or proceeding is voluntarily dismissed, may award 554
reasonable attorney's fees and costs to the party against whom the 555
civil action or proceeding is brought. 556

(H)(1) Except as provided in divisions (H)(4), (M), and (N) 557
of this section, a report made under this section is confidential. 558
The information provided in a report made pursuant to this section 559
and the name of the person who made the report shall not be 560
released for use, and shall not be used, as evidence in any civil 561
action or proceeding brought against the person who made the 562
report. In a criminal proceeding, the report is admissible in 563
evidence in accordance with the Rules of Evidence and is subject 564
to discovery in accordance with the Rules of Criminal Procedure. 565

(2) No person shall permit or encourage the unauthorized 566
dissemination of the contents of any report made under this 567
section. 568

(3) A person who knowingly makes or causes another person to 569
make a false report under division (B) of this section that 570
alleges that any person has committed an act or omission that 571
resulted in a child being an abused child or a neglected child is 572
guilty of a violation of section 2921.14 of the Revised Code. 573

(4) If a report is made pursuant to division (A) or (B) of 574
this section and the child who is the subject of the report dies 575
for any reason at any time after the report is made, but before 576
the child attains eighteen years of age, the public children 577
services agency or municipal or county peace officer to which the 578
report was made or referred, on the request of the child fatality 579
review board, shall submit a summary sheet of information 580
providing a summary of the report to the review board of the 581
county in which the deceased child resided at the time of death. 582
On the request of the review board, the agency or peace officer 583

may, at its discretion, make the report available to the review board. 584
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(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports. 586
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(I) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code. 593
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(J)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following: 604
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(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative; 607
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(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative; 610
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(c) The county peace officer;	615
(d) All chief municipal peace officers within the county;	616
(e) Other law enforcement officers handling child abuse and neglect cases in the county;	617 618
(f) The prosecuting attorney of the county;	619
(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;	620 621 622
(h) The county humane society.	623
(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.	624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642
(3) A memorandum of understanding shall include all of the following:	643 644

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

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

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report to be provided with the following information:

(a) Whether the agency has initiated an investigation of the report;

(b) Whether the agency is continuing to investigate the report;

(c) Whether the agency is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

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

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

(L) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney

general that the department determines are necessary to protect 706
children from child abuse and child neglect. 707

(M) No later than the end of the day following the day on 708
which a public children services agency receives a report of 709
alleged child abuse or child neglect, or a report of an alleged 710
threat of child abuse or child neglect, that allegedly occurred in 711
or involved an out-of-home care entity, the agency shall provide 712
written notice of the allegations contained in and the person 713
named as the alleged perpetrator in the report to the 714
administrator, director, or other chief administrative officer of 715
the out-of-home care entity that is the subject of the report 716
unless the administrator, director, or other chief administrative 717
officer is named as an alleged perpetrator in the report. If the 718
administrator, director, or other chief administrative officer of 719
an out-of-home care entity is named as an alleged perpetrator in a 720
report of alleged child abuse or child neglect, or a report of an 721
alleged threat of child abuse or child neglect, that allegedly 722
occurred in or involved the out-of-home care entity, the agency 723
shall provide the written notice to the owner or governing board 724
of the out-of-home care entity that is the subject of the report. 725
The agency shall not provide witness statements or police or other 726
investigative reports. 727

(N) No later than three days after the day on which a public 728
children services agency that conducted the investigation as 729
determined pursuant to section 2151.422 of the Revised Code makes 730
a disposition of an investigation involving a report of alleged 731
child abuse or child neglect, or a report of an alleged threat of 732
child abuse or child neglect, that allegedly occurred in or 733
involved an out-of-home care entity, the agency shall send written 734
notice of the disposition of the investigation to the 735
administrator, director, or other chief administrative officer and 736
the owner or governing board of the out-of-home care entity. The 737

agency shall not provide witness statements or police or other 738
investigative reports. 739

Sec. 2152.821. (A) As used in this section: 740

(1) "Mentally retarded person" and "developmentally disabled 741
person" have the same meanings as in section 5123.01 of the 742
Revised Code. 743

(2) "Mentally retarded or developmentally disabled victim" 744
includes any of the following persons: 745

(a) A mentally retarded person or developmentally disabled 746
person who was a victim of a violation identified in division 747
(B)(1) of this section or an act that would be an offense of 748
violence if committed by an adult; 749

(b) A mentally retarded person or developmentally disabled 750
person against whom was directed any conduct that constitutes, or 751
that is an element of, a violation identified in division (B)(1) 752
of this section or an act that would be an offense of violence if 753
committed by an adult. 754

(B)(1) In any proceeding in juvenile court involving a 755
complaint, indictment, or information in which a child is charged 756
with a violation of section 2903.16, 2903.34, 2903.341, 2907.02, 757
2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 758
2907.322, or 2907.323 of the Revised Code or an act that would be 759
an offense of violence if committed by an adult and in which an 760
alleged victim of the violation or act was a mentally retarded 761
person or developmentally disabled person, the juvenile judge, 762
upon motion of the prosecution, shall order that the testimony of 763
the mentally retarded or developmentally disabled victim be taken 764
by deposition. The prosecution also may request that the 765
deposition be videotaped in accordance with division (B)(2) of 766
this section. The judge shall notify the mentally retarded or 767

developmentally disabled victim whose deposition is to be taken, 768
the prosecution, and the attorney for the child who is charged 769
with the violation or act of the date, time, and place for taking 770
the deposition. The notice shall identify the mentally retarded or 771
developmentally disabled victim who is to be examined and shall 772
indicate whether a request that the deposition be videotaped has 773
been made. The child who is charged with the violation or act 774
shall have the right to attend the deposition and the right to be 775
represented by counsel. Depositions shall be taken in the manner 776
provided in civil cases, except that the judge in the proceeding 777
shall preside at the taking of the deposition and shall rule at 778
that time on any objections of the prosecution or the attorney for 779
the child charged with the violation or act. The prosecution and 780
the attorney for the child charged with the violation or act shall 781
have the right, as at an adjudication hearing, to full examination 782
and cross-examination of the mentally retarded or developmentally 783
disabled victim whose deposition is to be taken. 784

If a deposition taken under this division is intended to be 785
offered as evidence in the proceeding, it shall be filed in the 786
juvenile court in which the action is pending and is admissible in 787
the manner described in division (C) of this section. If a 788
deposition of a mentally retarded or developmentally disabled 789
victim taken under this division is admitted as evidence at the 790
proceeding under division (C) of this section, the mentally 791
retarded or developmentally disabled victim shall not be required 792
to testify in person at the proceeding. 793

At any time before the conclusion of the proceeding, the 794
attorney for the child charged with the violation or act may file 795
a motion with the judge requesting that another deposition of the 796
mentally retarded or developmentally disabled victim be taken 797
because new evidence material to the defense of the child charged 798
has been discovered that the attorney for the child charged could 799

not with reasonable diligence have discovered prior to the taking 800
of the admitted deposition. Any motion requesting another 801
deposition shall be accompanied by supporting affidavits. Upon the 802
filing of the motion and affidavits, the court may order that 803
additional testimony of the mentally retarded or developmentally 804
disabled victim relative to the new evidence be taken by another 805
deposition. If the court orders the taking of another deposition 806
under this provision, the deposition shall be taken in accordance 807
with this division. If the admitted deposition was a videotaped 808
deposition taken in accordance with division (B)(2) of this 809
section, the new deposition also shall be videotaped in accordance 810
with that division. In other cases, the new deposition may be 811
videotaped in accordance with that division. 812

(2) If the prosecution requests that a deposition to be taken 813
under division (B)(1) of this section be videotaped, the juvenile 814
judge shall order that the deposition be videotaped in accordance 815
with this division. If a juvenile judge issues an order to video 816
tape the deposition, the judge shall exclude from the room in 817
which the deposition is to be taken every person except the 818
mentally retarded or developmentally disabled victim giving the 819
testimony, the judge, one or more interpreters if needed, the 820
attorneys for the prosecution and the child who is charged with 821
the violation or act, any person needed to operate the equipment 822
to be used, one person chosen by the mentally retarded or 823
developmentally disabled victim giving the deposition, and any 824
person whose presence the judge determines would contribute to the 825
welfare and well-being of the mentally retarded or developmentally 826
disabled victim giving the deposition. The person chosen by the 827
mentally retarded or developmentally disabled victim shall not be 828
a witness in the proceeding and, both before and during the 829
deposition, shall not discuss the testimony of the victim with any 830
other witness in the proceeding. To the extent feasible, any 831

person operating the recording equipment shall be restricted to a 832
room adjacent to the room in which the deposition is being taken, 833
or to a location in the room in which the deposition is being 834
taken that is behind a screen or mirror so that the person 835
operating the recording equipment can see and hear, but cannot be 836
seen or heard by, the mentally retarded or developmentally 837
disabled victim giving the deposition during the deposition. 838

The child who is charged with the violation or act shall be 839
permitted to observe and hear the testimony of the mentally 840
retarded or developmentally disabled victim giving the deposition 841
on a monitor, shall be provided with an electronic means of 842
immediate communication with the attorney of the child who is 843
charged with the violation or act during the testimony, and shall 844
be restricted to a location from which the child who is charged 845
with the violation or act cannot be seen or heard by the mentally 846
retarded or developmentally disabled victim giving the deposition, 847
except on a monitor provided for that purpose. The mentally 848
retarded or developmentally disabled victim giving the deposition 849
shall be provided with a monitor on which the mentally retarded or 850
developmentally disabled victim can observe, while giving 851
testimony, the child who is charged with the violation or act. The 852
judge, at the judge's discretion, may preside at the deposition by 853
electronic means from outside the room in which the deposition is 854
to be taken; if the judge presides by electronic means, the judge 855
shall be provided with monitors on which the judge can see each 856
person in the room in which the deposition is to be taken and with 857
an electronic means of communication with each person in that 858
room, and each person in the room shall be provided with a monitor 859
on which that person can see the judge and with an electronic 860
means of communication with the judge. A deposition that is 861
videotaped under this division shall be taken and filed in the 862
manner described in division (B)(1) of this section and is 863

admissible in the manner described in this division and division 864
(C) of this section. If a deposition that is videotaped under this 865
division is admitted as evidence at the proceeding, the mentally 866
retarded or developmentally disabled victim shall not be required 867
to testify in person at the proceeding. No deposition videotaped 868
under this division shall be admitted as evidence at any 869
proceeding unless division (C) of this section is satisfied 870
relative to the deposition and all of the following apply relative 871
to the recording: 872

(a) The recording is both aural and visual and is recorded on 873
film or videotape, or by other electronic means. 874

(b) The recording is authenticated under the Rules of 875
Evidence and the Rules of Criminal Procedure as a fair and 876
accurate representation of what occurred, and the recording is not 877
altered other than at the direction and under the supervision of 878
the judge in the proceeding. 879

(c) Each voice on the recording that is material to the 880
testimony on the recording or the making of the recording, as 881
determined by the judge, is identified. 882

(d) Both the prosecution and the child who is charged with 883
the violation or act are afforded an opportunity to view the 884
recording before it is shown in the proceeding. 885

(C)(1) At any proceeding in relation to which a deposition 886
was taken under division (B) of this section, the deposition or a 887
part of it is admissible in evidence upon motion of the 888
prosecution if the testimony in the deposition or the part to be 889
admitted is not excluded by the hearsay rule and if the deposition 890
or the part to be admitted otherwise is admissible under the Rules 891
of Evidence. For purposes of this division, testimony is not 892
excluded by the hearsay rule if the testimony is not hearsay under 893
Evidence Rule 801; the testimony is within an exception to the 894

hearsay rule set forth in Evidence Rule 803; the mentally retarded 895
or developmentally disabled victim who gave the testimony is 896
unavailable as a witness, as defined in Evidence Rule 804, and the 897
testimony is admissible under that rule; or both of the following 898
apply: 899

(a) The child who is charged with the violation or act had an 900
opportunity and similar motive at the time of the taking of the 901
deposition to develop the testimony by direct, cross, or redirect 902
examination. 903

(b) The judge determines that there is reasonable cause to 904
believe that, if the mentally retarded or developmentally disabled 905
victim who gave the testimony in the deposition were to testify in 906
person at the proceeding, the mentally retarded or developmentally 907
disabled victim would experience serious emotional trauma as a 908
result of the mentally retarded or developmentally disabled 909
victim's participation at the proceeding. 910

(2) Objections to receiving in evidence a deposition or a 911
part of it under division (C) of this section shall be made as 912
provided in civil actions. 913

(3) The provisions of divisions (B) and (C) of this section 914
are in addition to any other provisions of the Revised Code, the 915
Rules of Juvenile Procedure, the Rules of Criminal Procedure, or 916
the Rules of Evidence that pertain to the taking or admission of 917
depositions in a juvenile court proceeding and do not limit the 918
admissibility under any of those other provisions of any 919
deposition taken under division (B) of this section or otherwise 920
taken. 921

(D) In any proceeding in juvenile court involving a 922
complaint, indictment, or information in which a child is charged 923
with a violation listed in division (B)(1) of this section or an 924
act that would be an offense of violence if committed by an adult 925

and in which an alleged victim of the violation or offense was a 926
mentally retarded or developmentally disabled person, the 927
prosecution may file a motion with the juvenile judge requesting 928
the judge to order the testimony of the mentally retarded or 929
developmentally disabled victim to be taken in a room other than 930
the room in which the proceeding is being conducted and be 931
televised, by closed circuit equipment, into the room in which the 932
proceeding is being conducted to be viewed by the child who is 933
charged with the violation or act and any other persons who are 934
not permitted in the room in which the testimony is to be taken 935
but who would have been present during the testimony of the 936
mentally retarded or developmentally disabled victim had it been 937
given in the room in which the proceeding is being conducted. 938
Except for good cause shown, the prosecution shall file a motion 939
under this division at least seven days before the date of the 940
proceeding. The juvenile judge may issue the order upon the motion 941
of the prosecution filed under this division, if the judge 942
determines that the mentally retarded or developmentally disabled 943
victim is unavailable to testify in the room in which the 944
proceeding is being conducted in the physical presence of the 945
child charged with the violation or act for one or more of the 946
reasons set forth in division (F) of this section. If a juvenile 947
judge issues an order of that nature, the judge shall exclude from 948
the room in which the testimony is to be taken every person except 949
a person described in division (B)(2) of this section. The judge, 950
at the judge's discretion, may preside during the giving of the 951
testimony by electronic means from outside the room in which it is 952
being given, subject to the limitations set forth in division 953
(B)(2) of this section. To the extent feasible, any person 954
operating the televising equipment shall be hidden from the sight 955
and hearing of the mentally retarded or developmentally disabled 956
victim giving the testimony, in a manner similar to that described 957
in division (B)(2) of this section. The child who is charged with 958

the violation or act shall be permitted to observe and hear the 959
testimony of the mentally retarded or developmentally disabled 960
victim giving the testimony on a monitor, shall be provided with 961
an electronic means of immediate communication with the attorney 962
of the child who is charged with the violation or act during the 963
testimony, and shall be restricted to a location from which the 964
child who is charged with the violation or act cannot be seen or 965
heard by the mentally retarded or developmentally disabled victim 966
giving the testimony, except on a monitor provided for that 967
purpose. The mentally retarded or developmentally disabled victim 968
giving the testimony shall be provided with a monitor on which the 969
mentally retarded or developmentally disabled victim can observe, 970
while giving testimony, the child who is charged with the 971
violation or act. 972

(E) In any proceeding in juvenile court involving a 973
complaint, indictment, or information in which a child is charged 974
with a violation listed in division (B)(1) of this section or an 975
act that would be an offense of violence if committed by an adult 976
and in which an alleged victim of the violation or offense was a 977
mentally retarded or developmentally disabled person, the 978
prosecution may file a motion with the juvenile judge requesting 979
the judge to order the testimony of the mentally retarded or 980
developmentally disabled victim to be taken outside of the room in 981
which the proceeding is being conducted and be recorded for 982
showing in the room in which the proceeding is being conducted 983
before the judge, the child who is charged with the violation or 984
act, and any other persons who would have been present during the 985
testimony of the mentally retarded or developmentally disabled 986
victim had it been given in the room in which the proceeding is 987
being conducted. Except for good cause shown, the prosecution 988
shall file a motion under this division at least seven days before 989
the date of the proceeding. The juvenile judge may issue the order 990

upon the motion of the prosecution filed under this division, if 991
the judge determines that the mentally retarded or developmentally 992
disabled victim is unavailable to testify in the room in which the 993
proceeding is being conducted in the physical presence of the 994
child charged with the violation or act, due to one or more of the 995
reasons set forth in division (F) of this section. If a juvenile 996
judge issues an order of that nature, the judge shall exclude from 997
the room in which the testimony is to be taken every person except 998
a person described in division (B)(2) of this section. To the 999
extent feasible, any person operating the recording equipment 1000
shall be hidden from the sight and hearing of the mentally 1001
retarded or developmentally disabled victim giving the testimony, 1002
in a manner similar to that described in division (B)(2) of this 1003
section. The child who is charged with the violation or act shall 1004
be permitted to observe and hear the testimony of the mentally 1005
retarded or developmentally disabled victim giving the testimony 1006
on a monitor, shall be provided with an electronic means of 1007
immediate communication with the attorney of the child who is 1008
charged with the violation or act during the testimony, and shall 1009
be restricted to a location from which the child who is charged 1010
with the violation or act cannot be seen or heard by the mentally 1011
retarded or developmentally disabled victim giving the testimony, 1012
except on a monitor provided for that purpose. The mentally 1013
retarded or developmentally disabled victim giving the testimony 1014
shall be provided with a monitor on which the mentally retarded or 1015
developmentally disabled victim can observe, while giving 1016
testimony, the child who is charged with the violation or act. No 1017
order for the taking of testimony by recording shall be issued 1018
under this division unless the provisions set forth in divisions 1019
(B)(2)(a), (b), (c), and (d) of this section apply to the 1020
recording of the testimony. 1021

(F) For purposes of divisions (D) and (E) of this section, a 1022

juvenile judge may order the testimony of a mentally retarded or 1023
developmentally disabled victim to be taken outside of the room in 1024
which a proceeding is being conducted if the judge determines that 1025
the mentally retarded or developmentally disabled victim is 1026
unavailable to testify in the room in the physical presence of the 1027
child charged with the violation or act due to one or more of the 1028
following circumstances: 1029

(1) The persistent refusal of the mentally retarded or 1030
developmentally disabled victim to testify despite judicial 1031
requests to do so; 1032

(2) The inability of the mentally retarded or developmentally 1033
disabled victim to communicate about the alleged violation or 1034
offense because of extreme fear, failure of memory, or another 1035
similar reason; 1036

(3) The substantial likelihood that the mentally retarded or 1037
developmentally disabled victim will suffer serious emotional 1038
trauma from so testifying. 1039

(G)(1) If a juvenile judge issues an order pursuant to 1040
division (D) or (E) of this section that requires the testimony of 1041
a mentally retarded or developmentally disabled victim in a 1042
juvenile court proceeding to be taken outside of the room in which 1043
the proceeding is being conducted, the order shall specifically 1044
identify the mentally retarded or developmentally disabled victim 1045
to whose testimony it applies, the order applies only during the 1046
testimony of the specified mentally retarded or developmentally 1047
disabled victim, and the mentally retarded or developmentally 1048
disabled victim giving the testimony shall not be required to 1049
testify at the proceeding other than in accordance with the order. 1050
The authority of a judge to close the taking of a deposition under 1051
division (B)(2) of this section or a proceeding under division (D) 1052
or (E) of this section is in addition to the authority of a judge 1053

to close a hearing pursuant to section 2151.35 of the Revised Code. 1054
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(2) A juvenile judge who makes any determination regarding the admissibility of a deposition under divisions (B) and (C) of this section, the videotaping of a deposition under division (B)(2) of this section, or the taking of testimony outside of the room in which a proceeding is being conducted under division (D) or (E) of this section shall enter the determination and findings on the record in the proceeding. 1056
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Sec. 2311.14. (A)(1) Whenever because of a hearing, speech, or other impairment a party to or witness in a legal proceeding cannot readily understand or communicate, the court shall appoint a qualified interpreter to assist such person. Before appointing any interpreter under this division for a party or witness who is a mentally retarded person or developmentally disabled person, the court shall evaluate the qualifications of the interpreter and shall make a determination as to the ability of the interpreter to effectively interpret on behalf of the party or witness that the interpreter will assist, and the court may appoint the interpreter only if the court is satisfied that the interpreter is able to effectively interpret on behalf of that party or witness. 1063
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(2) This section is not limited to a person who speaks a language other than English. It also applies to the language and descriptions of any mentally retarded person or developmentally disabled person who cannot be reasonably understood, or who cannot understand questioning, without the aid of an interpreter. The interpreter may aid the parties in formulating methods of questioning the person with mental retardation or a developmental disability and in interpreting the answers of the person. 1075
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(B) Before entering upon ~~his~~ official duties, the interpreter shall take an oath that ~~he~~ the interpreter will make a true 1083
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interpretation of the proceedings to the party or witness, and 1085
that ~~he~~ the interpreter will truly repeat the statements made by 1086
such party or witness to the court, to the best of ~~his~~ the 1087
interpreter's ability. If the interpreter is appointed to assist a 1088
mentally retarded person or developmentally disabled person as 1089
described in division (A)(2) of this section, the oath also shall 1090
include an oath that the interpreter will not prompt, lead, 1091
suggest, or otherwise improperly influence the testimony of the 1092
witness or party. 1093

(C) The court shall determine a reasonable fee for all such 1094
interpreter service which shall be paid out of the same funds as 1095
witness fees. 1096

(D) As used in this section, "mentally retarded person" and 1097
"developmentally disabled person" have the same meanings as in 1098
section 5123.01 of the Revised Code. 1099

Sec. 2903.341. (A) As used in this section: 1100

(1) "MR/DD caretaker" means any MR/DD employee or any person 1101
who assumes the duty to provide for the care and protection of a 1102
mentally retarded person or a developmentally disabled person on a 1103
voluntary basis, by contract, through receipt of payment for care 1104
and protection, as a result of a family relationship, or by order 1105
of a court of competent jurisdiction. "MR/DD caretaker" includes a 1106
person who is an employee of a care facility and a person who is 1107
an employee of an entity under contract with a provider but does 1108
not include a person who owns, operates, or administers a care 1109
facility or who is an agent of a care facility. 1110

(2) "Mentally retarded person" and "developmentally disabled 1111
person" have the same meanings as in section 5123.01 of the 1112
Revised Code. 1113

(3) "MR/DD employee" has the same meaning as in section 1114

5123.50 of the Revised Code. 1115

(B) No MR/DD caretaker shall create a substantial risk to the 1116
health or safety of a mentally retarded person or a 1117
developmentally disabled person by violating a duty of care, 1118
protection, or support. It is not a violation of a duty of care, 1119
protection, or support under this division when the MR/DD 1120
caretaker treats a physical or mental illness or defect of the 1121
mentally retarded person or developmentally disabled person by 1122
spiritual means through prayer alone, in accordance with the 1123
tenets of a recognized religious body. 1124

(C) No person who owns, operates, or administers a care 1125
facility or who is an agent of a care facility shall condone, or 1126
knowingly permit, any conduct by an MR/DD caretaker who is 1127
employed by or under the control of the owner, operator, 1128
administrator, or agent that is in violation of division (B) of 1129
this section and that involves a mentally retarded person or a 1130
developmentally disabled person who is under the care of the 1131
owner, operator, administrator, or agent. A person who relies upon 1132
treatment by spiritual means through prayer alone, in accordance 1133
with the tenets of a recognized religious denomination, shall not 1134
be considered endangered under this division for that reason 1135
alone. 1136

(D)(1) Division (C) of this section does not apply to a 1137
person who owns, operates, or administers a care facility or who 1138
is an agent of a care facility unless the owner, operator, 1139
administrator, or agent condones, or knowingly permits, the 1140
conduct of the MR/DD caretaker in question that is in violation of 1141
division (B) of this section. 1142

(2) It is an affirmative defense to a charge of a violation 1143
of division (B) or (C) of this section that the actor's conduct 1144
was committed in good faith solely because the actor was ordered 1145

to commit the conduct by a person with supervisory authority over
the actor. 1146
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(3) It is an affirmative defense to a charge of a violation
of division (C) of this section that the person who owns,
operates, or administers a care facility or who is an agent of a
care facility and who is charged with the violation is following
the individual protective service plan for the involved mentally
retarded person or a developmentally disabled person or that the
admission, discharge, and transfer rule set forth in the
Administrative Code is being followed. 1148
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(E) Whoever violates division (B) or (C) of this section is
guilty of patient endangerment, a misdemeanor of the first degree.
If the offender previously has been convicted of, or pleaded
guilty to, a violation of this section, patient endangerment is a
felony of the fifth degree. 1156
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Sec. 2930.03. (A) A person or entity required or authorized 1161
under this chapter to give notice to a victim shall give the 1162
notice to the victim by any means reasonably calculated to provide 1163
prompt actual notice. Except when a provision requires that notice 1164
is to be given in a specific manner, a notice may be oral or 1165
written. 1166

(B) Except for receipt of the initial information and notice 1167
required to be given to a victim under divisions (A) and (B) of 1168
section 2930.04, section 2930.05, and divisions (A) and (B) of 1169
section 2930.06 of the Revised Code, a victim who wishes to 1170
receive any notice authorized by this chapter shall make a request 1171
for the notice to the prosecutor or the custodial agency that is 1172
to provide the notice, as specified in this chapter. If the victim 1173
does not make a request as described in this division, the 1174
prosecutor or custodial agency is not required to provide any 1175
notice described in this chapter other than the initial 1176

information and notice required to be given to a victim under 1177
divisions (A) and (B) of section 2930.04, section 2930.05, and 1178
divisions (A) and (B) of section 2930.06 of the Revised Code. 1179

(C) A person or agency that is required to furnish notice 1180
under this chapter shall give the notice to the victim at the 1181
address or telephone number provided to the person or agency by 1182
the victim. A victim who requests to receive notice under this 1183
chapter as described in division (B) of this section shall inform 1184
the person or agency of the name, address, or telephone number of 1185
the victim and of any change to that information. 1186

(D) A person or agency that has furnished information to a 1187
victim in accordance with any requirement or authorization under 1188
this chapter shall notify the victim promptly of any significant 1189
changes to that information. 1190

(E) Divisions (A) to (D) of this section do not apply 1191
regarding a notice that a prosecutor is required to provide under 1192
section 2930.061 of the Revised Code. A prosecutor required to 1193
provide notice under that section shall provide the notice as 1194
specified in that section. 1195

Sec. 2930.061. (A) If a person is charged in a complaint, 1196
indictment, or information with any crime or specified delinquent 1197
act or with any other violation of law, and if the case involves a 1198
victim that the prosecutor in the case knows is a mentally 1199
retarded person or a developmentally disabled person, in addition 1200
to any other notices required under this chapter or under any 1201
other provision of law, the prosecutor in the case shall send 1202
written notice of the charges to the department of mental 1203
retardation and developmental disabilities. The written notice 1204
shall specifically identify the person so charged. 1205

(B) As used in this section, "mentally retarded person" and 1206
"developmentally disabled person" have the same meanings as in 1207

section 5123.01 of the Revised Code.

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Sec. 2945.482. (A)(1) As used in this section:

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

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

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(B)(1) In any proceeding in the prosecution of a charge of a violation of section 2903.16, 2903.34, 2903.341, 2905.03, 2907.02, 2907.03, 2907.05, 2907.06, 2907.09, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code or an offense of violence and in which an alleged victim of the violation or offense was a mentally retarded or developmentally disabled person, the judge of the court in which the prosecution is being conducted, upon motion of an attorney for the prosecution, shall order that the testimony of the mentally retarded or developmentally disabled victim be taken by deposition. The prosecution also may request that the deposition be videotaped in accordance with division (B)(2) of this section. The judge shall notify the mentally retarded or developmentally disabled victim whose deposition is to be taken, the prosecution, and the defense of the date, time, and place for taking the deposition. The notice shall identify the mentally retarded or developmentally disabled victim who is to be examined and shall indicate whether a request that the deposition be videotaped has been made. The defendant shall have the right to attend the

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deposition and the right to be represented by counsel. Depositions 1239
shall be taken in the manner provided in civil cases, except that 1240
the judge shall preside at the taking of the deposition and shall 1241
rule at the time on any objections of the prosecution or the 1242
attorney for the defense. The prosecution and the attorney for the 1243
defense shall have the right, as at trial, to full examination and 1244
cross-examination of the mentally retarded or developmentally 1245
disabled victim whose deposition is to be taken. If a deposition 1246
taken under this division is intended to be offered as evidence in 1247
the proceeding, it shall be filed in the court in which the action 1248
is pending and is admissible in the manner described in division 1249
(C) of this section. 1250

If a deposition of a mentally retarded or developmentally 1251
disabled victim taken under this division is admitted as evidence 1252
at the proceeding under division (C) of this section, the mentally 1253
retarded or developmentally disabled victim shall not be required 1254
to testify in person at the proceeding. 1255

At any time before the conclusion of the proceeding, the 1256
attorney for the defense may file a motion with the judge 1257
requesting that another deposition of the mentally retarded or 1258
developmentally disabled victim be taken because new evidence 1259
material to the defense has been discovered that the attorney for 1260
the defense could not with reasonable diligence have discovered 1261
prior to the taking of the admitted deposition. If the court 1262
orders the taking of another deposition under this provision, the 1263
deposition shall be taken in accordance with this division. If the 1264
admitted deposition was a videotaped deposition taken in 1265
accordance with division (B)(2) of this section, the new 1266
deposition shall be videotaped in accordance with that division. 1267
In other cases, the new deposition may be videotaped in accordance 1268
with that division. 1269

(2) If the prosecution requests that a deposition to be taken 1270

under division (B)(2) of this section be videotaped, the judge 1271
shall order that the deposition be videotaped in accordance with 1272
this division. If a judge issues an order that the deposition be 1273
videotaped, the judge shall exclude from the room in which the 1274
deposition is to be taken every person except the mentally 1275
retarded or developmentally disabled victim giving the testimony, 1276
the judge, one or more interpreters if needed, the attorneys for 1277
the prosecution and the defense, any person needed to operate the 1278
equipment to be used, one person chosen by the mentally retarded 1279
or developmentally disabled victim giving the deposition, and any 1280
person whose presence the judge determines would contribute to the 1281
welfare and well-being of the mentally retarded or developmentally 1282
disabled victim giving the deposition. The person chosen by the 1283
mentally retarded or developmentally disabled victim shall not be 1284
a witness in the proceeding and, both before and during the 1285
deposition, shall not discuss the testimony of the mentally 1286
retarded or developmentally disabled victim with any other witness 1287
in the proceeding. To the extent feasible, any person operating 1288
the recording equipment shall be restricted to a room adjacent to 1289
the room in which the deposition is being taken, or to a location 1290
in the room in which the deposition is being taken that is behind 1291
a screen or mirror, so that the person operating the recording 1292
equipment can see and hear, but cannot be seen or heard by, the 1293
mentally retarded or developmentally disabled victim giving the 1294
deposition during the deposition. 1295

The defendant shall be permitted to observe and hear the 1296
testimony of the mentally retarded or developmentally disabled 1297
victim giving the deposition on a monitor, shall be provided with 1298
an electronic means of immediate communication with the 1299
defendant's attorney during the testimony, and shall be restricted 1300
to a location from which the defendant cannot be seen or heard by 1301
the mentally retarded or developmentally disabled victim giving 1302

the deposition, except on a monitor provided for that purpose. The 1303
mentally retarded or developmentally disabled victim giving the 1304
deposition shall be provided with a monitor on which the victim 1305
can observe, during the testimony, the defendant. The judge, at 1306
the judge's discretion, may preside at the deposition by 1307
electronic means from outside the room in which the deposition is 1308
to be taken. If the judge presides by electronic means, the judge 1309
shall be provided with monitors on which the judge can see each 1310
person in the room in which the deposition is to be taken and with 1311
an electronic means of communication with each person, and each 1312
person in the room shall be provided with a monitor on which that 1313
person can see the judge and with an electronic means of 1314
communication with the judge. A deposition that is videotaped 1315
under this division shall be taken and filed in the manner 1316
described in division (B)(1) of this section and is admissible in 1317
the manner described in this division and division (C) of this 1318
section, and, if a deposition that is videotaped under this 1319
division is admitted as evidence at the proceeding, the mentally 1320
retarded or developmentally disabled victim shall not be required 1321
to testify in person at the proceeding. No deposition videotaped 1322
under this division shall be admitted as evidence at any 1323
proceeding unless division (C) of this section is satisfied 1324
relative to the deposition and all of the following apply relative 1325
to the recording: 1326

(a) The recording is both aural and visual and is recorded on 1327
film or videotape, or by other electronic means. 1328

(b) The recording is authenticated under the Rules of 1329
Evidence and the Rules of Criminal Procedure as a fair and 1330
accurate representation of what occurred, and the recording is not 1331
altered other than at the direction and under the supervision of 1332
the judge in the proceeding. 1333

(c) Each voice on the recording that is material to the 1334

testimony on the recording or the making of the recording, as 1335
determined by the judge, is identified. 1336

(d) Both the prosecution and the defendant are afforded an 1337
opportunity to view the recording before it is shown in the 1338
proceeding. 1339

(C)(1) At any proceeding in a prosecution in relation to 1340
which a deposition was taken under division (B) of this section, 1341
the deposition or a part of it is admissible in evidence upon 1342
motion of the prosecution if the testimony in the deposition or 1343
the part to be admitted is not excluded by the hearsay rule and if 1344
the deposition or the part to be admitted otherwise is admissible 1345
under the Rules of Evidence. For purposes of this division, 1346
testimony is not excluded by the hearsay rule if the testimony is 1347
not hearsay under Evidence Rule 801; the testimony is within an 1348
exception to the hearsay rule set forth in Evidence Rule 803; the 1349
mentally retarded or developmentally disabled victim who gave the 1350
testimony is unavailable as a witness, as defined in Evidence Rule 1351
804, and the testimony is admissible under that rule; or both of 1352
the following apply: 1353

(a) The defendant had an opportunity and similar motive at 1354
the time of the taking of the deposition to develop the testimony 1355
by direct, cross, or redirect examination. 1356

(b) The judge determines that there is reasonable cause to 1357
believe that, if the mentally retarded or developmentally disabled 1358
victim who gave the testimony in the deposition were to testify in 1359
person at the proceeding, the mentally retarded or developmentally 1360
disabled victim would experience serious emotional trauma as a 1361
result of the mentally retarded or developmentally disabled 1362
victim's participation at the proceeding. 1363

(2) Objections to receiving in evidence a deposition or a 1364
part of it under division (C) of this section shall be made as 1365

provided in civil actions.

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(3) The provisions of divisions (B) and (C) of this section
are in addition to any other provisions of the Revised Code, the
Rules of Criminal Procedure, or the Rules of Evidence that pertain
to the taking or admission of depositions in a criminal proceeding
and do not limit the admissibility under any of those other
provisions of any deposition taken under division (B) of this
section or otherwise taken.

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

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from the room in which the testimony is to be taken every person 1398
except a person described in division (B)(2) of this section. The 1399
judge, at the judge's discretion, may preside during the giving of 1400
the testimony by electronic means from outside the room in which 1401
it is being given, subject to the limitations set forth in 1402
division (B)(2) of this section. To the extent feasible, any 1403
person operating the televising equipment shall be hidden from the 1404
sight and hearing of the mentally retarded or developmentally 1405
disabled victim giving the testimony, in a manner similar to that 1406
described in division (B)(2) of this section. The defendant shall 1407
be permitted to observe and hear the testimony of the mentally 1408
retarded or developmentally disabled victim giving the testimony 1409
on a monitor, shall be provided with an electronic means of 1410
immediate communication with the defendant's attorney during the 1411
testimony, and shall be restricted to a location from which the 1412
defendant cannot be seen or heard by the mentally retarded or 1413
developmentally disabled victim giving the testimony, except on a 1414
monitor provided for that purpose. The mentally retarded or 1415
developmentally disabled victim giving the testimony shall be 1416
provided with a monitor on which the mentally retarded or 1417
developmentally disabled victim can observe, during the testimony, 1418
the defendant. 1419

(E) In any proceeding in the prosecution of any charge of a 1420
violation listed in division (B)(1) of this section or an offense 1421
of violence and in which an alleged victim of the violation or 1422
offense was a mentally retarded or developmentally disabled 1423
victim, the prosecution may file a motion with the judge 1424
requesting the judge to order the testimony of the mentally 1425
retarded or developmentally disabled victim to be taken outside of 1426
the room in which the proceeding is being conducted and be 1427
recorded for showing in the room in which the proceeding is being 1428
conducted before the judge, the jury, if applicable, the 1429

defendant, and any other persons who would have been present 1430
during the testimony of the mentally retarded or developmentally 1431
disabled victim had it been given in the room in which the 1432
proceeding is being conducted. Except for good cause shown, the 1433
prosecution shall file a motion under this division at least seven 1434
days before the date of the proceeding. The judge may issue the 1435
order upon the motion of the prosecution filed under this 1436
division, if the judge determines that the mentally retarded or 1437
developmentally disabled victim is unavailable to testify in the 1438
room in which the proceeding is being conducted in the physical 1439
presence of the defendant, for one or more of the reasons set 1440
forth in division (F) of this section. If a judge issues an order 1441
of that nature, the judge shall exclude from the room in which the 1442
testimony is to be taken every person except a person described in 1443
division (B)(2) of this section. To the extent feasible, any 1444
person operating the recording equipment shall be hidden from the 1445
sight and hearing of the mentally retarded or developmentally 1446
disabled victim giving the testimony, in a manner similar to that 1447
described in division (B)(2) of this section. The defendant shall 1448
be permitted to observe and hear the testimony of the mentally 1449
retarded or developmentally disabled victim who is giving the 1450
testimony on a monitor, shall be provided with an electronic means 1451
of immediate communication with the defendant's attorney during 1452
the testimony, and shall be restricted to a location from which 1453
the defendant cannot be seen or heard by the mentally retarded or 1454
developmentally disabled victim giving the testimony, except on a 1455
monitor provided for that purpose. The mentally retarded or 1456
developmentally disabled victim giving the testimony shall be 1457
provided with a monitor on which the victim can observe, during 1458
the testimony, the defendant. No order for the taking of testimony 1459
by recording shall be issued under this division unless the 1460
provisions set forth in divisions (B)(2)(a), (b), (c), and (d) of 1461
this section apply to the recording of the testimony. 1462

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

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

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

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

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

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

this section, or the taking of testimony outside of the room in 1494
which a proceeding is being conducted under division (D) or (E) of 1495
this section shall enter the determination and findings on the 1496
record in the proceeding. 1497

Sec. 2945.491. (A) As used in this section: 1498

(1) "Mentally retarded person" and "developmentally disabled 1499
person" have the same meanings as in section 5123.01 of the 1500
Revised Code. 1501

(2) "Mentally retarded or developmentally disabled victim" 1502
includes a mentally retarded or developmentally disabled person 1503
who was a victim of a felony violation identified in division 1504
(B)(1) of this section or a felony offense of violence or against 1505
whom was directed any conduct that constitutes, or that is an 1506
element of, a felony violation identified in division (B)(1) of 1507
this section or a felony offense of violence. 1508

(B)(1) At a trial on a charge of a felony violation of 1509
section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 1510
2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 1511
2907.323 of the Revised Code or an offense of violence and in 1512
which an alleged victim of the violation or offense was a mentally 1513
retarded or developmentally disabled person, the court, upon 1514
motion of the prosecutor in the case, may admit videotaped 1515
preliminary hearing testimony of the mentally retarded or 1516
developmentally disabled victim as evidence at the trial, in lieu 1517
of the mentally retarded or developmentally disabled victim 1518
appearing as a witness and testifying at trial, if all of the 1519
following apply: 1520

(a) The videotape of the testimony was made at the 1521
preliminary hearing at which probable cause of the violation 1522
charged was found. 1523

(b) The videotape of the testimony was made in accordance with division (C) of section 2937.11 of the Revised Code. 1524
1525

(c) The testimony in the videotape is not excluded by the hearsay rule and otherwise is admissible under the Rules of Evidence. For purposes of this division, testimony is not excluded by the hearsay rule if the testimony is not hearsay under Evidence Rule 801, the testimony is within an exception to the hearsay rule set forth in Evidence Rule 803, the mentally retarded or developmentally disabled victim who gave the testimony is unavailable as a witness, as defined in Evidence Rule 804, and the testimony is admissible under that rule, or both of the following apply: 1526
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(i) The accused had an opportunity and similar motive at the preliminary hearing to develop the testimony of the mentally retarded or developmentally disabled victim by direct, cross, or redirect examination. 1536
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(ii) The court determines that there is reasonable cause to believe that if the mentally retarded or developmentally disabled victim who gave the testimony at the preliminary hearing were to testify in person at the trial, the mentally retarded or developmentally disabled victim would experience serious emotional trauma as a result of the victim's participation at the trial. 1540
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(2) If a mentally retarded or developmentally disabled victim of an alleged felony violation of section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code or an alleged felony offense of violence testifies at the preliminary hearing in the case, if the testimony of the mentally retarded or developmentally disabled victim at the preliminary hearing was videotaped pursuant to division (C) of section 2937.11 of the Revised Code, and if the defendant in the case files a written 1546
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objection to the use, pursuant to division (B)(1) of this section, 1555
of the videotaped testimony at the trial, the court, immediately 1556
after the filing of the objection, shall hold a hearing to 1557
determine whether the videotaped testimony of the mentally 1558
retarded or developmentally disabled victim should be admissible 1559
at trial under division (B)(1) of this section and, if it is 1560
admissible, whether the mentally retarded or developmentally 1561
disabled victim should be required to provide limited additional 1562
testimony of the type described in this division. At the hearing 1563
held pursuant to this division, the defendant and the prosecutor 1564
in the case may present any evidence that is relevant to the 1565
issues to be determined at the hearing, but the mentally retarded 1566
or developmentally disabled victim shall not be required to 1567
testify at the hearing. 1568

After the hearing, the court shall not require the mentally 1569
retarded or developmentally disabled victim to testify at the 1570
trial, unless it determines that both of the following apply: 1571

(a) That the testimony of the mentally retarded or 1572
developmentally disabled victim at trial is necessary for one or 1573
more of the following reasons: 1574

(i) Evidence that was not available at the time of the 1575
testimony of the mentally retarded or developmentally disabled 1576
victim at the preliminary hearing has been discovered. 1577

(ii) The circumstances surrounding the case have changed 1578
sufficiently to necessitate that the mentally retarded or 1579
developmentally disabled victim testify at the trial. 1580

(b) That the testimony of the mentally retarded or 1581
developmentally disabled victim at the trial is necessary to 1582
protect the right of the defendant to a fair trial. 1583

The court shall enter its finding and the reasons for it in 1584
the journal. If the court requires the mentally retarded or 1585

developmentally disabled victim to testify at the trial, the 1586
testimony of the victim shall be limited to the new evidence and 1587
changed circumstances, and the mentally retarded or 1588
developmentally disabled victim shall not otherwise be required to 1589
testify at the trial. The required testimony of the mentally 1590
retarded or developmentally disabled victim may be given in person 1591
or, upon motion of the prosecution, may be taken by deposition in 1592
accordance with division (B) of section 2945.482 of the Revised 1593
Code provided the deposition is admitted as evidence under 1594
division (C) of that section, may be taken outside of the 1595
courtroom and televised into the courtroom in accordance with 1596
division (D) of that section, or may be taken outside of the 1597
courtroom and recorded for showing in the courtroom in accordance 1598
with division (E) of that section. 1599

(3) If videotaped testimony of a mentally retarded or 1600
developmentally disabled victim is admitted at trial in accordance 1601
with division (B)(1) of this section, the mentally retarded or 1602
developmentally disabled victim shall not be compelled in any way 1603
to appear as a witness at the trial, except as provided in 1604
division (B)(2) of this section. 1605

(C) An order issued pursuant to division (B) of this section 1606
shall specifically identify the mentally retarded or 1607
developmentally disabled victim concerning whose testimony it 1608
pertains. The order shall apply only during the testimony of the 1609
mentally retarded or developmentally disabled victim it 1610
specifically identifies. 1611

Sec. 5120.173. Any person who is required to report suspected 1612
abuse or neglect of a child under eighteen years of age pursuant 1613
to division (A) of section 2151.421 of the Revised Code, ~~and~~ any 1614
person who is permitted to report or cause a report to be made of 1615
suspected abuse or neglect of a child under eighteen years of age 1616

pursuant to division (B) of that section, any person who is 1617
required to report suspected abuse or neglect of a person with 1618
mental retardation or a developmental disability pursuant to 1619
division (C) of section 5123.61 of the Revised Code, and any 1620
person who is permitted to report suspected abuse or neglect of a 1621
person with mental retardation or a developmental disability 1622
pursuant to division (F) of that section and who makes or causes 1623
the report to be made, shall direct that report to the state 1624
highway patrol if the child or the person with mental retardation 1625
or a developmental disability is an inmate in the custody of a 1626
state correctional institution. If the state highway patrol 1627
determines after receipt of the report that it is probable that 1628
abuse or neglect of the inmate occurred, the patrol shall report 1629
its findings to the department of rehabilitation and correction, 1630
to the court that sentenced the inmate for the offense for which 1631
the inmate is in the custody of the department, and to the 1632
chairman and vice-chairman of the correctional institution 1633
inspection committee established by section 103.71 of the Revised 1634
Code. 1635

Sec. 5123.032. (A) As used in this section, "developmental 1636
center" means any institution or facility of the department of 1637
mental retardation and developmental disabilities that, on the 1638
effective date of this section, is named, designated, or referred 1639
to as a developmental center. 1640

(B) Notwithstanding any other provision of law, on and after 1641
the effective date of this section, any closure of a developmental 1642
center shall be subject to, and in accordance with, this section. 1643
Notwithstanding any other provision of law, if the governor 1644
announced on or after January 1, 2003, and prior to the effective 1645
date of this section the intended closure of a developmental 1646
center and if the closure identified in the announcement has not 1647

occurred prior to the effective date of this section, the closure 1648
identified in the announcement shall be subject to the criteria 1649
set forth in this section as if the announcement had been made on 1650
or after the effective date of this amendment. 1651

(C) Notwithstanding any other provision of law, on and after 1652
the effective date of this section, prior to making any official, 1653
public announcement that the governor intends to close one or more 1654
developmental centers, the governor shall notify the general 1655
assembly in writing that the governor intends to close one or more 1656
developmental centers. The notice shall identify by name each 1657
developmental center that the governor intends to close or, if the 1658
governor has not determined any specific developmental center to 1659
close, shall state the governor's general intent to close one or 1660
more developmental centers. When the governor notifies the general 1661
assembly as required by this division, the office of budget and 1662
management promptly shall conduct an independent study of the 1663
department's developmental centers and of the department's 1664
operation of the centers, and the study shall address relevant 1665
criteria and factors, including, but not limited to, all of the 1666
following: 1667

(1) The manner in which the closure of developmental centers 1668
in general would affect the safety, health, well-being, and 1669
lifestyle of the centers' residents and their family members and 1670
would affect public safety and, if the governor's notice 1671
identifies by name one or more developmental centers that the 1672
governor intends to close, the manner in which the closure of each 1673
center so identified would affect the safety, health, well-being, 1674
and lifestyle of the center's residents and their family members 1675
and would affect public safety; 1676

(2) Whether there is a need to reduce the number of 1677
developmental centers in this state; 1678

<u>(3) The availability of alternate facilities;</u>	1679
<u>(4) The cost effectiveness of the facilities identified for closure;</u>	1680 1681
<u>(5) A comparison of the cost of residing at a facility identified for closure and the cost of new living arrangements;</u>	1682 1683
<u>(6) The geographic factors associated with each facility and its proximity to other similar facilities;</u>	1684 1685
<u>(7) The impact of collective bargaining on facility operations;</u>	1686 1687
<u>(8) The utilization and maximization of resources;</u>	1688
<u>(9) Continuity of the staff and ability to serve the facility population;</u>	1689 1690
<u>(10) Continuing costs following closure of a facility;</u>	1691
<u>(11) The impact of the closure on the local economy;</u>	1692
<u>(12) Alternatives and opportunities for consolidation with other facilities;</u>	1693 1694
<u>(13) How the closing of a facility identified for closure relates to the department's plans for the future of developmental centers in this state.</u>	1695 1696 1697
<u>(D) The office of budget and management shall complete the study required by division (C) of this section, and prepare a report that contains its findings, not later than ninety days after the governor makes the official, public announcement that the governor intends to close one or more developmental centers as described in division (C) of this section. The office shall provide a copy of the report to each member of the general assembly who requests a copy of the report.</u>	1698 1699 1700 1701 1702 1703 1704 1705
<u>Not later than the date on which the office is required to complete the report under this division, the mental retardation</u>	1706 1707

and developmental disabilities developmental center closure 1708
commission is hereby created as described in division (E) of this 1709
section. The officials with the duties to appoint members of the 1710
commission, as described in division (E) of this section, shall 1711
appoint the specified members of the commission, and, as soon as 1712
possible after the appointments, the commission shall meet for the 1713
purposes described in that division. Upon completion of the report 1714
and the creation of the commission under this division, the office 1715
promptly shall provide a copy of the report to the commission and 1716
shall present the report as described in division (E) of this 1717
section. 1718

(E)(1) A mental retardation and developmental disabilities 1719
developmental center closure commission shall be created at the 1720
time and in the manner specified in division (D) of this section. 1721
The commission consists of seven members. Two members shall be 1722
members of the senate appointed by the president of the senate, 1723
none of the members so appointed may have a developmental center 1724
identified for closure by the governor in the member's district, 1725
one member so appointed shall be a member of the majority 1726
political party in the senate, and one member so appointed shall 1727
not be a member of the majority political party in the senate. Two 1728
members shall be members of the house of representatives appointed 1729
by the speaker of the house of representatives, none of the 1730
members so appointed may have a developmental center identified 1731
for closure by the governor in the member's district, one member 1732
so appointed shall be a member of the majority political party in 1733
the house of representatives, and one member so appointed shall 1734
not be a member of the majority political party in the house of 1735
representatives. Three members shall be private executives with 1736
expertise in facility utilization, with one of these members 1737
appointed by the speaker of the house of representatives, one of 1738
them appointed by the president of the senate, and one of them 1739

appointed by the governor. The officials with the duties to 1740
appoint members of the commission shall make the appointments, and 1741
the commission shall meet, within the time periods specified in 1742
division (D) of this section. The members of the commission shall 1743
serve without compensation. At the commission's first meeting, the 1744
members shall organize and appoint a chairperson and 1745
vice-chairperson. 1746

The commission shall meet as often as is necessary for the 1747
purpose of making the recommendations to the governor that are 1748
described in this division. The commission's meetings shall be 1749
open to the public, and the commission may accept public 1750
testimony. The office of budget and management shall appear before 1751
the commission and present the report the office prepared under 1752
division (D) of this section. The commission shall meet for the 1753
purpose of making recommendations to the governor, which 1754
recommendations may include all of the following: 1755

(a) Whether any developmental center should be closed; 1756

(b) If the recommendation described in division (E)(1)(a) of 1757
this section is that one or more developmental centers should be 1758
closed, which center or centers should be closed; 1759

(c) If the governor's notice described in division (C) of 1760
this section identifies by name one or more developmental centers 1761
that the governor intends to close, whether the center or centers 1762
so identified should be closed. 1763

(2) The mental retardation and developmental disabilities 1764
developmental center closure commission, not later than ninety 1765
days after it receives the report of the office of budget and 1766
management under division (D) of this section, shall prepare a 1767
report containing its recommendations to the governor. The 1768
commission shall send a copy of the report to the governor and to 1769
each member of the general assembly who requests a copy of the 1770

report. Upon receipt of the commission's report, if the governor 1771
decides to close one or more centers, the governor either shall 1772
follow the commission's recommendations or, if the recommendations 1773
differ from the governor's official, public announcement described 1774
in division (C) of this section as to the intended closure of one 1775
or more centers, shall proceed with the closure or closures 1776
identified in that official, public announcement. The governor may 1777
decide not to close any center. 1778

The governor's decision to follow the commission's 1779
recommendations, to proceed with the closure or closures 1780
identified in the official, public announcement, or to not close 1781
any center is final. Upon the governor's making of that decision, 1782
the commission shall cease to exist. Another commission shall be 1783
created under this section each time the governor subsequently 1784
makes an official, public announcement that the governor intends 1785
to close one or more developmental centers. 1786

Sec. 5123.081. (A) As used in this section: 1787

(1) "Applicant" means a person who is under final 1788
consideration for appointment to or employment with the department 1789
of mental retardation and developmental disabilities, including, 1790
but not limited to, a person who is being transferred to the 1791
department and an employee who is being recalled or reemployed 1792
after a layoff. 1793

(2) "Criminal records check" has the same meaning as in 1794
section 109.572 of the Revised Code. 1795

(3) "Minor drug possession offense" has the same meaning as 1796
in section 2925.01 of the Revised Code. 1797

(B) The director of mental retardation and developmental 1798
disabilities shall request the superintendent of the bureau of 1799
criminal identification and investigation to conduct a criminal 1800

records check with respect to each applicant, except that the 1801
director is not required to request a criminal records check for 1802
an employee of the department who is being considered for a 1803
different position or is returning after a leave of absence or 1804
seasonal break in employment, as long as the director has no 1805
reason to believe that the employee has committed any of the 1806
offenses listed or described in division (E) of this section. 1807

If the applicant does not present proof that the applicant 1808
has been a resident of this state for the five-year period 1809
immediately prior to the date upon which the criminal records 1810
check is requested, the director shall request that the 1811
superintendent of the bureau obtain information from the federal 1812
bureau of investigation as a part of the criminal records check 1813
for the applicant. If the applicant presents proof that the 1814
applicant has been a resident of this state for that five-year 1815
period, the director may request that the superintendent of the 1816
bureau include information from the federal bureau of 1817
investigation in the criminal records check. For purposes of this 1818
division, an applicant may provide proof of residency in this 1819
state by presenting, with a notarized statement asserting that the 1820
applicant has been a resident of this state for that five-year 1821
period, a valid driver's license, notification of registration as 1822
an elector, a copy of an officially filed federal or state tax 1823
form identifying the applicant's permanent residence, or any other 1824
document the director considers acceptable. 1825

(C) The director shall provide to each applicant a copy of 1826
the form prescribed pursuant to division (C)(1) of section 109.572 1827
of the Revised Code, provide to each applicant a standard 1828
impression sheet to obtain fingerprint impressions prescribed 1829
pursuant to division (C)(2) of section 109.572 of the Revised 1830
Code, obtain the completed form and impression sheet from each 1831
applicant, and forward the completed form and impression sheet to 1832

the superintendent of the bureau of criminal identification and 1833
investigation at the time the criminal records check is requested. 1834

Any applicant who receives pursuant to this division a copy 1835
of the form prescribed pursuant to division (C)(1) of section 1836
109.572 of the Revised Code and a copy of an impression sheet 1837
prescribed pursuant to division (C)(2) of that section and who is 1838
requested to complete the form and provide a set of fingerprint 1839
impressions shall complete the form or provide all the information 1840
necessary to complete the form and shall provide the material with 1841
the impressions of the applicant's fingerprints. If an applicant, 1842
upon request, fails to provide the information necessary to 1843
complete the form or fails to provide impressions of the 1844
applicant's fingerprints, the director shall not employ the 1845
applicant. 1846

(D) The director may request any other state or federal 1847
agency to supply the director with a written report regarding the 1848
criminal record of each applicant. With regard to an applicant who 1849
becomes a department employee, if the employee holds an 1850
occupational or professional license or other credentials, the 1851
director may request that the state or federal agency that 1852
regulates the employee's occupation or profession supply the 1853
director with a written report of any information pertaining to 1854
the employee's criminal record that the agency obtains in the 1855
course of conducting an investigation or in the process of 1856
renewing the employee's license or other credentials. 1857

(E) Except as provided in division (K)(2) of this section and 1858
in rules adopted by the director in accordance with division (M) 1859
of this section, the director shall not employ a person to fill a 1860
position with the department who has been convicted of or pleaded 1861
guilty to any of the following: 1862

(1) A violation of section 2903.01, 2903.02, 2903.03, 1863
2903.341, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 1864

2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 1865
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 1866
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 1867
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 1868
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 1869
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 1870
section 2905.04 of the Revised Code as it existed prior to July 1, 1871
1996, a violation of section 2919.23 of the Revised Code that 1872
would have been a violation of section 2905.04 of the Revised Code 1873
as it existed prior to July 1, 1996, had the violation occurred 1874
prior to that date, a violation of section 2925.11 of the Revised 1875
Code that is not a minor drug possession offense, or felonious 1876
sexual penetration in violation of former section 2907.12 of the 1877
Revised Code; 1878

(2) A felony contained in the Revised Code that is not listed 1879
in this division, if the felony bears a direct and substantial 1880
relationship to the duties and responsibilities of the position 1881
being filled; 1882

(3) Any offense contained in the Revised Code constituting a 1883
misdemeanor of the first degree on the first offense and a felony 1884
on a subsequent offense, if the offense bears a direct and 1885
substantial relationship to the position being filled and the 1886
nature of the services being provided by the department; 1887

(4) A violation of an existing or former municipal ordinance 1888
or law of this state, any other state, or the United States, if 1889
the offense is substantially equivalent to any of the offenses 1890
listed or described in division (E)(1), (2), or (3) of this 1891
section. 1892

(F) Prior to employing an applicant, the director shall 1893
require the applicant to submit a statement with the applicant's 1894
signature attesting that the applicant has not been convicted of 1895
or pleaded guilty to any of the offenses listed or described in 1896

division (E) of this section. The director also shall require the 1897
applicant to sign an agreement under which the applicant agrees to 1898
notify the director within fourteen calendar days if, while 1899
employed with the department, the applicant is ever formally 1900
charged with, convicted of, or pleads guilty to any of the 1901
offenses listed or described in division (E) of this section. The 1902
agreement shall inform the applicant that failure to report formal 1903
charges, a conviction, or a guilty plea may result in being 1904
dismissed from employment. 1905

(G) The director shall pay to the bureau of criminal 1906
identification and investigation the fee prescribed pursuant to 1907
division (C)(3) of section 109.572 of the Revised Code for each 1908
criminal records check requested and conducted pursuant to this 1909
section. 1910

(H)(1) Any report obtained pursuant to this section is not a 1911
public record for purposes of section 149.43 of the Revised Code 1912
and shall not be made available to any person, other than the 1913
applicant who is the subject of the records check or criminal 1914
records check or the applicant's representative, the department or 1915
its representative, a county board of mental retardation and 1916
developmental disabilities, and any court, hearing officer, or 1917
other necessary individual involved in a case dealing with the 1918
denial of employment to the applicant or the denial, suspension, 1919
or revocation of a certificate or evidence of registration under 1920
section 5123.082 of the Revised Code. 1921

(2) An individual for whom the director has obtained reports 1922
under this section may submit a written request to the director to 1923
have copies of the reports sent to any state agency, entity of 1924
local government, or private entity. The individual shall specify 1925
in the request the agencies or entities to which the copies are to 1926
be sent. On receiving the request, the director shall send copies 1927
of the reports to the agencies or entities specified. 1928

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

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

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

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

(2) The director may employ an applicant pending receipt of reports requested under this section. The director shall terminate employment of any such applicant if it is determined from the reports that the applicant failed to inform the director that the applicant had been convicted of or pleaded guilty to any of the

offenses listed or described in division (E) of this section. 1960

(L) The director may charge an applicant a fee for costs the 1961
director incurs in obtaining reports, abstracts, or fingerprint 1962
impressions under this section. A fee charged under this division 1963
shall not exceed the amount of the fees the director pays under 1964
divisions (G) and (I) of this section. If a fee is charged under 1965
this division, the director shall notify the applicant of the 1966
amount of the fee at the time of the applicant's initial 1967
application for employment and that, unless the fee is paid, the 1968
director will not consider the applicant for employment. 1969

(M) The director shall adopt rules in accordance with Chapter 1970
119. of the Revised Code to implement this section, including 1971
rules specifying circumstances under which the director may employ 1972
a person who has been convicted of or pleaded guilty to an offense 1973
listed or described in division (E) of this section but who meets 1974
standards in regard to rehabilitation set by the director. 1975

Sec. 5123.50. As used in this section and sections 5123.51 1976
~~and~~, 5123.52, and 5123.541 of the Revised Code: 1977

(A) "Abuse" means all of the following: 1978

(1) The use of physical force that can reasonably be expected 1979
to result in physical harm or serious physical harm; 1980

(2) Sexual abuse; 1981

(3) Verbal abuse. 1982

(B) "Misappropriation" means depriving, defrauding, or 1983
otherwise obtaining the real or personal property of an individual 1984
by any means prohibited by the Revised Code, including violations 1985
of Chapter 2911. or 2913. of the Revised Code. 1986

(C) "MR/DD employee" means all of the following: 1987

(1) An employee of the department of mental retardation and 1988

developmental disabilities;	1989
(2) An employee of a county board of mental retardation and developmental disabilities;	1990 1991
(3) An "ICF/MR worker," as defined in section 5123.193 of the Revised Code;	1992 1993
(4) An individual who is employed in a position that includes providing specialized services to an individual with mental retardation or a <u>another</u> developmental disability.	1994 1995 1996
(D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual.	1997 1998 1999 2000
(E) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code.	2001 2002
(F) "Sexual abuse" means unlawful sexual conduct or sexual contact, as those terms are defined in section 2907.01 of the Revised Code.	2003 2004 2005
(G) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the department of mental retardation and developmental disabilities. A program or service available to the general public is not a specialized service.	2006 2007 2008 2009 2010 2011 2012
(H) "Verbal abuse" means purposely using words to threaten, coerce, intimidate, harass, or humiliate an individual.	2013 2014
<u>(I) "Sexual conduct," "sexual contact," and "spouse" have the same meanings as in section 2907.01 of the Revised Code.</u>	2015 2016
Sec. 5123.51. (A) In addition to any other action required by	2017

sections 5123.61 and 5126.31 of the Revised Code, the department 2018
of mental retardation and developmental disabilities shall review 2019
each report the department receives of abuse or neglect of an 2020
individual with mental retardation or a developmental disability 2021
or misappropriation of an individual's property that includes an 2022
allegation that an MR/DD employee committed or was responsible for 2023
the abuse, neglect, or misappropriation. The department shall 2024
review a report it receives from a public children services agency 2025
only after the agency completes its investigation pursuant to 2026
section 2151.421 of the Revised Code. The department shall review 2027
a report it receives from a prosecutor pursuant to section 2028
2930.061 of the Revised Code when the person who is the subject of 2029
the report is charged. 2030

(B) The department shall do ~~both~~ all of the following: 2031

(1) Investigate the allegation or adopt the findings of an 2032
investigation or review of the allegation conducted by another 2033
person or government entity and determine whether there is a 2034
reasonable basis for the allegation; 2035

(2) If the department determines that there is a reasonable 2036
basis for the allegation, it shall do all of the following: 2037

(a) Prepare a "reasonable basis determination report" that 2038
identifies the MR/DD employee, specifies that the reasonable basis 2039
determination has been made, and specifies that, if any criminal 2040
proceeding or collective bargaining arbitration concerning the 2041
same allegation is pending, further action on the matter will be 2042
held in abeyance pending the completion of the proceeding or 2043
arbitration; 2044

(b) Send the MR/DD employee a copy of the reasonable basis 2045
determination report and give the employee any notice required by 2046
Chapter 119. of the Revised Code of an opportunity for a hearing; 2047

(c) Subject to division (C)(2) of this section, conduct an 2048
adjudication pursuant to Chapter 119. of the Revised Code. 2049

(C)(1) The department shall appoint an independent hearing 2050
officer to conduct any hearing conducted pursuant to division 2051
(B)(2) of this section, except that, if the hearing is regarding 2052
an employee of the department who is represented by a union, the 2053
department and a representative of the union shall jointly select 2054
the hearing officer. 2055

(2) No hearing shall be conducted under division (B)(2) of 2056
this section until any criminal proceeding or collective 2057
bargaining arbitration concerning the same allegation has 2058
concluded. 2059

(3) In conducting a hearing pursuant to division (B)(2) of 2060
this section, the hearing officer shall do both of the following: 2061

(a) Determine whether there is clear and convincing evidence 2062
that the MR/DD employee has done any of the following: 2063

(i) Misappropriated ~~the~~ property with a value of one hundred 2064
dollars or greater of an individual with mental retardation or a 2065
developmental disability; 2066

(ii) Knowingly abused or neglected such an individual; 2067

(iii) Recklessly abused or neglected such an individual, with 2068
resulting physical harm; 2069

(iv) Negligently abused or neglected such an individual, with 2070
resulting serious physical harm; 2071

(v) Recklessly neglected such an individual, creating a 2072
substantial risk of serious physical harm; 2073

(vi) Engaged in sexual conduct or had sexual contact with an 2074
individual with mental retardation or another developmental 2075
disability who was in the MR/DD employee's care and who was not 2076
the MR/DD employee's spouse; 2077

(vii) Failed to make a report pursuant to division (C) of 2078
section 5123.61 of the Revised Code. 2079

(b) Give weight to the decision in any collective bargaining 2080
arbitration regarding the same allegation; 2081

(c) Give weight to any affirmative defense that the MR/DD 2082
employee established in any pleading or proceeding related to any 2083
criminal charge that was filed against the MR/DD employee 2084
concerning the same allegation. 2085

(D)(1) Unless the director of mental retardation and 2086
developmental disabilities determines that there are extenuating 2087
circumstances and except as provided in ~~divisions (D)(4) and~~ 2088
division (E) of this section, the director shall include in the 2089
registry established under section 5123.52 of the Revised Code the 2090
name of an MR/DD employee if the director finds that there is 2091
clear and convincing evidence that the employee has done one or 2092
more of the things described in division (C)(3)(a) of this 2093
section. 2094

(2) Extenuating circumstances the director must consider 2095
include the use of physical force by an MR/DD employee that was 2096
necessary as self-defense, and any affirmative defense that the 2097
MR/DD employee established in any pleading or proceeding related 2098
to any criminal charge that was filed against the MR/DD employee 2099
concerning the same allegation. 2100

(3) If the director includes an MR/DD employee in the 2101
registry established under section 5123.52 of the Revised Code, 2102
the director shall notify the employee, the person or government 2103
entity that employs or contracts with the employee, the individual 2104
with mental retardation or a developmental disability who was the 2105
subject of the report and that individual's legal guardian, if 2106
any, the attorney general, and the prosecuting attorney or other 2107
law enforcement agency. If the MR/DD employee holds a license, 2108

certificate, registration, or other authorization to engage in a 2109
profession issued pursuant to Title XLVII of the Revised Code, the 2110
director shall notify the appropriate agency, board, department, 2111
or other entity responsible for regulating the employee's 2112
professional practice. 2113

~~(4) The director shall not include in the registry an 2114
individual who has been found not guilty by a court or jury of an 2115
offense arising from the same facts. 2116~~

(E) In the case of an allegation concerning an employee of 2117
the department, after the hearing conducted pursuant to division 2118
(B)(2) of this section, the director of health or that director's 2119
designee shall review the decision of the hearing officer to 2120
determine whether the standard described in division (C)(2) of 2121
this section has been met. If the director or designee determines 2122
that the standard has been met and that no extenuating 2123
circumstances exist, the director or designee shall notify the 2124
director of mental retardation and developmental disabilities that 2125
the MR/DD employee is to be included in the registry established 2126
under section 5123.52 of the Revised Code. If the director of 2127
mental retardation and developmental disabilities receives such 2128
notification, the director shall include the MR/DD employee in the 2129
registry, ~~unless division (D)(4) of this section applies,~~ and 2130
shall provide the notification described in division (D)(3) of 2131
this section. 2132

(F) If the department is required by Chapter 119. of the 2133
Revised Code to give notice of an opportunity for a hearing and if 2134
the MR/DD employee subject to the notice does not timely request a 2135
hearing in accordance with section 119.07 of the Revised Code, the 2136
department is not required to hold a hearing, and the department 2137
and director shall proceed as if a hearing had been conducted. 2138

(G) A reasonable basis determination report prepared pursuant 2139
to division (B)(2) of this section is a public record open for 2140

inspection under section 149.43 of the Revised Code. A reasonable 2141
basis determination report is not part of the registry established 2142
under section 5123.52 of the Revised Code. Files and records of 2143
investigations conducted pursuant to this section are not public 2144
records as defined in section 149.43 of the Revised Code, but, on 2145
request, the department shall provide copies of those files and 2146
records to the attorney general, a prosecuting attorney, or a law 2147
enforcement agency. 2148

(H)(1) A person or government entity that fails to hire or 2149
retain as an MR/DD employee a person because the department has 2150
determined pursuant to division (B) of this section that there is 2151
a reasonable basis for an allegation against the person contained 2152
in a report described in division (A) of this section or because a 2153
reasonable basis determination report has been prepared for the 2154
person shall not be liable in a civil action based upon that 2155
failure to hire or retain brought by the employee or applicant for 2156
employment. 2157

(2) This section does not create a new cause of action 2158
against any person or government entity that hires or retains as 2159
an MR/DD employee a person about whom the department has 2160
determined pursuant to division (B) of this section that there is 2161
a reasonable basis for an allegation against the person contained 2162
in a report described in division (A) of this section or for whom 2163
a reasonable basis determination report has been prepared. 2164

Sec. 5123.541. (A) An MR/DD employee shall not engage in any 2165
sexual conduct or have any sexual contact with an individual with 2166
mental retardation or another developmental disability who is in 2167
the MR/DD employee's care and who is not the MR/DD employee's 2168
spouse. 2169

(B) The department of mental retardation and developmental 2170
disabilities and each county board of mental retardation and 2171

developmental disabilities shall notify each MR/DD employee who is 2172
an employee of the department or board, whichever is applicable, 2173
of all changes, as of the effective date of this section, in the 2174
conduct for which an MR/DD employee may be included in the 2175
registry described in division (C) of this section. The department 2176
shall ensure that each MR/DD employee of a type described in 2177
division (C)(3) or (4) of section 5123.50 of the Revised Code who 2178
is not an employee of the department or board is given notice of 2179
the changes referred to in this division. 2180

(C) Any MR/DD employee who violates division (A) of this 2181
section shall be eligible to be included in the registry regarding 2182
misappropriation, abuse, neglect, or other specified misconduct by 2183
MR/DD employees established under section 5123.52 of the Revised 2184
Code, in addition to any other sanction or penalty authorized or 2185
required by law. 2186

Sec. 5123.61. (A) As used in this section: 2187

(1) "Law enforcement agency" means the state highway patrol, 2188
the police department of a municipal corporation, or a county 2189
sheriff. 2190

(2) "Abuse" has the same meaning as in section 5123.50 of the 2191
Revised Code, except that it includes a misappropriation, as 2192
defined in that section. 2193

(3) "Neglect" has the same meaning as in section 5123.50 of 2194
the Revised Code. 2195

(B) The department of mental retardation and developmental 2196
disabilities shall establish a registry office for the purpose of 2197
maintaining reports of abuse, neglect, and other major unusual 2198
incidents made to the department under this section and reports 2199
received from county boards of mental retardation and 2200
developmental disabilities under section 5126.31 of the Revised 2201

Code. The department shall establish committees to review reports 2202
of abuse, neglect, and other major unusual incidents. 2203

(C)(1) Any person listed in division (C)(2) of this section, 2204
having reason to believe that a person with mental retardation or 2205
a developmental disability has suffered or faces a substantial 2206
risk of suffering any wound, injury, disability, or condition of 2207
such a nature as to reasonably indicate abuse or neglect of that 2208
person, shall immediately report or cause reports to be made of 2209
such information to the entity specified in this division. Except 2210
as provided in section 5120.173 of the Revised Code or as 2211
otherwise provided in this division, the person making the report 2212
shall make it to a law enforcement agency or to the county board 2213
of mental retardation and developmental disabilities, ~~except that~~ 2214
~~if.~~ If the report concerns a resident of a facility operated by 2215
the department of mental retardation and developmental 2216
disabilities the report shall be made either to a law enforcement 2217
agency or to the department. If the report concerns any act or 2218
omission of an employee of a county board of mental retardation 2219
and developmental disabilities, the report immediately shall be 2220
made to the department and to the county board. 2221

(2) All of the following persons are required to make a 2222
report under division (C)(1) of this section: 2223

(a) Any physician, including a hospital intern or resident, 2224
any dentist, podiatrist, chiropractor, practitioner of a limited 2225
branch of medicine as specified in section 4731.15 of the Revised 2226
Code, hospital administrator or employee of a hospital, nurse 2227
licensed under Chapter 4723. of the Revised Code, employee of an 2228
ambulatory health facility as defined in section 5101.61 of the 2229
Revised Code, employee of a home health agency, employee of an 2230
adult care facility licensed under Chapter 3722. of the Revised 2231
Code, or employee of a community mental health facility; 2232

(b) Any school teacher or school authority, social worker, 2233

psychologist, attorney, peace officer, coroner, ~~clergyman~~, or 2234
residents' rights advocate as defined in section 3721.10 of the 2235
Revised Code; 2236

(c) A superintendent, board member, or employee of a county 2237
board of mental retardation and developmental disabilities; an 2238
administrator, board member, or employee of a residential facility 2239
licensed under section 5123.19 of the Revised Code; an 2240
administrator, board member, or employee of any other public or 2241
private provider of services to a person with mental retardation 2242
or a developmental disability, or any MR/DD employee, as defined 2243
in section 5123.50 of the Revised Code; 2244

(d) A member of a citizen's advisory council established at 2245
an institution or branch institution of the department of mental 2246
retardation and developmental disabilities under section 5123.092 2247
of the Revised Code; 2248

(e) A clergyman who is employed in a position that includes 2249
providing specialized services to an individual with mental 2250
retardation or another developmental disability, while acting in 2251
an official or professional capacity in that position, or a person 2252
who is employed in a position that includes providing specialized 2253
services to an individual with mental retardation or another 2254
developmental disability and who, while acting in an official or 2255
professional capacity, renders spiritual treatment through prayer 2256
in accordance with the tenets of an organized religion. 2257

(3)(a) The reporting requirements of this division do not 2258
apply to members of the legal rights service commission or to 2259
employees of the legal rights service. 2260

(b) An attorney or physician is not required to make a report 2261
pursuant to division (C)(1) of this section concerning any 2262
communication the attorney or physician receives from a client or 2263
patient in an attorney-client or physician-patient relationship. 2264

if, in accordance with division (A) or (B) of section 2317.02 of 2265
the Revised Code, the attorney or physician could not testify with 2266
respect to that communication in a civil or criminal proceeding, 2267
except that the client or patient is deemed to have waived any 2268
testimonial privilege under division (A) or (B) of section 2317.02 2269
of the Revised Code with respect to that communication and the 2270
attorney or physician shall make a report pursuant to division 2271
(C)(1) of this section, if both of the following apply: 2272

(i) The client or patient, at the time of the communication, 2273
is a person with mental retardation or a developmental disability. 2274

(ii) The attorney or physician knows or suspects, as a result 2275
of the communication or any observations made during that 2276
communication, that the client or patient has suffered or faces a 2277
substantial risk of suffering any wound, injury, disability, or 2278
condition of a nature that reasonably indicates abuse or neglect 2279
of the client or patient. 2280

(4) Any person who fails to make a report required under 2281
division (C) of this section and who is an MR/DD employee, as 2282
defined in section 5123.50 of the Revised Code, shall be eligible 2283
to be included in the registry regarding misappropriation, abuse, 2284
neglect, or other specified misconduct by MR/DD employees 2285
established under section 5123.52 of the Revised Code. 2286

(D) The reports required under division (C) of this section 2287
shall be made forthwith by telephone or in person and shall be 2288
followed by a written report. The reports shall contain the 2289
following: 2290

(1) The names and addresses of the person with mental 2291
retardation or a developmental disability and the person's 2292
custodian, if known; 2293

(2) The age of the person with mental retardation or a 2294
developmental disability; 2295

(3) Any other information that would assist in the 2296
investigation of the report. 2297

(E) When a physician performing services as a member of the 2298
staff of a hospital or similar institution has reason to believe 2299
that a person with mental retardation or a developmental 2300
disability has suffered injury, abuse, or physical neglect, the 2301
physician shall notify the person in charge of the institution or 2302
that person's designated delegate, who shall make the necessary 2303
reports. 2304

(F) Any person having reasonable cause to believe that a 2305
person with mental retardation or a developmental disability has 2306
suffered or faces a substantial risk of suffering abuse or neglect 2307
may report ~~the belief,~~ or cause a report to be made, of that 2308
belief to the entity specified in this division. Except as 2309
provided in section 5120.173 of the Revised Code or as otherwise 2310
provided in this division, the person making the report shall make 2311
it to a law enforcement agency or the county board of mental 2312
retardation and developmental disabilities, ~~or, if.~~ If the person 2313
is a resident of a facility operated by the department of mental 2314
retardation and developmental disabilities, the report shall be 2315
made to a law enforcement agency or to the department. If the 2316
report concerns any act or omission of an employee of a county 2317
board of mental retardation and developmental disabilities, the 2318
report immediately shall be made to the department and to the 2319
county board. 2320

(G)(1) Upon the receipt of a report concerning the possible 2321
abuse or neglect of a person with mental retardation or a 2322
developmental disability, the law enforcement agency shall inform 2323
the county board of mental retardation and developmental 2324
disabilities or, if the person is a resident of a facility 2325
operated by the department of mental retardation and developmental 2326
disabilities, the director of the department or the director's 2327

designee. 2328

(2) On receipt of a report under this section that includes 2329
an allegation of action or inaction that may constitute a crime 2330
under federal law or the law of this state, the department of 2331
mental retardation and developmental disabilities shall notify the 2332
law enforcement agency. 2333

(3) When a county board of mental retardation and 2334
developmental disabilities receives a report under this section 2335
that includes an allegation of action or inaction that may 2336
constitute a crime under federal law or the law of this state, the 2337
superintendent of the board or an individual the superintendent 2338
designates under division (H) of this section shall notify the law 2339
enforcement agency. The superintendent or individual shall notify 2340
the department of mental retardation and developmental 2341
disabilities when it receives any report under this section. 2342

(4) When a county board of mental retardation and 2343
developmental disabilities receives a report under this section 2344
and believes that the degree of risk to the person is such that 2345
the report is an emergency, the superintendent of the board or an 2346
employee of the board the superintendent designates shall attempt 2347
a face-to-face contact with the person with mental retardation or 2348
a developmental disability who allegedly is the victim within one 2349
hour of the board's receipt of the report. 2350

(H) The superintendent of the board may designate an 2351
individual to be responsible for notifying the law enforcement 2352
agency and the department when the county board receives a report 2353
under this section. 2354

(I) An adult with mental retardation or a developmental 2355
disability about whom a report is made may be removed from the 2356
adult's place of residence only by law enforcement officers who 2357
consider that the adult's immediate removal is essential to 2358

protect the adult from further injury or abuse or in accordance 2359
with the order of a court made pursuant to section 5126.33 of the 2360
Revised Code. 2361

(J) A law enforcement agency shall investigate each report of 2362
abuse or neglect it receives under this section. In addition, the 2363
department, in cooperation with law enforcement officials, shall 2364
investigate each report regarding a resident of a facility 2365
operated by the department to determine the circumstances 2366
surrounding the injury, the cause of the injury, and the person 2367
responsible. The investigation shall be in accordance with the 2368
memorandum of understanding prepared under section 5126.058 of the 2369
Revised Code. The department shall determine, with the registry 2370
office which shall be maintained by the department, whether prior 2371
reports have been made concerning ~~and~~ an adult with mental 2372
retardation or a developmental disability or other principals in 2373
the case. If the department finds that the report involves action 2374
or inaction that may constitute a crime under federal law or the 2375
law of this state, it shall submit a report of its investigation, 2376
in writing, to the law enforcement agency. If the person with 2377
mental retardation or a developmental disability is an adult, with 2378
the consent of the adult, the department shall provide such 2379
protective services as are necessary to protect the adult. The law 2380
enforcement agency shall make a written report of its findings to 2381
the department. 2382

If the person is an adult and is not a resident of a facility 2383
operated by the department, the county board of mental retardation 2384
and developmental disabilities shall review the report of abuse or 2385
neglect in accordance with sections 5126.30 to 5126.33 of the 2386
Revised Code and the law enforcement agency shall make the written 2387
report of its findings to the county board. 2388

(K) Any person or any hospital, institution, school, health 2389
department, or agency participating in the making of reports 2390

pursuant to this section, any person participating as a witness in 2391
an administrative or judicial proceeding resulting from the 2392
reports, or any person or governmental entity that discharges 2393
responsibilities under sections 5126.31 to 5126.33 of the Revised 2394
Code shall be immune from any civil or criminal liability that 2395
might otherwise be incurred or imposed as a result of such actions 2396
except liability for perjury, unless the person or governmental 2397
entity has acted in bad faith or with malicious purpose. 2398

(L) No employer or any person with the authority to do so 2399
shall discharge, demote, transfer, prepare a negative work 2400
performance evaluation, reduce pay or benefits, terminate work 2401
privileges, or take any other action detrimental to an employee or 2402
retaliate against an employee as a result of the employee's having 2403
made a report under this section. This division does not preclude 2404
an employer or person with authority from taking action with 2405
regard to an employee who has made a report under this section if 2406
there is another reasonable basis for the action. 2407

(M) Reports made under this section are not public records as 2408
defined in section 149.43 of the Revised Code. Information 2409
contained in the reports on request shall be made available to the 2410
person who is the subject of the report, to the person's legal 2411
counsel, and to agencies authorized to receive information in the 2412
report by the department or by a county board of mental 2413
retardation and developmental disabilities. 2414

(N) Notwithstanding section 4731.22 of the Revised Code, the 2415
physician-patient privilege shall not be a ground for excluding 2416
evidence regarding the injuries or physical neglect of a person 2417
with mental retardation or a developmental disability or the cause 2418
thereof in any judicial proceeding resulting from a report 2419
submitted pursuant to this section. 2420

Sec. 5123.99. (A) Whoever violates section 5123.20 of the 2421

Revised Code is guilty of a misdemeanor of the first degree. 2422

(B) Whoever violates division (C), (E), or (G)(3) of section 2423
5123.61 of the Revised Code ~~shall be fined not more than five~~ 2424
~~hundred dollars~~ is guilty of a misdemeanor of the fourth degree 2425
or, if the abuse or neglect constitutes a felony, a misdemeanor of 2426
the second degree. In addition to any other sanction or penalty 2427
authorized or required by law, if a person who is convicted of or 2428
pleads guilty to a violation of division (C), (E), or (G)(3) of 2429
section 5123.61 of the Revised Code is an MR/DD employee, as 2430
defined in section 5123.50 of the Revised Code, the offender shall 2431
be eligible to be included in the registry regarding 2432
misappropriation, abuse, neglect, or other specified misconduct by 2433
MR/DD employees established under section 5123.52 of the Revised 2434
Code. 2435

(C) Whoever violates division (A) of section 5123.604 of the 2436
Revised Code is guilty of a misdemeanor of the second degree. 2437

(D) Whoever violates division (B) of section 5123.604 of the 2438
Revised Code shall be fined not more than one thousand dollars. 2439
Each violation constitutes a separate offense. 2440

Sec. 5126.058. (A) Each county board of mental retardation 2441
and developmental disabilities shall prepare a memorandum of 2442
understanding that is developed by all of the following and that 2443
is signed by the persons identified in divisions (A)(3) to (8) of 2444
this section: 2445

(1) If there is only one probate judge in the county, the 2446
probate judge of the county or the probate judge's representative; 2447

(2) If there is more than one probate judge in the county, a 2448
probate judge or the probate judge's representative selected by 2449
the probate judges or, if they are unable to do so for any reason, 2450
the probate judge who is senior in point of service or the senior 2451

<u>probate judge's representative;</u>	2452
<u>(3) The county peace officer;</u>	2453
<u>(4) All chief municipal peace officers within the county;</u>	2454
<u>(5) Other law enforcement officers handling abuse, neglect,</u>	2455
<u>and exploitation of mentally retarded and developmentally disabled</u>	2456
<u>persons in the county;</u>	2457
<u>(6) The prosecuting attorney of the county;</u>	2458
<u>(7) The public children services agency;</u>	2459
<u>(8) The coroner of the county.</u>	2460
<u>(B) A memorandum of understanding shall set forth the normal</u>	2461
<u>operating procedure to be employed by all concerned officials in</u>	2462
<u>the execution of their respective responsibilities under this</u>	2463
<u>section and sections 313.12, 2151.421, 2903.16, 5126.31, and</u>	2464
<u>5126.33 of the Revised Code and shall have as its primary goal the</u>	2465
<u>elimination of all unnecessary interviews of persons who are the</u>	2466
<u>subject of reports made pursuant to this section. A failure to</u>	2467
<u>follow the procedure set forth in the memorandum by the concerned</u>	2468
<u>officials is not grounds for, and shall not result in, the</u>	2469
<u>dismissal of any charge or complaint arising from any reported</u>	2470
<u>case of abuse, neglect, or exploitation or the suppression of any</u>	2471
<u>evidence obtained as a result of any reported abuse, neglect, or</u>	2472
<u>exploitation and does not give any rights or grounds for appeal or</u>	2473
<u>post-conviction relief to any person.</u>	2474
<u>(C) A memorandum of understanding shall include, but is not</u>	2475
<u>limited to, all of the following:</u>	2476
<u>(1) The roles and responsibilities for handling emergency and</u>	2477
<u>nonemergency cases of abuse, neglect, or exploitation;</u>	2478
<u>(2) The roles and responsibilities for handling and</u>	2479
<u>coordinating investigations of reported cases of abuse, neglect,</u>	2480
<u>or exploitation and methods to be used in interviewing the person</u>	2481

<u>who is the subject of the report and who allegedly was abused,</u>	2482
<u>neglected, or exploited;</u>	2483
<u>(3) The roles and responsibilities for addressing the</u>	2484
<u>categories of persons who may interview the person who is the</u>	2485
<u>subject of the report and who allegedly was abused, neglected, or</u>	2486
<u>exploited;</u>	2487
<u>(4) The roles and responsibilities for providing victim</u>	2488
<u>services to mentally retarded and developmentally disabled persons</u>	2489
<u>pursuant to Chapter 2930. of the Revised Code;</u>	2490
<u>(5) The roles and responsibilities for the filing of criminal</u>	2491
<u>charges against persons alleged to have abused, neglected, or</u>	2492
<u>exploited mentally retarded or developmentally disabled persons.</u>	2493
<u>(D) A memorandum of understanding may be signed by victim</u>	2494
<u>advocates, municipal court judges, municipal prosecutors, and any</u>	2495
<u>other person whose participation furthers the goals of a</u>	2496
<u>memorandum of understanding, as set forth in this section.</u>	2497
Sec. 5126.28. (A) As used in this section:	2498
(1) "Applicant" means a person who is under final	2499
consideration for appointment or employment in a position with a	2500
county board of mental retardation and developmental disabilities,	2501
including, but not limited to, a person who is being transferred	2502
to the county board and an employee who is being recalled or	2503
reemployed after a layoff.	2504
(2) "Criminal records check" has the same meaning as in	2505
section 109.572 of the Revised Code.	2506
(3) "Minor drug possession offense" has the same meaning as	2507
in section 2925.01 of the Revised Code.	2508
(B) The superintendent of a county board of mental	2509
retardation and developmental disabilities shall request the	2510

superintendent of the bureau of criminal identification and 2511
investigation to conduct a criminal records check with respect to 2512
any applicant who has applied to the board for employment in any 2513
position, except that a county board superintendent is not 2514
required to request a criminal records check for an employee of 2515
the board who is being considered for a different position or is 2516
returning after a leave of absence or seasonal break in 2517
employment, as long as the superintendent has no reason to believe 2518
that the employee has committed any of the offenses listed or 2519
described in division (E) of this section. 2520

If the applicant does not present proof that the applicant 2521
has been a resident of this state for the five-year period 2522
immediately prior to the date upon which the criminal records 2523
check is requested, the county board superintendent shall request 2524
that the superintendent of the bureau obtain information from the 2525
federal bureau of investigation as a part of the criminal records 2526
check for the applicant. If the applicant presents proof that the 2527
applicant has been a resident of this state for that five-year 2528
period, the county board superintendent may request that the 2529
superintendent of the bureau include information from the federal 2530
bureau of investigation in the criminal records check. For 2531
purposes of this division, an applicant may provide proof of 2532
residency in this state by presenting, with a notarized statement 2533
asserting that the applicant has been a resident of this state for 2534
that five-year period, a valid driver's license, notification of 2535
registration as an elector, a copy of an officially filed federal 2536
or state tax form identifying the applicant's permanent residence, 2537
or any other document the superintendent considers acceptable. 2538

(C) The county board superintendent shall provide to each 2539
applicant a copy of the form prescribed pursuant to division 2540
(C)(1) of section 109.572 of the Revised Code, provide to each 2541
applicant a standard impression sheet to obtain fingerprint 2542

impressions prescribed pursuant to division (C)(2) of section 2543
109.572 of the Revised Code, obtain the completed form and 2544
impression sheet from each applicant, and forward the completed 2545
form and impression sheet to the superintendent of the bureau of 2546
criminal identification and investigation at the time the criminal 2547
records check is requested. 2548

Any applicant who receives pursuant to this division a copy 2549
of the form prescribed pursuant to division (C)(1) of section 2550
109.572 of the Revised Code and a copy of an impression sheet 2551
prescribed pursuant to division (C)(2) of that section and who is 2552
requested to complete the form and provide a set of fingerprint 2553
impressions shall complete the form or provide all the information 2554
necessary to complete the form and shall provide the impression 2555
sheet with the impressions of the applicant's fingerprints. If an 2556
applicant, upon request, fails to provide the information 2557
necessary to complete the form or fails to provide impressions of 2558
the applicant's fingerprints, the county board superintendent 2559
shall not employ that applicant. 2560

(D) A county board superintendent may request any other state 2561
or federal agency to supply the board with a written report 2562
regarding the criminal record of each applicant. With regard to an 2563
applicant who becomes a board employee, if the employee holds an 2564
occupational or professional license or other credentials, the 2565
superintendent may request that the state or federal agency that 2566
regulates the employee's occupation or profession supply the board 2567
with a written report of any information pertaining to the 2568
employee's criminal record that the agency obtains in the course 2569
of conducting an investigation or in the process of renewing the 2570
employee's license or other credentials. 2571

(E) Except as provided in division (K)(2) of this section and 2572
in rules adopted by the department of mental retardation and 2573
developmental disabilities in accordance with division (M) of this 2574

section, no county board of mental retardation and developmental 2575
disabilities shall employ a person to fill a position with the 2576
board who has been convicted of or pleaded guilty to any of the 2577
following: 2578

(1) A violation of section 2903.01, 2903.02, 2903.03, 2579
2903.341, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2580
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2581
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2582
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2583
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2584
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2585
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 2586
section 2905.04 of the Revised Code as it existed prior to July 1, 2587
1996, a violation of section 2919.23 of the Revised Code that 2588
would have been a violation of section 2905.04 of the Revised Code 2589
as it existed prior to July 1, 1996, had the violation occurred 2590
prior to that date, a violation of section 2925.11 of the Revised 2591
Code that is not a minor drug possession offense, or felonious 2592
sexual penetration in violation of former section 2907.12 of the 2593
Revised Code; 2594

(2) A felony contained in the Revised Code that is not listed 2595
in this division, if the felony bears a direct and substantial 2596
relationship to the duties and responsibilities of the position 2597
being filled; 2598

(3) Any offense contained in the Revised Code constituting a 2599
misdemeanor of the first degree on the first offense and a felony 2600
on a subsequent offense, if the offense bears a direct and 2601
substantial relationship to the position being filled and the 2602
nature of the services being provided by the county board; 2603

(4) A violation of an existing or former municipal ordinance 2604
or law of this state, any other state, or the United States, if 2605
the offense is substantially equivalent to any of the offenses 2606

listed or described in division (E)(1), (2), or (3) of this 2607
section. 2608

(F) Prior to employing an applicant, the county board 2609
superintendent shall require the applicant to submit a statement 2610
with the applicant's signature attesting that the applicant has 2611
not been convicted of or pleaded guilty to any of the offenses 2612
listed or described in division (E) of this section. The 2613
superintendent also shall require the applicant to sign an 2614
agreement under which the applicant agrees to notify the 2615
superintendent within fourteen calendar days if, while employed by 2616
the board, the applicant is ever formally charged with, convicted 2617
of, or pleads guilty to any of the offenses listed or described in 2618
division (E) of this section. The agreement shall inform the 2619
applicant that failure to report formal charges, a conviction, or 2620
a guilty plea may result in being dismissed from employment. 2621

(G) A county board of mental retardation and developmental 2622
disabilities shall pay to the bureau of criminal identification 2623
and investigation the fee prescribed pursuant to division (C)(3) 2624
of section 109.572 of the Revised Code for each criminal records 2625
check requested and conducted pursuant to this section. 2626

(H)(1) Any report obtained pursuant to this section is not a 2627
public record for purposes of section 149.43 of the Revised Code 2628
and shall not be made available to any person, other than the 2629
applicant who is the subject of the records check or criminal 2630
records check or the applicant's representative, the board 2631
requesting the records check or criminal records check or its 2632
representative, the department of mental retardation and 2633
developmental disabilities, and any court, hearing officer, or 2634
other necessary individual involved in a case dealing with the 2635
denial of employment to the applicant or the denial, suspension, 2636
or revocation of a certificate or evidence of registration under 2637
section 5126.25 of the Revised Code. 2638

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

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

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

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

(K)(1) The county board superintendent shall inform each
person, at the time of the person's initial application for

employment, that the person is required to provide a set of 2670
impressions of the person's fingerprints and that a criminal 2671
records check is required to be conducted and satisfactorily 2672
completed in accordance with section 109.572 of the Revised Code 2673
if the person comes under final consideration for appointment or 2674
employment as a precondition to employment in a position. 2675

(2) A board may employ an applicant pending receipt of 2676
reports requested under this section. The board shall terminate 2677
employment of any such applicant if it is determined from the 2678
reports that the applicant failed to inform the county board that 2679
the applicant had been convicted of or pleaded guilty to any of 2680
the offenses listed or described in division (E) of this section. 2681

(L) The board may charge an applicant a fee for costs it 2682
incurs in obtaining reports, abstracts, or fingerprint impressions 2683
under this section. A fee charged under this division shall not 2684
exceed the amount of the fees the board pays under divisions (G) 2685
and (I) of this section. If a fee is charged under this division, 2686
the board shall notify the applicant of the amount of the fee at 2687
the time of the applicant's initial application for employment and 2688
that, unless the fee is paid, the board will not consider the 2689
applicant for employment. 2690

(M) The department of mental retardation and developmental 2691
disabilities shall adopt rules pursuant to Chapter 119. of the 2692
Revised Code to implement this section and section 5126.281 of the 2693
Revised Code, including rules specifying circumstances under which 2694
a county board or contracting entity may hire a person who has 2695
been convicted of or pleaded guilty to an offense listed or 2696
described in division (E) of this section but who meets standards 2697
in regard to rehabilitation set by the department. The rules may 2698
not authorize a county board or contracting entity to hire an 2699
individual who is included in the registry established under 2700
section 5123.52 of the Revised Code. 2701

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

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

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

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

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

(E) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain, including misappropriation, as defined in section 5123.50 of the Revised Code, of an adult's resources.

(F) "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day is a holiday as defined in section 1.14 of the Revised Code.

~~(F)~~(G) "Incapacitated" means lacking understanding or capacity, with or without the assistance of a caretaker, to make and carry out decisions regarding food, clothing, shelter, health care, or other necessities, but does not include mere refusal to consent to the provision of services.

(H) "Emergency protective services" means protective services furnished to a person with mental retardation or a developmental disability to prevent immediate physical harm.

(I) "Protective services" means services provided by the 2732
county board of mental retardation and developmental disabilities 2733
to an adult with mental retardation or a developmental disability 2734
for the prevention, correction, or discontinuance of an act of as 2735
well as conditions resulting from abuse, neglect, or exploitation. 2736

(J) "Protective service plan" means an individualized plan 2737
developed by the county board of mental retardation and 2738
developmental disabilities to prevent the further abuse, neglect, 2739
or exploitation of an adult with mental retardation or a 2740
developmental disability. 2741

(K) "Substantial risk" has the same meaning as in section 2742
2901.01 of the Revised Code. 2743

(L) "Party" means all of the following: 2744

(1) An adult who is the subject of a probate proceeding under 2745
sections 5126.30 to 5126.33 of the Revised Code; 2746

(2) A caretaker, unless otherwise ordered by the probate 2747
court; 2748

(3) Any other person designated as a party by the probate 2749
court including but not limited to, the adult's spouse, custodian, 2750
guardian, parent, or person with probable cause to believe that 2751
the adult has been abused, neglected, or exploited if the board 2752
has failed to act to prevent that abuse, neglect, or exploitation 2753
within seventy-two hours of receipt of reasonable notice. 2754

(M) "Board" has the same meaning as in section 5126.02 of the 2755
Revised Code. 2756

Sec. 5126.33. (A) A county board of mental retardation and 2757
developmental disabilities may file a complaint with the probate 2758
court of the county in which an adult with mental retardation or a 2759
developmental disability resides for an order authorizing the 2760
board to arrange services described in division (C) of section 2761

5126.31 of the Revised Code for that adult if the board has been 2762
unable to secure consent. The complaint shall include: 2763

(1) The name, age, and address of the adult; 2764

(2) Facts describing the nature of the abuse ~~or~~, neglect, or 2765
exploitation and supporting the board's belief that services are 2766
needed; 2767

(3) The types of services proposed by the board, as set forth 2768
in the individualized service plan prepared pursuant to section 2769
5126.31 of the Revised Code and filed with the complaint; 2770

(4) Facts showing the board's attempts to obtain the consent 2771
of the adult or the adult's guardian to the services. 2772

(B) The board shall give the adult notice of the filing of 2773
the complaint and in simple and clear language shall inform the 2774
adult of the adult's rights in the hearing under division (C) of 2775
this section and explain the consequences of a court order. This 2776
notice shall be personally served upon the adult and also shall be 2777
given to the adult's caretaker, the adult's legal counsel, if any, 2778
and the legal rights service. The notice shall be given at least 2779
twenty-four hours prior to the hearing, although the court may 2780
waive this requirement upon a showing that there is a substantial 2781
risk that the adult will suffer immediate physical harm in the 2782
twenty-four hour period and that the board has made reasonable 2783
attempts to give the notice required by this division. 2784

(C) Upon the filing of a complaint for an order under this 2785
section, the court shall hold a hearing at least twenty-four hours 2786
and no later than seventy-two hours after the notice under 2787
division (B) of this section has been given unless the court has 2788
waived the notice. The adult shall have the right to be present at 2789
the hearing, present evidence, and examine and cross-examine 2790
witnesses. The adult shall be represented by counsel unless the 2791

court finds that the adult has made a voluntary, informed, and 2792
knowing waiver of the right to counsel. If the adult is indigent, 2793
the court shall appoint counsel to represent the adult. The board 2794
shall be represented by the county prosecutor or an attorney 2795
designated by the board. 2796

(D)(1) The court shall issue an order authorizing the board 2797
to arrange the protective services if it finds, on the basis of 2798
clear and convincing evidence, all of the following: 2799

(a) The adult has been abused ~~or~~, neglected, or exploited; 2800

(b) The adult is incapacitated; 2801

(c) There is a substantial risk to the adult of immediate 2802
physical harm or death; 2803

(d) The adult is in need of the services; 2804

(e) No person authorized by law or court order to give 2805
consent for the adult is available or willing to consent to the 2806
services. 2807

(2) The board shall develop a detailed protective service 2808
plan describing the services that the board will provide, or 2809
arrange for the provision of, to the adult to prevent further 2810
abuse, neglect, or exploitation. The board shall submit the plan 2811
to the court for approval. The protective service plan may be 2812
changed only by court order. 2813

(3) In formulating the order, the court shall consider the 2814
individual protective service plan and shall specifically 2815
designate the services that are necessary to deal with the abuse 2816
~~or~~, neglect, or exploitation or condition resulting from abuse ~~or~~, 2817
neglect, or exploitation and that are available locally, and 2818
authorize the board to arrange for these services only. The court 2819
shall limit the provision of these services to a period not 2820
exceeding ~~fourteen days~~ six months, renewable for an additional 2821

~~fourteen-day~~ six-month period on a showing by the board that 2822
continuation of the order is necessary. 2823

(E) If the court finds that all other options for meeting the 2824
adult's needs have been exhausted, it may order that the adult be 2825
removed from the adult's place of residence and placed in another 2826
residential setting. Before issuing that order, the court shall 2827
consider the adult's choice of residence and shall determine that 2828
the new residential setting is the least restrictive alternative 2829
available for meeting the adult's needs and is a place where the 2830
adult can obtain the necessary requirements for daily living in 2831
safety. The court shall not order an adult to a hospital or public 2832
hospital as defined in section 5122.01 or a state institution as 2833
defined in section 5123.01 of the Revised Code. 2834

(F) The court shall not authorize a change in an adult's 2835
placement ordered under division (E) of this section unless it 2836
finds compelling reasons to justify a change. The parties to whom 2837
notice was given in division (B) of this section shall be given 2838
notice of a proposed change at least five working days prior to 2839
the change. 2840

(G) The adult, the board, or any other person who received 2841
notice of the petition may file a motion for modification of the 2842
court order at any time. 2843

(H) The county board shall pay court costs incurred in 2844
proceedings brought pursuant to this section. The adult shall not 2845
be required to pay for court-ordered services. 2846

(I)(1) Upon the receipt of a notice from a county board of 2847
mental retardation and developmental disabilities, an authorized 2848
employee of such a board, or any other person that the board, 2849
employee, or person believes an emergency order is needed as 2850
described in this division, a probate judge or probate court 2851
magistrate may grant by telephone an ex parte emergency order 2852

authorizing the county board of mental retardation and 2853
developmental disabilities to provide emergency protective 2854
services to an adult or to remove the adult from the adult's place 2855
of residence or legal settlement or the place where the abuse, 2856
neglect, or exploitation occurred, if there is reasonable cause to 2857
believe that the adult is mentally retarded or developmentally 2858
disabled or is incapacitated, and there is a substantial risk to 2859
the adult of immediate physical harm or death. 2860

(2) If an ex parte emergency order is issued under division 2861
(I)(1) of this section for an adult, the court shall hold a 2862
hearing not later than twenty-four hours after the issuance of the 2863
order, or seventy-two hours on weekends and holidays, to determine 2864
whether there is probable cause for the order. At the hearing, the 2865
court shall consider the adult's choice of residence and determine 2866
if protective services are the least restrictive alternative 2867
available for meeting the adult's needs. The court may issue 2868
temporary orders to protect the adult from immediate physical 2869
harm, including, but not limited to, temporary protection orders, 2870
evaluations, and orders requiring a party to vacate the adult's 2871
place of residence or legal settlement. The court may order 2872
emergency protective services. An emergency ex parte order issued 2873
under division (I)(1) of this section is effective for thirty 2874
days. The court may renew the emergency order for an additional 2875
thirty-day period. The board shall prepare and maintain a 2876
protective services plan for the adult to whom the board is 2877
providing protective services, and shall file the plan with the 2878
court. The protective services plan may be changed by court order. 2879

(J) If a judge or magistrate pursuant to division (I) of this 2880
section issues an ex parte emergency order to remove the adult 2881
from the adult's place of residence or legal settlement or the 2882
place where the abuse, neglect, or exploitation occurred, the 2883
court shall hold a hearing to determine whether there is probable 2884

cause for the emergency order. The hearing shall be held before 2885
the end of the next business day after the day on which the 2886
emergency order is issued, except that it shall not be held later 2887
than seventy-two hours after the emergency order is issued. 2888

(K)(1) After the filing of a complaint for an order under 2889
this section, the court, prior to the final disposition, may enter 2890
any temporary order that the court finds necessary to protect the 2891
adult with mental retardation or a developmental disability from 2892
abuse, neglect, or exploitation including, but not limited to, the 2893
following: 2894

(a) A temporary protection order; 2895

(b) An order requiring the evaluation of the adult; 2896

(c) An order requiring a party to vacate the adult's place of 2897
residence or legal settlement, provided that, subject to division 2898
(K)(1)(d) of this section, no operator of a residential facility 2899
licensed by the department may be removed under this division; 2900

(d) In the circumstances described in, and in accordance with 2901
the procedures set forth in, section 5123.191 of the Revised Code, 2902
an order of the type described in that section that appoints a 2903
receiver to take possession of and operate a residential facility 2904
licensed by the department. 2905

(2) The court may grant an ex parte order pursuant to this 2906
division upon its own motion or if a party files a written motion 2907
or makes an oral motion requesting the issuance of the order and 2908
stating the reasons for it if it appears to the court that the 2909
best interest and the welfare of the adult require that the court 2910
issue the order immediately. The court, if acting on its own 2911
motion, or the person requesting the granting of an ex parte 2912
order, to the extent possible, shall give notice of its intent or 2913
of the request to the adult, the adult's caretaker, the adult's 2914
legal counsel, if any, and the legal rights service. If the court 2915

issues an ex parte order, the court shall hold a hearing to review 2916
the order within seventy-two hours after it is issued or before 2917
the end of the next day after the day on which it is issued, 2918
whichever occurs first. The court shall give written notice of the 2919
hearing to all parties to the action. 2920

Section 2. That existing sections 109.572, 313.12, 2108.50, 2921
2151.421, 2311.14, 2930.03, 5120.173, 5123.081, 5123.50, 5123.51, 2922
5123.61, 5123.99, 5126.28, 5126.30, and 5126.33 of the Revised 2923
Code are hereby repealed. 2924

Section 3. The Department of Mental Retardation and 2925
Developmental Disabilities shall adopt rules pursuant to Chapter 2926
119. of the Revised Code that provide standards for the 2927
substantiation by the Department and by county boards of mental 2928
retardation of reports of abuse or neglect filed under section 2929
5123.61 of the Revised Code. 2930

Section 4. That the version of section 5123.50 of the Revised 2931
Code that is scheduled to take effect on December 31, 2003, be 2932
amended to read as follows: 2933

Sec. 5123.50. As used in this section and sections 5123.51 2934
~~and~~, 5123.52, and 5123.541 of the Revised Code: 2935

(A) "Abuse" means all of the following: 2936

(1) The use of physical force that can reasonably be expected 2937
to result in physical harm or serious physical harm; 2938

(2) Sexual abuse; 2939

(3) Verbal abuse. 2940

(B) "Misappropriation" means depriving, defrauding, or 2941
otherwise obtaining the real or personal property of an individual 2942

by any means prohibited by the Revised Code, including violations 2943
of Chapter 2911. or 2913. of the Revised Code. 2944

(C) "MR/DD employee" means all of the following: 2945

(1) An employee of the department of mental retardation and 2946
developmental disabilities; 2947

(2) An employee of a county board of mental retardation and 2948
developmental disabilities; 2949

(3) An employee in a position that includes providing 2950
specialized services to an individual with mental retardation or a 2951
another developmental disability. 2952

(D) "Neglect" means, when there is a duty to do so, failing 2953
to provide an individual with any treatment, care, goods, or 2954
services that are necessary to maintain the health and safety of 2955
the individual. 2956

(E) "Physical harm" and "serious physical harm" have the same 2957
meanings as in section 2901.01 of the Revised Code. 2958

(F) "Sexual abuse" means unlawful sexual conduct or sexual 2959
~~contact, as those terms are defined in section 2907.01 of the~~ 2960
~~Revised Code.~~ 2961

(G) "Specialized services" means any program or service 2962
designed and operated to serve primarily individuals with mental 2963
retardation or a developmental disability, including a program or 2964
service provided by an entity licensed or certified by the 2965
department of mental retardation and developmental disabilities. A 2966
program or service available to the general public is not a 2967
specialized service. 2968

(H) "Verbal abuse" means purposely using words to threaten, 2969
coerce, intimidate, harass, or humiliate an individual. 2970

(I) "Sexual conduct," "sexual contact," and "spouse" have the 2971
same meanings as in section 2907.01 of the Revised Code. 2972

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

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Section 6. Sections 3 and 4 of this act shall take effect January 31, 2003.

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

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