

As Introduced

**126th General Assembly
Regular Session
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H. B. No. 426

**Representatives Dolan, Chandler, Yuko, Fessler, Wagoner, Reidelbach,
McGregor, J.**

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A B I L L

To amend sections 2101.24, 2106.20, 2108.50, 2109.02, 1
2111.13, 2113.031, 2113.37, 2117.25, 4717.21, and 2
4717.22 and to enact sections 517.231, 2108.70 to 3
2108.79, 2108.81 to 2108.92, and 2117.251 of the 4
Revised Code regarding the assignment of the right 5
to direct the disposition of an adult's remains 6
after death and to make arrangements and purchase 7
goods and services related to an adult's funeral, 8
cremation, burial, or other manner of final 9
disposition. 10

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

Section 1. That sections 2101.24, 2106.20, 2108.50, 2109.02, 11
2111.13, 2113.031, 2113.37, 2117.25, 4717.21, and 4717.22 be 12
amended and sections 517.231, 2108.70, 2108.71, 2108.72, 2108.73, 13
2108.74, 2108.75, 2108.76, 2108.77, 2108.78, 2108.79, 2108.81, 14
2108.82, 2108.83, 2108.84, 2108.85, 2108.86, 2108.87, 2108.88, 15
2108.89, 2108.90, 2108.91, 2108.92, and 2117.251 of the Revised 16
Code be enacted to read as follows: 17

Sec. 517.231. As used in this section, "right of disposition" 18
has the same meaning as in section 2108.70 of the Revised Code. 19

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(A) The location, manner, and conditions under which a body is reinterred after being disinterred pursuant to section 517.23 of the Revised Code shall not be inconsistent with the original exercise of the right of disposition by the person with the right under section 2108.70 or 2108.83 of the Revised Code unless the person with the right authorizes, in writing, a modification from the original exercise of the right.

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(B) The person who applied to have the body disinterred shall pay the costs of reinterment.

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Sec. 2101.24. (A)(1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:

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(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.

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(b) To grant and revoke letters testamentary and of administration;

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(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;

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(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

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(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and

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settle their accounts;	49
(f) To grant marriage licenses;	50
(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;	51 52 53 54 55
(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;	56 57 58
(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;	59 60 61 62
(j) To authorize the completion of real estate contracts on petition of executors and administrators;	63 64
(k) To construe wills;	65
(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;	66 67 68
(m) To direct and control the conduct of fiduciaries and settle their accounts;	69 70
(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	71 72
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	73 74
(p) To hear and determine actions to contest the validity of wills;	75 76
(q) To make a determination of the presumption of death of	77

missing persons and to adjudicate the property rights and	78
obligations of all parties affected by the presumption;	79
(r) To hear and determine an action commenced pursuant to	80
section 3107.41 of the Revised Code to obtain the release of	81
information pertaining to the birth name of the adopted person and	82
the identity of the adopted person's biological parents and	83
biological siblings;	84
(s) To act for and issue orders regarding wards pursuant to	85
section 2111.50 of the Revised Code;	86
(t) To hear and determine actions against sureties on the	87
bonds of fiduciaries appointed by the probate court;	88
(u) To hear and determine actions involving informed consent	89
for medication of persons hospitalized pursuant to section	90
5122.141 or 5122.15 of the Revised Code;	91
(v) To hear and determine actions relating to durable powers	92
of attorney for health care as described in division (D) of	93
section 1337.16 of the Revised Code;	94
(w) To hear and determine actions commenced by objecting	95
individuals, in accordance with section 2133.05 of the Revised	96
Code;	97
(x) To hear and determine complaints that pertain to the use	98
or continuation, or the withholding or withdrawal, of	99
life-sustaining treatment in connection with certain patients	100
allegedly in a terminal condition or in a permanently unconscious	101
state pursuant to division (E) of section 2133.08 of the Revised	102
Code, in accordance with that division;	103
(y) To hear and determine applications that pertain to the	104
withholding or withdrawal of nutrition and hydration from certain	105
patients allegedly in a permanently unconscious state pursuant to	106
section 2133.09 of the Revised Code, in accordance with that	107

section;	108
(z) To hear and determine applications of attending physicians in accordance with division (B) of section 2133.15 of the Revised Code;	109 110 111
(aa) To hear and determine actions relative to the use or continuation of comfort care in connection with certain principals under durable powers of attorney for health care, declarants under declarations, or patients in accordance with division (E) of either section 1337.16 or 2133.12 of the Revised Code;	112 113 114 115 116
(bb) To hear and determine applications for an order relieving an estate from administration under section 2113.03 of the Revised Code;	117 118 119
(cc) To hear and determine applications for an order granting a summary release from administration under section 2113.031 of the Revised Code;	120 121 122
<u>(dd) To hear and determine actions relating to the exercise of the right of disposition, in accordance with section 2108.92 of the Revised Code;</u>	123 124 125
<u>(ee) To hear and determine actions relating to the disinterment and reinterment of human remains under sections 517.23 and 517.231 of the Revised Code.</u>	126 127 128
(2) In addition to the exclusive jurisdiction conferred upon the probate court by division (A)(1) of this section, the probate court shall have exclusive jurisdiction over a particular subject matter if both of the following apply:	129 130 131 132
(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court.	133 134
(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.	135 136 137

(B)(1) The probate court has concurrent jurisdiction with, 138
and the same powers at law and in equity as, the general division 139
of the court of common pleas to issue writs and orders, and to 140
hear and determine actions as follows: 141

(a) If jurisdiction relative to a particular subject matter 142
is stated to be concurrent in a section of the Revised Code or has 143
been construed by judicial decision to be concurrent, any action 144
that involves that subject matter; 145

(b) Any action that involves an inter vivos trust; a trust 146
created pursuant to section 1339.51 of the Revised Code; a 147
charitable trust or foundation; subject to divisions (A)(1)(u) and 148
(z) of this section, a power of attorney, including, but not 149
limited to, a durable power of attorney; the medical treatment of 150
a competent adult; or a writ of habeas corpus. 151

(2) Any action that involves a concurrent jurisdiction 152
subject matter and that is before the probate court may be 153
transferred by the probate court, on its order, to the general 154
division of the court of common pleas. 155

(C) The probate court has plenary power at law and in equity 156
to dispose fully of any matter that is properly before the court, 157
unless the power is expressly otherwise limited or denied by a 158
section of the Revised Code. 159

(D) The jurisdiction acquired by a probate court over a 160
matter or proceeding is exclusive of that of any other probate 161
court, except when otherwise provided by law. 162

Sec. 2106.20. A surviving spouse or a person with the right 163
of disposition under section 2108.70 or 2108.83 of the Revised 164
Code is entitled to a reimbursement from the estate of the 165
~~deceased spouse~~ decendent for funeral expenses, if paid by the 166
surviving spouse or person with the right of disposition, to the 167

extent that the rights of other creditors of the estate will not 168
be prejudiced by the reimbursement. 169

Sec. 2108.50. (A) Subject to section 2108.521 of the Revised 170
Code, an autopsy or post-mortem examination may be performed upon 171
the body of a deceased person by a licensed physician or surgeon 172
if consent has been given ~~in the order named by one of the~~ 173
~~following persons of sound mind and eighteen years of age or older~~ 174
~~in a written instrument executed by the person or on the person's~~ 175
~~behalf at the person's express direction:~~ 176

~~(1) The deceased person during the deceased person's~~ 177
~~lifetime;~~ 178

~~(2) The decedent's spouse;~~ 179

~~(3) If there is no surviving spouse, if the address of the~~ 180
~~surviving spouse is unknown or outside the United States, if the~~ 181
~~surviving spouse is physically or mentally unable or incapable of~~ 182
~~giving consent, or if the deceased person was separated and living~~ 183
~~apart from such surviving spouse, then a person having the first~~ 184
~~named degree of relationship in the following list in which a~~ 185
~~relative of the deceased person survives and is physically and~~ 186
~~mentally able and capable of giving consent may execute consent:~~ 187

~~(a) Children;~~ 188

~~(b) Parents;~~ 189

~~(c) Brothers or sisters.~~ 190

~~(4) If there are no surviving persons of any degree of~~ 191
~~relationship listed in division (A)(3) of this section, any other~~ 192
~~relative or person who assumes custody of the body for burial;~~ 193

~~(5) A person authorized by written instrument executed by the~~ 194
~~deceased person to make arrangements for burial;~~ 195

~~(6) A person who, at the time of death of the deceased~~ 196

~~person, was serving as guardian of the person for the deceased
person by the person who has the right of disposition under
section 2108.70 or 2108.83 of the Revised Code.~~ 197
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(B) Consent to an autopsy or post-mortem examination given 200
under this section may be revoked only by the person executing the 201
consent and in the same manner as required for execution of 202
consent under this section. 203

(C) As used in this section, "written instrument" includes a 204
telegram or cablegram. 205

Sec. 2108.70. (A) As used in this section and sections 206
2108.71 to 2108.92 of the Revised Code: 207

(1) "Adult" means an individual who is eighteen years of age 208
or older; 209

(2) "Declarant" means an adult who has executed a written 210
declaration described in division (B) of this section. 211

(3) "First successor representative" means an adult or group 212
of adults, collectively, to whom the right of disposition for a 213
declarant has been reassigned because the declarant's 214
representative is disqualified from exercising the right under 215
section 2108.76 of the Revised Code. 216

(4) "Representative" means an adult or a group of adults, 217
collectively, to whom a declarant has assigned the right of 218
disposition. 219

(5) "Right of disposition" means one or more of the rights 220
described in division (B) of this section that a declarant chooses 221
to assign to a representative in a written declaration executed 222
under that division or all of the rights described in division (B) 223
of this section that are assigned to a person pursuant to section 224
2108.83 of the Revised Code. 225

(6) "Second successor representative" means an adult or group of adults, collectively, to whom the right of disposition for a declarant has been reassigned because the declarant's representative and first successor representative are disqualified from exercising the right under section 2108.76 of the Revised Code. 226
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(B) An adult who is of sound mind may execute at any time a written declaration assigning to a representative one or more of the following rights: 232
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(1) The right to direct the disposition, after death, of the declarant's body or any part of the declarant's body that becomes separated from the body before death. This right includes the right to determine the location, manner, and conditions of the disposition of the declarant's bodily remains. 235
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(2) The right to make arrangements and purchase goods and services for the declarant's funeral. This right includes the right to determine the location, manner, and condition of the declarant's funeral. 240
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(3) The right to make arrangements and purchase goods and services for the declarant's burial, cremation, or other manner of final disposition. This right includes the right to determine the location, manner, and condition of the declarant's burial, cremation, or other manner of final disposition. 244
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(C)(1) Subject to division (C)(2) of this section, a declarant may designate a first successor representative. 249
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(2) If a representative is a group of persons and not all of the persons in the group meet at least one criterion to be disqualified from serving as the representative, as described in section 2108.76 of the Revised Code, the persons in the group who are not disqualified shall remain the representative who has the right of disposition. 251
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(D)(1) Subject to division (D)(2) of this section, a 257
declarant may designate a second successor representative. 258

(2) If the first successor representative is a group of 259
persons and not all of the persons in the group meet at least one 260
criterion to be disqualified from serving as the first successor 261
representative, as described in section 2108.76 of the Revised 262
Code, the persons in the group who are not disqualified shall 263
remain the first successor representative to whom the right of 264
disposition is reassigned. 265

(E) The assignment or reassignment of a right of disposition 266
to a representative, first successor representative, and second 267
successor representative supercedes an assignment of a right of 268
disposition under section 2108.83 of the Revised Code. 269

Sec. 2108.71. The assignment or reassignment of a right of 270
disposition by a declarant under section 2108.70 of the Revised 271
Code vests in a representative, first successor representative, or 272
second successor representative at the time of the declarant's 273
death. 274

Sec. 2108.72. (A) The written declaration described in 275
section 2108.70 of the Revised Code shall include all of the 276
following: 277

(1) The declarant's legal name and present address; 278

(2) A statement that the declarant, an adult being of sound 279
mind, willfully and voluntarily appoints a representative to have 280
the declarant's right of disposition for the declarant's body upon 281
the declarant's death; 282

(3) A statement that all decisions made by the declarant's 283
representative with respect to the right of disposition are 284
binding; 285

<u>(4) The legal name, last known address, and last known</u>	286
<u>telephone number of the representative or, if the representative</u>	287
<u>is a group of persons, the legal name, last known address, and</u>	288
<u>last known telephone number of each person in the group;</u>	289
<u>(5) If the declarant chooses to have a first successor</u>	290
<u>representative, a statement that if any person or group of persons</u>	291
<u>named as the declarant's representative is disqualified from</u>	292
<u>serving in such position as described in section 2108.76 of the</u>	293
<u>Revised Code, the declarant appoints a first successor</u>	294
<u>representative;</u>	295
<u>(6) If the declarant chooses to have a second successor</u>	296
<u>representative, a statement that if a person or group of persons</u>	297
<u>named as the declarant's representative or first successor</u>	298
<u>representative are both disqualified from serving in such</u>	299
<u>positions as described in section 2108.76 of the Revised Code,</u>	300
<u>that the declarant appoints a second successor representative;</u>	301
<u>(7) If applicable, the legal name, last known address, and</u>	302
<u>last known telephone number of the first and second successor</u>	303
<u>representative or, if the first or second successor representative</u>	304
<u>is a group of persons, the legal name, last known address, and</u>	305
<u>last known telephone number of each person in the group;</u>	306
<u>(8) A space where the declarant may indicate the declarant's</u>	307
<u>preferences regarding how the right of disposition should be</u>	308
<u>exercised, including any religious observances the declarant</u>	309
<u>wishes the person with the right of disposition to consider;</u>	310
<u>(9) A space where the declarant may indicate one or more</u>	311
<u>sources of funds that may be used to pay for goods and services</u>	312
<u>associated with the exercise of the right of disposition;</u>	313
<u>(10) A statement that the declarant's written declaration</u>	314
<u>becomes effective on the declarant's death;</u>	315

(11) A statement that the declarant revokes both of the 316
following: 317

(a) Any written declaration that the declarant executed, in 318
accordance with section 2108.70 of the Revised Code, prior to the 319
execution of the present written declaration. 320

(b) Any other document in which the declarant assigned a 321
right described in division (B) of section 2108.70 of the Revised 322
Code, including an antemortem cremation authorization form 323
executed in accordance with section 4717.21 of the Revised Code, a 324
preneed funeral contract executed in accordance with section 325
1111.19 of the Revised Code, or a will executed in accordance with 326
section 2107.03 of the Revised Code, if the other document 327
contains instructions that are inconsistent with the instructions 328
in the written declaration and was executed prior to the date of 329
execution of the present written declaration. 330

(12) A space where the declarant can sign and date the 331
written declaration; 332

(13) A space where a notary public or two witnesses can sign 333
and date the written declaration as described in section 2108.73 334
of the Revised Code. 335

(B) A written declaration may take the following form: 336

APPOINTMENT OF REPRESENTATIVE FOR DISPOSITION OF BODILY 337
REMAINS, FUNERAL ARRANGEMENTS, AND BURIAL OR CREMATION GOODS AND 338
SERVICES: 339

I, (legal name and present address of 340
declarant), an adult being of sound mind, willfully and 341
voluntarily appoint my representative, named below, to have the 342
right of disposition, as defined in section 2108.70 of the Revised 343
Code, for my body upon my death. All decisions made by my 344
representative with respect to the right of disposition shall be 345

<u>binding.</u>	346
<u>REPRESENTATIVE:</u>	347
<u>(If the representative is a group of persons, indicate the</u>	348
<u>name, last known address, and telephone number of each person in</u>	349
<u>the group.)</u>	350
<u>Name(s):</u>	351
<u>Address(es):</u>	352
<u>Telephone Number(s):</u>	353
<u>FIRST SUCCESSOR REPRESENTATIVE:</u>	354
<u>If my representative is disqualified from serving as my</u>	355
<u>representative as described in section 2108.76 of the Revised</u>	356
<u>Code, then I hereby appoint the following person or group of</u>	357
<u>persons to serve as my first successor representative.</u>	358
<u>(If the first successor representative is a group of persons,</u>	359
<u>indicate the name, last known address, and telephone number of</u>	360
<u>each person in the group.)</u>	361
<u>Name(s):</u>	362
<u>Address(es):</u>	363
<u>Telephone Number(s):</u>	364
<u>SECOND SUCCESSOR REPRESENTATIVE:</u>	365
<u>If my representative and first successor representative are</u>	366
<u>disqualified from serving in such positions as described in</u>	367
<u>section 2108.76 of the Revised Code, then I hereby appoint the</u>	368
<u>following person or group of persons to serve as my second</u>	369
<u>successor representative.</u>	370
<u>(If the second successor representative is a group of</u>	371
<u>persons, indicate the name, last known address, and telephone</u>	372
<u>number of each person in the group.)</u>	373

<u>Name(s):</u>	374
<u>Address(es):</u>	375
<u>Telephone Number(s):</u>	376
<u>PREFERENCES REGARDING HOW THE RIGHT OF DISPOSITION SHOULD BE</u>	377
<u>EXERCISED, INCLUDING ANY RELIGIOUS OBSERVANCES THE DECLARANT</u>	378
<u>WISHES A REPRESENTATIVE, FIRST SUCCESSOR REPRESENTATIVE, OR SECOND</u>	379
<u>SUCCESSOR REPRESENTATIVE TO CONSIDER:</u>	380
.....	381
.....	382
.....	383
.....	384
<u>ONE OR MORE SOURCES OF FUNDS THAT COULD BE USED TO PAY FOR</u>	385
<u>GOODS AND SERVICES ASSOCIATED WITH AN EXERCISE OF THE RIGHT OF</u>	386
<u>DISPOSITION:</u>	387
.....	388
.....	389
.....	390
.....	391
<u>DURATION:</u>	392
<u>The appointment of my representative and, if applicable,</u>	393
<u>first successor representative and second successor</u>	394
<u>representatives, becomes effective upon my death.</u>	395
<u>PRIOR APPOINTMENTS REVOKED:</u>	396
<u>I hereby revoke both of the following:</u>	397
<u>(1) Any written declaration that I executed in accordance</u>	398
<u>with section 2108.70 of the Ohio Revised Code prior to the date of</u>	399
<u>execution of this written declaration indicated below.</u>	400
<u>(2) Any other document in which I assigned a right described</u>	401
<u>in division (B) of section 2108.70 of the Revised Code, including</u>	402
<u>an antemortem cremation authorization form I may have executed in</u>	403

accordance with section 4717.21 of the Revised Code, a preneed 404
funeral contract I may have executed in accordance with section 405
1111.19 of the Revised Code, or a will I may have executed in 406
accordance with section 2107.03 of the Revised Code, if the other 407
document contains instructions that are inconsistent with the 408
instructions in this written declaration and I executed the other 409
document prior to the date of execution of this written 410
declaration indicated below. 411

AUTHORIZATION TO ACT: 412

I hereby agree that any of the following that receives a copy 413
of this written declaration may act under it: 414

- Cemetery organization; 415

- Business operating a crematory; 416

- Business operating a columbarium; 417

- Funeral director; 418

- Embalmer; 419

- Funeral establishment; 420

- Any other person asked to assist with my funeral, burial, 421
cremation, or other manner of final disposition. 422

MODIFICATION AND REVOCATION - WHEN EFFECTIVE: 423

Any modification or revocation of this written declaration is 424
not effective as to any party until that party receives actual 425
notice of the modification or revocation. 426

LIABILITY: 427

No person who acts in accordance with a properly executed 428
copy of this written declaration shall be liable for damages of 429
any kind associated with the person's reliance on this 430
declaration. 431

Signed this day of

.....
(Signature of declarant)

ACKNOWLEDGMENT OF ASSUMPTION OF OBLIGATIONS AND COSTS: 433

By signing below, the representative, or first or second 434
successor representative, if applicable, acknowledges that he or 435
she, as representative or first or second successor 436
representative, assumes the right of disposition as defined in 437
section 2108.70 of the Revised Code, and understands that he or 438
she is liable for the reasonable costs of exercising the right, 439
including any goods and services that are purchased. 440

ACCEPTANCE (OPTIONAL): 441

The undersigned hereby accepts this appointment as 442
representative, first successor representative, or second 443
successor representative, as applicable, for the right of 444
disposition as defined in section 2108.70 of the Revised Code. 445

Signed this day of
.....

Signature of representative 448
(if representative is a group
of persons, each person in
the group shall sign)

Signed this day of
.....

Signature of first successor 451
representative (if first
successor representative is a
group of persons, each person
in the group shall sign)

Signed this day of

.....

Signature of second successor 454
representative (if second
successor representative is a
group of persons, each person
in the group shall sign)

WITNESSES: 455

I attest that the declarant signed or acknowledged this 456
assignment of the right of disposition under section 2108.70 of 457
the Revised Code in my presence and that the declarant is at least 458
eighteen years of age and appears to be of sound mind and not 459
under or subject to duress, fraud, or undue influence. I further 460
attest that I am not the declarant's representative, first 461
successor representative, or second successor representative, I am 462
at least eighteen years of age, and I am not related to the 463
declarant by blood, marriage, or adoption. 464

First witness: 465

Name (printed): 466

..... Residing at: 467

Signature: 468

..... 469

Date: 470

..... 471

..... 472

Second witness: 473

Name (printed): 474

..... Residing at: 475

Signature: 476

..... 477

Date: 478

..... 479

.....	480
<u>NOTARY ACKNOWLEDGMENT:</u>	481
<u>State of Ohio</u>	482
<u>County of SS.</u>	483
<u>On, before me, the undersigned notary public,</u>	484
<u>personally appeared, known to me or</u>	485
<u>satisfactorily proven to be the person whose name is subscribed as</u>	486
<u>the declarant, and who has acknowledged that he or she executed</u>	487
<u>this written declaration under section 2108.70 of the Revised Code</u>	488
<u>for the purposes expressed in that section. I attest that the</u>	489
<u>declarant is at least eighteen years of age and appears to be of</u>	490
<u>sound mind and not under or subject to duress, fraud, or undue</u>	491
<u>influence.</u>	492
<u>Signature of notary public</u>	
.....	
<u>My commission expires on:</u>	493
<u>Sec. 2108.73. A written declaration executed by a declarant</u>	495
<u>under section 2108.70 of the Revised Code shall be signed and</u>	496
<u>dated by the declarant in the presence of either of the following:</u>	497
<u>(A) A notary public who shall make the certification</u>	498
<u>described in section 147.53 of the Revised Code.</u>	499
<u>(B) Two witnesses who are adults and who are not related by</u>	500
<u>blood, marriage, or adoption to the declarant.</u>	501
<u>Sec. 2108.74. A declarant who executes a written declaration</u>	502
<u>in accordance with section 2108.73 of the Revised Code warrants</u>	503
<u>the truthfulness of the entire content of the declaration.</u>	504
<u>Sec. 2108.75. A written declaration executed in accordance</u>	505
<u>with section 2108.73 of the Revised Code shall have priority over</u>	506

all other documents that assign to a person or group of persons 507
the right of disposition, except when either of the following is 508
true: 509

(A) The declaration has been revoked in accordance with 510
section 2108.82 of the Revised Code; 511

(B) The declarant has signed and dated another document that 512
contains an assignment of the right of disposition or a similar 513
right, the instructions contained in the other document are 514
inconsistent with the instructions in the written declaration, and 515
the other document was signed and dated after the declaration and 516
notarized or witnessed in accordance with section 2108.73 of the 517
Revised Code. Examples of such other documents include an 518
antemortem cremation authorization form executed in accordance 519
with section 4717.21 of the Revised Code, a preneed funeral 520
contract executed in accordance with section 1111.19 of the 521
Revised Code, and a will executed in accordance with section 522
2107.03 of the Revised Code. 523

Sec. 2108.76. (A) A person shall be disqualified from serving 524
as a representative, first successor representative, or second 525
successor representative, or from having the right of disposition 526
for a deceased adult pursuant to section 2108.83 of the Revised 527
Code, if any of the following occurs: 528

(1) The person dies. 529

(2) A probate court declares or determines that the person is 530
incompetent. 531

(3) The person resigns or declines to exercise the right as 532
described in section 2108.90 of the Revised Code. 533

(4) The person refuses to exercise the right not later than 534
two days after notification of the declarant's death or not later 535

than five days after the declarant's death.

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(5) The person cannot be located with reasonable effort not later than five days after the declarant's death.

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(6) The person meets the criteria described in section 2108.77 or 2108.78 of the Revised Code.

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(B) Subject to divisions (C)(2) and (D)(2) of section 2108.70 of the Revised Code, if a person is disqualified from serving as the declarant's representative, first successor representative, or second successor representative, or from having the right of disposition for a deceased adult pursuant to section 2108.83 of the Revised Code, as described in division (A) of this section, the right is automatically reassigned to, and vests in, the next person who has the right pursuant to the declarant's written declaration or pursuant to the order of priority in section 2108.83 of the Revised Code.

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Sec. 2108.77. (A) Except as provided in division (B) of this section, if the person named as the declarant's representative, first successor representative, or second successor representative in a written declaration was the declarant's spouse at the time the declaration was executed, but is not the declarant's spouse at the time of the declarant's death, the former spouse shall no longer be qualified to serve as the declarant's representative, first successor representative, or second successor representative.

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(B) Division (A) of this section shall not apply and a former spouse is qualified to serve as a declarant's representative, first successor representative, or second successor representative if the declarant signs and dates, after the termination of the marriage, a document stating the declarant's intent that the former spouse be the declarant's representative, first successor

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representative, or second successor representative. The document 566
must be notarized or witnessed in accordance with the procedures 567
described in section 2108.73 of the Revised Code. 568

Sec. 2108.78. If the person named as the declarant's 569
representative, first successor representative, or second 570
successor representative in a written declaration, or the person 571
who has a deceased adult's right of disposition pursuant to 572
section 2108.83 of the Revised Code, meets any of the following 573
criteria, the person shall be disqualified from serving as the 574
representative, first successor representative, or second 575
successor representative, or from having the right: 576

(A)(1) Subject to division (A)(2) of this section, the person 577
has been charged with murder, aggravated murder, or voluntary 578
manslaughter. 579

(2) If the charges against the person described in division 580
(A)(1) of this section are dismissed or if the person is acquitted 581
of such charges, the right is restored to the person. 582

(B)(1) Subject to division (B)(2) of this section, the person 583
has been charged with an act of domestic violence as defined in 584
section 3113.31 of the Revised Code and it has been alleged that 585
the act resulted in or contributed to the declarant's death. 586

(2) If the charges against the person described in division 587
(B)(1) of this section are dismissed or if the person is acquitted 588
of such charges, the right is restored to the person. 589

(C) The person and the declarant or deceased adult are 590
spouses and an action to terminate the marriage pursuant to 591
Chapter 3105. of the Revised Code was pending at the time of the 592
declarant's or deceased adult's death. 593

(D) The person and the declarant or deceased adult are 594
spouses and a probate court, on the motion of any other person or 595

its own motion, determines that the declarant's or deceased adult's spouse and the declarant were estranged at the time of the declarant's or deceased adult's death. As used in this division, "estranged" means that a declarant's or a deceased adult's spouse and the declarant or deceased adult were physically and emotionally separated from each other, at the time of the declarant's or deceased adult's death, and had been separated for a period of time that clearly demonstrates an absence of due affection, trust, and regard between spouse and the declarant of deceased adult.

Sec. 2108.79. If a declarant or deceased adult has made a valid declaration of an anatomical gift by will or any other document or means described in section 2108.04 of the Revised Code, any person to whom the declarant has assigned the right of disposition under section 2108.70 of the Revised Code, or who has the right as described in section 2108.83 of the Revised Code, is bound by the declaration of the anatomical gift and must follow the instructions associated with the gift before making any decisions or taking any other actions associated with the right.

Sec. 2108.81. (A) Subject to divisions (B) and (C) of this section, if a declarant's representative, first successor representative, or second successor representative is a group of people in whom the right of disposition has vested as described in section 2108.71 of the Revised Code, or if a class of persons has the right as described in section 2108.83 of the Revised Code, and the persons in the group or class disagree regarding how the right is to be exercised, the decisions of the majority of the persons in the group or class shall prevail.

(B) If, after reasonable efforts, less than all of the persons in a group or class described in division (A) of this

section have been located, the decisions of the majority of the 626
persons in the group or class who have been located prevail. 627

(C) If there is no majority of persons for purposes of the 628
circumstances described in divisions (A) or (B) of this section, 629
the probate court of the county in which the declarant or deceased 630
adult resided at the time of death shall determine whose decisions 631
prevail in accordance with division (B) of section 2108.84 of the 632
Revised Code. 633

Sec. 2108.82. A declarant may revoke a written declaration 634
executed under section 2108.70 of the Revised Code by indicating 635
the declarant's desire to revoke the declaration in a document 636
signed and dated by the declarant in the presence of either of the 637
following: 638

(A) A notary public who shall make the certification 639
described in section 147.53 of the Revised Code. 640

(B) Two witnesses who are adults and are not related by 641
blood, marriage, or adoption to the declarant. 642

Sec. 2108.83. (A) If either of the following is true, 643
division (B) of this section shall apply: 644

(1) An adult has neither executed a written declaration, nor 645
another document that clearly assigns to a person or group of 646
persons the right of disposition, that has been notarized or 647
witnessed in accordance with section 2108.73 of the Revised Code; 648

(2) Each person to whom the right of disposition has been 649
assigned or reassigned pursuant to a written declaration is 650
disqualified from exercising the right as described in section 651
2108.76 of the Revised Code. 652

(B) Subject to division (A) of this section and sections 653
2108.76 and 2108.81 of the Revised Code, the right of disposition 654

is assigned to the following persons, if mentally competent adults 655
who can be located with reasonable effort not later than five days 656
after the declarant's death, in the order of priority stated: 657

(1) The deceased adult's surviving spouse; 658

(2) The sole surviving child of the deceased adult or, if 659
there is more than one surviving child, all of the surviving 660
children, collectively. 661

(3) The deceased adult's surviving parent or parents; 662

(4) The deceased adult's surviving sibling, whether of the 663
whole or of the half blood or, if there is more than one sibling 664
of the whole or of the half blood, all of the surviving siblings, 665
collectively; 666

(5) The deceased adult's surviving grandparent or 667
grandparents; 668

(6) The lineal descendants of the deceased grandparents, as 669
described in division (I) of section 2105.06 of the Revised Code; 670

(7) The person who was the deceased adult's guardian at the 671
time of the deceased adult's death, if a guardian had been 672
appointed. 673

(8) Any other person willing to assume the right of 674
disposition, including the personal representative of the deceased 675
adult's estate or the licensed funeral director with custody of 676
the deceased adult's body, after attesting in writing that a good 677
faith effort has been made to locate the persons in divisions 678
(B)(1) to (7) of this section. 679

Sec. 2108.84. (A) Notwithstanding section 2108.83 of the 680
Revised Code and in accordance with division (B) of this section, 681
the probate court for the county in which the declarant or 682
deceased adult resided at the time of death may, on its own motion 683

or the motion of another person, assign to any person the right of disposition for a declarant or deceased adult.

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(B) In making a determination for purposes of division (A) of this section and division (C) of section 2108.81 of the Revised Code, the court shall consider the following:

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(1) Whether evidence presented to, or in the possession of the court, demonstrates that the person who is the subject of the motion and the declarant or deceased adult had a close personal relationship;

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(2) The reasonableness and practicality of any plans that the person who is the subject of the motion may have for the declarant's or deceased adult's funeral, burial, cremation, or final disposition, including the degree to which such plans allow maximum participation by all persons who wish to pay their final respects to the deceased adult;

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(3) The willingness of the person who is the subject of the motion to assume the responsibility to pay for the declarant's or deceased adult's funeral, burial, cremation, or final disposition and the desires of such person;

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(4) The convenience and needs of other families and friends wishing to pay their final respects to the declarant or deceased adult;

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(5) The express written desires of the declarant or deceased adult.

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(C) Except to the extent considered under division (B)(3) of this section, the following persons do not have a greater right to the right of disposition than such persons otherwise have pursuant to law:

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(1) A person who is willing to assume the responsibility to pay for the declarant's or deceased adult's funeral, burial,

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cremation, or final disposition;

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(2) The personal representative of the declarant or deceased adult.

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Sec. 2108.85. In the event of a dispute regarding the right of disposition, a funeral home, funeral director, crematory operator, or other person asked to assist with a declarant's or deceased adult's funeral, burial, cremation, or other manner of final disposition shall not be liable for damages of any kind for refusing to accept the remains, refusing to inter, cremate, or otherwise dispose of the remains, or refusing to complete funeral or other arrangements pertaining to final disposition until such funeral home, funeral director, crematory operator, or other person receives a court order or other written document notarized or witnessed in accordance with section 2108.73 of the Revised Code that clearly expresses how the right of disposition is to be exercised.

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Sec. 2108.86. If a funeral home, funeral director, crematory operator, or other person asked to assist with a declarant's or deceased adult's funeral, burial, cremation, or other manner of final disposition is in possession of a declarant's or deceased adult's remains while a dispute described in section 2108.85 of the Revised Code is pending, the funeral home, funeral director, crematory operator, or other person may embalm or refrigerate and shelter the remains to preserve them and may add the cost of embalming, refrigeration, and sheltering to the final disposition costs to be charged.

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Sec. 2108.87. (A) If a funeral home, funeral director, crematory operator, or other person asked to assist with a declarant's or deceased adult's funeral, burial, cremation, or other manner of final disposition brings a legal action for

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purposes of section 2108.85 or 2108.86 of the Revised Code, such 744
person may add to the costs the person charges for the goods and 745
services the person provided the legal fees, if reasonable, and 746
the court costs that the person incurred. 747

(B) The right created by division (A) of this section shall 748
neither be construed to require, nor impose a duty on, a funeral 749
home, funeral director, crematory operator, or other person asked 750
to assist with a declarant's or deceased adult's funeral, burial, 751
cremation, or other manner of final disposition, to bring a legal 752
action and such person shall not be held criminally or civilly 753
liable for not bringing an action. 754

Sec. 2108.88. (A) A funeral home, funeral director, crematory 755
operator, or other person asked to assist with a declarant's 756
funeral, burial, cremation, or other manner of final disposition 757
has the right to rely on the content of a written declaration and 758
the instructions of the person or group of persons whom the 759
funeral home, funeral director, crematory operator, or other 760
person reasonably believes has the right of disposition. 761

(B) If the circumstances described in division (A) of section 762
2108.83 of the Revised Code apply, a funeral home, funeral 763
director, crematory operator, or other person asked to assist with 764
a deceased adult's funeral, burial, cremation, or other manner of 765
final disposition has the right to rely on the instructions of the 766
person or group of persons the funeral home, funeral director, 767
crematory operator, or other person reasonably believes has the 768
right of disposition pursuant to section 2108.83 of the Revised 769
Code. 770

(C) No funeral home, funeral director, crematory operator, or 771
other person asked to assist with a deceased adult's funeral, 772
burial, cremation, or other manner of final disposition, who 773

relies, pursuant to divisions (A) and (B) of this section, in good 774
faith on the contents of a written declaration or the instructions 775
of the person or group of persons the funeral home, funeral 776
director, crematory operator, or other person reasonably believes 777
has the right of disposition, shall be subject to criminal or 778
civil liability or subject to disciplinary action for taking an 779
action or not taking an action in reliance on such contents or 780
instructions and for otherwise complying with sections 2108.70 to 781
2108.92 of the Revised Code. 782

Sec. 2108.89. (A) A funeral home, funeral director, crematory 783
operator, or other person asked to assist with a deceased adult's 784
funeral, burial, cremation, or other manner of final disposition 785
may independently investigate the existence of, or locate or 786
contact, the following persons: 787

(1) A representative, first successor representative, or 788
second successor representative named in a written declaration; 789

(2) A person listed in section 2108.83 of the Revised Code. 790

(B) In no circumstances shall a funeral home, funeral 791
director, crematory operator, or other person asked to assist with 792
a deceased adult's funeral, burial, cremation, or other manner of 793
final disposition have a duty to independently investigate the 794
existence of, or locate or contact, the persons described in 795
division (A) of this section. 796

Sec. 2108.90. (A) A person to whom a declarant's or deceased 797
adult's right of disposition has been assigned or reassigned 798
pursuant to section 2108.70 or 2108.83 of the Revised Code may 799
decline to exercise the right or resign after beginning to 800
exercise the right. 801

(B) A person described in division (A) of this section who 802
resigns after beginning to exercise the right shall be subject to 803

section 2108.91 of the Revised Code.

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Sec. 2108.91. The following persons shall be liable for the reasonable costs of any goods or services purchased in connection with the exercise of the right of disposition for a declarant or deceased adult:

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(A) A representative, first successor representative, or second successor who assumes liability for the cost of such goods and services by signing a written declaration that states that such an assumption is made;

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(B) A person to whom the right of disposition is assigned pursuant to section 2108.83 of the Revised Code and who has purchased goods or services associated with an exercise of the right.

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Sec. 2108.92. Pursuant to division (A) of section 2101.24 of the Revised Code, the probate court for the county in which the declarant or deceased adult resided at the time of death shall have exclusive jurisdiction over any action that results from sections 2108.70 to 2108.91 of the Revised Code.

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Sec. 2109.02. Every fiduciary, before entering upon the execution of a trust, shall receive letters of appointment from a probate court having jurisdiction of the subject matter of the trust.

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The duties of a fiduciary shall be those required by law, and such additional duties as the court orders. Letters of appointment shall not issue until a fiduciary has executed a written acceptance of ~~his~~ the fiduciary's duties, acknowledging that ~~he~~ the fiduciary is subject to removal for failure to perform ~~his~~ the fiduciary's duties, and that ~~he~~ the fiduciary is subject to possible penalties for conversion of property ~~he~~ the fiduciary

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holds as a fiduciary. The written acceptance may be filed with the 833
application for appointment. 834

No act or transaction by a fiduciary is valid prior to the 835
issuance of letters of appointment to ~~him~~ the fiduciary. This 836
section does not prevent an executor named in a will, ~~or~~ an 837
executor nominated pursuant to a power as described in section 838
2107.65 of the Revised Code, or a person with the right of 839
disposition under section 2108.70 or 2108.83 of the Revised Code 840
from paying funeral expenses, or prevent necessary acts for the 841
preservation of the trust estate prior to the issuance of such 842
letters. 843

Sec. 2111.13. (A) When a guardian is appointed to have the 844
custody and maintenance of a ward, and to have charge of the 845
education of the ward if the ward is a minor, the guardian's 846
duties are as follows: 847

(1) To protect and control the person of the ward; 848

(2) To provide suitable maintenance for the ward when 849
necessary, which shall be paid out of the estate of such ward upon 850
the order of the guardian of the person; 851

(3) To provide such maintenance and education for such ward 852
as the amount of the ward's estate justifies when the ward is a 853
minor and has no father or mother, or has a father or mother who 854
fails to maintain or educate the ward, which shall be paid out of 855
such ward's estate upon the order of the guardian of the person; 856

(4) To obey all the orders and judgments of the probate court 857
touching the guardianship. 858

(B) Except as provided in section 2111.131 of the Revised 859
Code, no part of the ward's estate shall be used for the support, 860
maintenance, or education of such ward unless ordered and approved 861
by the court. 862

(C) A guardian of the person may authorize or approve the provision to the ward of medical, health, or other professional care, counsel, treatment, or services unless the ward or an interested party files objections with the probate court, or the court, by rule or order, provides otherwise.

(D) A Unless a person with the right of disposition for a ward under section 2108.70 or 2108.83 of the Revised Code has made a decision regarding whether or not consent to an autopsy or post-mortem examination on the body of the deceased ward under section 2108.50 of the Revised Code shall be given, a guardian of the person of a ward who has died may consent to an the autopsy or post-mortem examination upon the body of the deceased ward under section 2108.50 of the Revised Code and, if the.

(E) If a deceased ward did not have a guardian of the estate and, the estate is not required to be administered by a probate court, and a person with the right of disposition for a ward, as described in section 2108.70 or 2108.83 of the Revised Code, has not made a decision regarding the disposition of the ward's body or remains, the guardian of the person of the ward may authorize the burial or cremation of the deceased ward. A

(F) A guardian who gives consent or authorization as described in this division divisions (D) and (E) of this section shall notify the probate court as soon as possible after giving the consent or authorization.

Sec. 2113.031. (A) As used in this section:

(1) "Financial institution" has the same meaning as in section 5725.01 of the Revised Code. "Financial institution" also includes a credit union and a fiduciary that is not a trust company but that does trust business.

(2) "Funeral and burial expenses" means whichever of the

following applies:	893
(a) The funeral and burial expenses of the decedent that are included in the bill of a funeral director;	894 895
(b) The funeral expenses of the decedent that are not included in the bill of a funeral director and that have been approved by the probate court;	896 897 898
(c) The funeral and burial expenses of the decedent that are described in divisions (A)(2)(a) and (b) of this section.	899 900
(3) "Surviving spouse" means either of the following:	901
(a) The surviving spouse of a decedent who died leaving the surviving spouse and no minor children;	902 903
(b) The surviving spouse of a decedent who died leaving the surviving spouse and minor children, all of whom are children of the decedent and the surviving spouse.	904 905 906
(B)(1) If the value of the assets of the decedent's estate does not exceed the lesser of two <u>five</u> thousand dollars or the amount of the decedent's funeral and burial expenses, any person who is not a surviving spouse and who has paid or is obligated in writing to pay the decedent's funeral and burial expenses, <u>including a person described in section 2108.91 of the Revised Code</u> , may apply to the probate court for an order granting a summary release from administration in accordance with this section.	907 908 909 910 911 912 913 914 915
(2) If either of the following applies, the decedent's surviving spouse may apply to the probate court for an order granting a summary release from administration in accordance with this section:	916 917 918 919
(a) The decedent's funeral and burial expenses have been prepaid, and the value of the assets of the decedent's estate does not exceed the total of the following items:	920 921 922

(i) The allowance for support that is made under division (A) 923
of section 2106.13 of the Revised Code to the surviving spouse 924
and, if applicable, to the decedent's minor children and that is 925
distributable in accordance with division (B)(1) or (2) of that 926
section; 927

(ii) An amount, not exceeding ~~two~~ five thousand dollars, for 928
the decedent's funeral and burial expenses referred to in division 929
(A)(2)(c) of this section. 930

(b) The decedent's funeral and burial expenses have not been 931
prepaid, the decedent's surviving spouse has paid or is obligated 932
in writing to pay the decedent's funeral and burial expenses, and 933
the value of the assets of the decedent's estate does not exceed 934
the total of the items referred to in divisions (B)(2)(a)(i) and 935
(ii) of this section. 936

(C) A probate court shall order a summary release from 937
administration in connection with a decedent's estate only if the 938
court finds that all of the following are satisfied: 939

(1) A person described in division (B)(1) of this section is 940
the applicant for a summary release from administration, and the 941
value of the assets of the decedent's estate does not exceed the 942
lesser of ~~two~~ five thousand dollars or the amount of the 943
decedent's funeral and burial expenses, or the applicant for a 944
summary release from administration is the decedent's surviving 945
spouse, and the circumstances described in division (B)(2)(a) or 946
(b) of this section apply. 947

(2) The application for a summary release from administration 948
does all of the following: 949

(a) Describes all assets of the decedent's estate that are 950
known to the applicant; 951

(b) Is in the form that the supreme court prescribes pursuant 952

to its powers of superintendence under Section 5 of Article IV, 953
Ohio Constitution, and is consistent with the requirements of this 954
division; 955

(c) Has been signed and acknowledged by the applicant in the 956
presence of a notary public or a deputy clerk of the probate 957
court; 958

(d) Sets forth the following information if the decedent's 959
estate includes a described type of asset: 960

(i) If the decedent's estate includes a motor vehicle, the 961
motor vehicle's year, make, model, body type, manufacturer's 962
vehicle identification number, certificate of title number, and 963
date of death value; 964

(ii) If the decedent's estate includes an account maintained 965
by a financial institution, that institution's name and the 966
account's complete identifying number and date of death balance; 967

(iii) If the decedent's estate includes one or more shares of 968
stock or bonds, the total number of the shares and bonds and their 969
total date of death value and, for each share or bond, its serial 970
number, the name of its issuer, its date of death value, and, if 971
any, the name and address of its transfer agent. 972

(3) The application for a summary release from administration 973
is accompanied by all of the following that apply: 974

(a) A receipt, contract, written declaration as defined in 975
section 2108.70 of the Revised Code, or other document that 976
confirms the applicant's payment or obligation to pay the 977
decedent's funeral and burial expenses or, if applicable in the 978
case of the decedent's surviving spouse, the prepayment of the 979
decedent's funeral and burial expenses; 980

(b) An application for a certificate of transfer as described 981
in section 2113.61 of the Revised Code, if an interest in real 982

property is included in the assets of the decedent's estate;	983
(c) The fee required by division (A)(59) of section 2101.16 of the Revised Code.	984 985
(4) At the time of its determination on the application, there are no pending proceedings for the administration of the decedent's estate and no pending proceedings for relief of the decedent's estate from administration under section 2113.03 of the Revised Code.	986 987 988 989 990
(5) At the time of its determination on the application, there are no known assets of the decedent's estate other than the assets described in the application.	991 992 993
(D) If the probate court determines that the requirements of division (C) of this section are satisfied, the probate court shall issue an order that grants a summary release from administration in connection with the decedent's estate. The order has, and shall specify that it has, all of the following effects:	994 995 996 997 998
(1) It relieves the decedent's estate from administration.	999
(2) It directs the delivery to the applicant of the decedent's personal property together with the title to that property.	1000 1001 1002
(3) It directs the transfer to the applicant of the title to any interests in real property included in the decedent's estate.	1003 1004
(4) It eliminates the need for a financial institution, corporation, or other entity or person referred to in any provision of divisions (A) to (F) of section 5731.39 of the Revised Code to obtain, as otherwise would be required by any of those divisions, the written consent of the tax commissioner prior to the delivery, transfer, or payment to the applicant of an asset of the decedent's estate.	1005 1006 1007 1008 1009 1010 1011
(E) A certified copy of an order that grants a summary	1012

release from administration together with a certified copy of the 1013
application for that order constitutes sufficient authority for a 1014
financial institution, corporation, or other entity or person 1015
referred to in divisions (A) to (F) of section 5731.39 of the 1016
Revised Code or for a clerk of a court of common pleas to transfer 1017
title to an asset of the decedent's estate to the applicant for 1018
the summary release from administration. 1019

(F) This section does not affect the ability of qualified 1020
persons to file an application to relieve an estate from 1021
administration under section 2113.03 of the Revised Code or to 1022
file an application for the grant of letters testamentary or 1023
letters of administration in connection with the decedent's 1024
estate. 1025

Sec. 2113.37. The probate court, in settlement of an 1026
~~executor's or administrator's~~ account, may allow as a credit to 1027
~~the executor or administrator~~ the following persons a just amount 1028
expended by ~~him~~ the person for a tombstone or monument for the 1029
deceased and a just amount paid by ~~him~~ the person to a cemetery 1030
association or corporation as a perpetual fund for caring for and 1031
preserving the lot on which the deceased is buried. ~~It:~~ 1032

(A) An executor; 1033

(B) An administrator; 1034

(C) A person with the right of disposition under section 1035
2108.70 or 2108.83 of the Revised Code. 1036

It is not incumbent on ~~an executor or administrator~~ such a 1037
person to procure a tombstone or monument or to pay any sum into 1038
such fund. 1039

Sec. 2117.25. (A) Every executor or administrator shall 1040
proceed with diligence to pay the debts of the decedent and shall 1041

apply the assets in the following order:	1042
(1) Costs and expenses of administration;	1043
(2) An amount, not exceeding two <u>five</u> thousand dollars, for funeral expenses that are included in the bill of a funeral director, funeral expenses other than those in the bill of a funeral director that are approved by the probate court, and an amount, not exceeding two <u>five</u> thousand dollars, for burial and cemetery expenses, including that portion of the funeral director's bill allocated to cemetery expenses that have been paid to the cemetery by the funeral director.	1044 1045 1046 1047 1048 1049 1050 1051
For purposes of this division, burial and cemetery expenses shall be limited to the following:	1052 1053
(a) The purchase of a place of interment;	1054
(b) Monuments or other markers;	1055
(c) The outer burial container;	1056
(d) The cost of opening and closing the place of interment;	1057
(e) The urn.	1058
(3) The allowance for support made to the surviving spouse, minor children, or both under section 2106.13 of the Revised Code;	1059 1060
(4) Debts entitled to a preference under the laws of the United States;	1061 1062
(5) Expenses of the last sickness of the decedent;	1063
(6) If the total bill of a funeral director for funeral expenses exceeds two <u>five</u> thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding one <u>two</u> thousand dollars, for funeral expenses that are included in the bill and that exceed two <u>five</u> thousand dollars;	1064 1065 1066 1067 1068 1069
(7) Personal property taxes, claims made under the estate	1070

recovery program instituted pursuant to section 5111.11 of the Revised Code, and obligations for which the decedent was personally liable to the state or any of its subdivisions;

(8) Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;

(9) Other debts for which claims have been presented and finally allowed.

(B) The part of the bill of a funeral director that exceeds the total of ~~three~~ seven thousand dollars as described in divisions (A)(2) and (6) of this section, and the part of a claim included in division (A)(8) of this section that exceeds three hundred dollars shall be included as a debt under division (A)(9) of this section, depending upon the time when the claim for the additional amount is presented.

(C) Any natural person or fiduciary who pays a claim of any creditor described in division (A) of this section shall be subrogated to the rights of that creditor proportionate to the amount of the payment and shall be entitled to reimbursement for that amount in accordance with the priority of payments set forth in that division.

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating to the manner in which and the time within which claims shall be presented, shall apply to claims set forth in divisions (A)(2), (6), and (8) of this section. Claims for an expense of administration or for the allowance for support need not be presented. The executor or administrator shall pay debts included in divisions (A)(4) and (7) of this section, of which the executor or administrator has knowledge, regardless of presentation.

(2) The giving of written notice to an executor or administrator of a motion or application to revive an action

pending against the decedent at the date of death shall be 1102
equivalent to the presentation of a claim to the executor or 1103
administrator for the purpose of determining the order of payment 1104
of any judgment rendered or decree entered in such an action. 1105

(E) No payments shall be made to creditors of one class until 1106
all those of the preceding class are fully paid or provided for. 1107
If the assets are insufficient to pay all the claims of one class, 1108
the creditors of that class shall be paid ratably. 1109

(F) If it appears at any time that the assets have been 1110
exhausted in paying prior or preferred charges, allowances, or 1111
claims, those payments shall be a bar to an action on any claim 1112
not entitled to that priority or preference. 1113

Sec. 2117.251. A claim under the bill of a funeral director 1114
pursuant to section 2117.25 of the Revised Code arises subsequent 1115
to the death of the decedent and is not in satisfaction of a 1116
personal obligation of the individual during the individual's 1117
lifetime. If a decedent during the decedent's lifetime has 1118
purchased an irrevocable preneed funeral contract pursuant to 1119
section 1109.75 of the Revised Code, then those provisions of 1120
section 2117.25 of the Revised Code that relate to the bill of a 1121
funeral director, including divisions (A) and (B) of that section, 1122
do not apply to the estate of the decedent and the estate is not 1123
liable for the funeral expenses of the decedent. 1124

Sec. 4717.21. (A) Any person, on an antemortem basis, may 1125
serve as the person's own authorizing agent, authorize the 1126
person's own cremation, and specify the arrangements for the final 1127
disposition of the person's own cremated remains by executing an 1128
antemortem cremation authorization form. A guardian, custodian, or 1129
other personal representative who is authorized by law or contract 1130
to do so on behalf of a person, on an antemortem basis, may 1131

authorize the cremation of the person and specify the arrangements 1132
for the final disposition of the person's cremated remains by 1133
executing an antemortem cremation authorization form on the 1134
person's behalf. Any such antemortem cremation authorization form 1135
also shall be signed by one witness. The original copy of the 1136
executed authorization form shall be sent to the operator of the 1137
crematory facility being authorized to conduct the cremation, and 1138
a copy shall be retained by the person who executed the 1139
authorization form. The person who executed an antemortem 1140
cremation authorization form may revoke the authorization at any 1141
time by providing written notice of the revocation to the operator 1142
of the crematory facility named in the authorization form. The 1143
person who executed the authorization form may transfer the 1144
authorization to another crematory facility by providing written 1145
notice to the operator of the crematory facility named in the 1146
original authorization of the revocation of the authorization and, 1147
in accordance with this division, executing a new antemortem 1148
cremation authorization form authorizing the operator of another 1149
crematory facility to conduct the cremation. 1150

(B) Each antemortem cremation authorization form shall 1151
specify the final disposition that is to be made of the cremated 1152
remains. 1153

(C) ~~When~~ (1) Except as provided in division (C)(2) of this 1154
section, when the operator of a crematory facility is in 1155
possession of a cremation authorization form that has been 1156
executed on an antemortem basis in accordance with this section, 1157
the other conditions set forth in division (A) of section 4717.23 1158
of the Revised Code have been met, the crematory facility has 1159
possession of the decedent to which the antemortem authorization 1160
pertains, and the crematory facility has received payment for the 1161
cremation of the decedent and the final disposition of the 1162
cremated remains of the decedent or is otherwise assured of 1163

payment for those services, the crematory facility shall cremate 1164
the decedent and dispose of the cremated remains in accordance 1165
with the instructions contained in the antemortem cremation 1166
authorization form, ~~unless a person identified as being entitled~~ 1167
~~to act as the authorizing agent for the cremation of the decedent~~ 1168
~~in the absence of the antemortem authorization under divisions~~ 1169
~~(A)(1) or (A)(4) to (8) of section 4717.22 of the Revised Code has~~ 1170
~~modified, in writing, the arrangements for the final disposition~~ 1171
~~of the cremated remains of the decedent or has canceled the~~ 1172
~~cremation and made alternative arrangements for the final~~ 1173
~~disposition of the decedent's body.~~ 1174

(2) Subject to section 2108.76 of the Revised Code, a person 1175
with the right of disposition for a decedent under section 2108.70 1176
of the Revised Code may cancel the arrangements for the decedent's 1177
cremation, modify the arrangements for the final disposition of 1178
the decedent's cremated remains, or make alternative arrangements 1179
for the final disposition of the decedent's body. If a person with 1180
the right takes any such action, the operator shall disregard the 1181
instructions contained in the cremation authorization form and 1182
follow the instructions of the person with the right. 1183

(D) An antemortem cremation authorization form executed under 1184
division (A) of this section does not constitute a contract for 1185
conducting the cremation of the person named in the authorization 1186
form or for the final disposition of the person's cremated 1187
remains. Despite the existence of such an antemortem cremation 1188
authorization, a person identified under ~~divisions (A)(1) or~~ 1189
~~(A)(4) to (8)~~ division (A) of section 4717.22 of the Revised Code 1190
as being entitled to act as the authorizing agent for the 1191
cremation of the decedent named in the antemortem authorization, 1192
in the descending order of priority in which they are listed, may 1193
modify, in writing, the arrangements for the final disposition of 1194
the cremated remains of the decedent set forth in the 1195

authorization form or may cancel the cremation and claim the 1196
decedent's body for purposes of making alternative arrangements 1197
for the final disposition of the decedent's body. The revocation 1198
of an antemortem cremation authorization form executed under 1199
division (A) of this section, or the cancellation of the cremation 1200
of the person named in the antemortem authorization or 1201
modification of the arrangements for the final disposition of the 1202
person's cremated remains as authorized by this division, does not 1203
affect the validity or enforceability of any contract entered into 1204
for the cremation of the person named in the antemortem 1205
authorization or for the final disposition of the person's 1206
cremated remains. 1207

(E) Nothing in this section applies to any antemortem 1208
cremation authorization form executed prior to the effective date 1209
of this section. Any cemetery, funeral home, crematory facility, 1210
or other party may specify, with the written approval of the 1211
person who executed the antemortem authorization, that such an 1212
antemortem authorization is subject to sections 4717.21 to 4717.30 1213
of the Revised Code. 1214

Sec. 4717.22. (A) ~~The following persons, in the descending~~ 1215
~~order of priority listed below, person who has the right of~~ 1216
~~disposition under section 2108.70 or 2108.83 of the Revised Code~~ 1217
may serve as an authorizing agent for the cremation of a dead 1218
human body, including, without limitation, a dead human body that 1219
was donated to science for purposes of medical education or 1220
research. 1221

~~(1) The spouse of the decedent at the time of the decedent's~~ 1222
~~death.~~ 1223

~~(2) Any person acting on the instructions of a decedent who~~ 1224
~~authorized the decedent's own cremation by executing an antemortem~~ 1225
~~cremation authorization form in accordance with section 4717.21 of~~ 1226

the Revised Code;	1227
(3) A person serving as the executor or legal representative	1228
of the decedent's estate who is acting in accordance with the	1229
decedent's written instructions for the final disposition of the	1230
decedent's body;	1231
(4) The decedent's surviving adult children. If the decedent	1232
is survived by more than one adult child, any of them who states	1233
on the cremation authorization form authorizing the cremation of	1234
the decedent executed in accordance with section 4717.24 of the	1235
Revised Code that all of the decedent's other adult children have	1236
been notified of the decedent's death and of the plans to cremate	1237
the decedent and that none of them have expressed an objection to	1238
the cremation may serve as the authorizing agent.	1239
(5) The decedent's surviving parent or, if the decedent was	1240
under eighteen years of age at death, a surviving parent or the	1241
guardian or custodian of the decedent. If the decedent is survived	1242
by both parents, either of them may serve as the authorizing agent	1243
by stating on the cremation authorization form authorizing the	1244
cremation of the decedent executed in accordance with section	1245
4717.24 of the Revised Code that the other parent has been	1246
notified of the decedent's death and of the plans to cremate the	1247
decedent and that the other parent expressed no objection to the	1248
cremation.	1249
(6) The person in the next degree of kinship to the decedent	1250
in the order named in section 2105.06 of the Revised Code to	1251
inherit the estate of the decedent if the decedent had died	1252
intestate. If there is more than one person of that degree of	1253
kinship, any of them may serve as the authorizing agent.	1254
(7) If the decedent was an indigent person or other person	1255
the final disposition of whose body is the responsibility of this	1256
state or a political subdivision of this state, the public officer	1257

~~or employee responsible for arranging the final disposition of the
decedent's body;~~ 1258
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~~(8) In the case of an individual who has donated the
individual's body to science for purposes of medical education or
research, or whose death occurred in a nursing home, rest home, or
home for the aging licensed under Chapter 3721. of the Revised
Code, an adult care facility licensed under Chapter 3722. of the
Revised Code, or a hospital registered under section 3701.07 of
the Revised Code, and who has executed an antemortem cremation
authorization form in accordance with section 4717.21 of the
Revised Code in which the medical education or research facility,
nursing home, rest home, home for the aging, adult care facility,
or hospital is designated to make arrangements for the final
disposition of the decedent's body, a representative of that
facility or institution;~~ 1260
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~~(9) In the absence of any of the parties named in divisions
(A)(1) to (8) of this section, any person willing to assume the
responsibility of an authorizing agent under sections 4717.23 to
4717.30 of the Revised Code.~~ 1273
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~~(B) If body parts were removed from a living person, the
person from whom the body parts were removed or the guardian,
custodian, or other personal representative of the person from
whom the body parts were removed who is authorized by law or
contract to arrange for the disposition of the body parts the
person who has the right of disposition under section 2108.70 or
2108.83 of the Revised Code may serve as the authorizing agent for
the cremation of the body parts.~~ 1277
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~~(C) If body parts were removed from a decedent whose body was
donated to science for purposes of medical education or research,
the person who has the right of disposition under section 2108.70
or 2108.83 of the Revised Code may serve as the authorizing agent~~ 1285
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for the cremation of the body parts. In the absence of any action 1289
by the person with the right of disposition with respect to the 1290
cremation of such body parts, the medical education or research 1291
facility to which the decedent's body was donated may serve as the 1292
authorizing agent for the cremation of ~~the body~~ such parts. 1293

Section 2. That existing sections 2101.24, 2106.20, 2108.50, 1294
2109.02, 2111.13, 2113.031, 2113.37, 2117.25, 4717.21, and 4717.22 1295
of the Revised Code are hereby repealed. 1296