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**Representatives Dolan, Chandler, Yuko, Fessler, Wagoner, Reidelbach,
McGregor, J., Willamowski, DeGeeter, Harwood, Allen, Bubp, Carano,
Cassell, Collier, Combs, DeBose, Distel, Domenick, Flowers, Gibbs, Hartnett,
Hughes, Key, Law, Martin, Miller, Otterman, Patton, T., Perry, Sayre,
Schlichter, Schneider, Seitz, Setzer, Smith, G., Walcher, Williams, Wolpert**

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A B I L L

To amend sections 1111.19, 1721.211, 2101.24, 1
2106.20, 2108.50, 2109.02, 2111.13, 2113.031, 2
2113.37, 2117.25, 4511.451, 4717.21, and 4717.22 3
and to enact sections 2108.70 to 2108.90, and 4
2117.251 of the Revised Code regarding the 5
assignment of the right to direct the disposition 6
of an adult's remains after death and to make 7
arrangements and purchase goods and services 8
related to an adult's funeral, cremation, burial, 9
or other manner of final disposition. 10

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

Section 1. That sections 1111.19, 1721.211, 2101.24, 2106.20, 11
2108.50, 2109.02, 2111.13, 2113.031, 2113.37, 2117.25, 4511.451, 12
4717.21, and 4717.22 be amended and sections 2108.70, 2108.71, 13
2108.72, 2108.73, 2108.74, 2108.75, 2108.76, 2108.77, 2108.78, 14
2108.79, 2108.80, 2108.81, 2108.82, 2108.83, 2108.84, 2108.85, 15
2108.86, 2108.87, 2108.88, 2108.89, 2108.90, and 2117.251 of the 16
Revised Code be enacted to read as follows: 17

Sec. 1111.19. (A) As used in this section: 18

(1) "Financial institution" means a bank, savings bank, or 19
savings association located in this state and insured by the 20
federal deposit insurance corporation or a credit union authorized 21
to do business in this state. 22

(2) "Preneed funeral contract" means a written agreement, 23
contract, or series of contracts to sell or otherwise provide any 24
funeral services, funeral goods, or any combination thereof, to be 25
used in connection with the funeral or final disposition of a dead 26
human body, where payment for the goods or services is made either 27
outright or on an installment basis, prior to the death of the 28
person purchasing them or for whom they are purchased. A preneed 29
funeral contract that includes funeral services may be sold only 30
by a funeral director licensed pursuant to Chapter 4717. of the 31
Revised Code. For the purpose of this section, "funeral goods" 32
includes caskets. "Preneed funeral contract" does not include any 33
preneed cemetery merchandise and services contract or any 34
agreement, contract, or series of contracts pertaining to the sale 35
of any burial lot, burial or interment right, entombment right, or 36
columbarium right with respect to which an endowment care fund is 37
established or is exempt from establishment pursuant to section 38
1721.21 of the Revised Code. 39

(B)(1) Any preneed funeral contract that involves the payment 40
of money shall be in writing and in compliance with the laws and 41
rules of this state. One hundred per cent of all payments for 42
funeral goods and services made under a preneed funeral contract 43
shall remain intact and held in trust for the benefit of the 44
person for whose benefit the contract is made. No money in a 45
preneed funeral contract trust shall be distributed from the trust 46
except as provided in this section. Any purchaser on initially 47
entering into a preneed funeral contract may, within seven days, 48

rescind the contract and request and receive from the seller one 49
hundred per cent of all payments made under the contract. 50

(2) Every preneed funeral contract entered into on or after 51
the effective date of this amendment shall include a provision in 52
substantially the following form: 53

NOTICE: Under Ohio law, the person holding the right of 54
disposition of the remains of the beneficiary of this contract 55
pursuant to section 2108.70 or 2108.81 of the Revised Code will 56
have the right to make funeral arrangements inconsistent with the 57
arrangements set forth in this contract. However, the beneficiary 58
is encouraged to state his or her preferences as to funeral 59
arrangements in a declaration of the right of disposition pursuant 60
to section 2108.72 of the Revised Code, including that the 61
arrangements set forth in this contract shall be followed. 62

(C) Within thirty days after the seller of funeral goods or 63
services receives any payment under a preneed funeral contract, 64
the seller shall deliver the moneys received and not returned to 65
the purchaser as provided in division (B) of this section, to the 66
trustee designated in the preneed funeral contract or an amendment 67
to it. 68

(D) The trustee of each preneed funeral contract trust shall 69
be a financial institution or a natural person not required by 70
this chapter to be licensed to do trust business. A natural person 71
acting as trustee of a preneed funeral contract trust shall be 72
bonded by a corporate surety bond in an amount not less than one 73
hundred per cent of the funds in all of the preneed funeral 74
contract trusts the person serves as trustee. 75

(E)(1) A trustee shall establish a separate preneed funeral 76
contract trust for the moneys paid under each preneed funeral 77
contract, unless the purchaser under a preneed funeral contract 78
authorizes the trustee to place the moneys paid in a combined 79

preneed funeral contract trust. The trustee of a combined preneed 80
funeral contract trust shall keep exact records of the corpus, 81
income, expenses, and disbursements with regard to each 82
beneficiary of a preneed funeral contract for whom moneys are held 83
in the trust. The terms of a preneed funeral contract trust shall 84
be governed by this section. 85

(2) A trustee may charge a fee for managing a preneed funeral 86
contract trust. The fee shall not exceed the amount regularly or 87
usually charged for similar services rendered by the financial 88
institution when serving as a trustee, and shall be paid only from 89
the income on that trust. 90

(F) No preneed funeral contract shall restrict the purchaser 91
from making the contract irrevocable. On the purchase by an 92
individual of an irrevocable preneed funeral contract, the selling 93
funeral director assumes the legal obligation to provide for the 94
funeral of the individual pursuant to the terms of the contract. 95

(G) The purchaser of a preneed funeral contract that is not 96
irrevocable may, on not less than fifteen days' notice, cancel the 97
contract and request and receive from the trustee payments made 98
under the contract and any income earned up to the time of 99
cancellation, less fees, distributions, and expenses made pursuant 100
to this section; except, if a preneed funeral contract stipulates 101
a firm or fixed or guaranteed price for funeral services and goods 102
for future use at a time determined by the death of the 103
beneficiary of the preneed funeral contract, the purchaser, on not 104
less than fifteen days' notice, may cancel the contract and 105
receive from the trustee ninety per cent of the principal paid 106
pursuant to the preneed funeral contract, not less than eighty per 107
cent of any interest earned up to the time of cancellation, and 108
not less than eighty per cent of any income earned on the funds 109
since the funds were paid to the seller and up to the time of 110
cancellation less any fees, distributions, and expenses. On 111

cancellation, after the funds have been distributed to the purchaser pursuant to this division, the trustee shall distribute all remaining funds attributable to the canceled preneed funeral contract to the seller. If more than one purchaser enters into the contract, all of those purchasers must request cancellation for it to be effective under this division, and the trustee shall refund to each purchaser only those funds that purchaser has paid under the contract and a proportionate amount of any income earned on those funds, less any fees, distributions, and expenses.

(H) A certified copy of the certificate of death or other evidence of death satisfactory to the trustee shall be furnished to the trustee as evidence of death, and the trustee shall promptly pay the accumulated payments and income, if any, according to the preneed funeral contract. The payment of the accumulated payments and income pursuant to this section and, when applicable, the preneed funeral contract, shall relieve the trustee of any further liability on the accumulated payments and income.

(I) For purposes of this section, the seller is deemed to have delivered funeral goods pursuant to a preneed funeral contract when either of the following occurs:

(1) The seller makes actual delivery of the goods to the beneficiary;

(2) The seller does all of the following:

(a) Receives delivery of the goods on behalf of the beneficiary;

(b) Stores the goods upon the real property of a funeral home licensed in this state;

(c) Notifies the beneficiary of receipt of the goods and identifies the specific location of the goods;

(d) At the time of the purchaser's final payment, provides 142
the beneficiary with evidence of ownership in the beneficiary's 143
name showing the goods to be free and clear of any liens or other 144
encumbrances. 145

(J) The seller of funeral goods or services under a preneed 146
funeral contract annually shall submit to the board of embalmers 147
and funeral directors the reports the board requires. 148

(K) The general assembly intends this section to be construed 149
as a limitation on the manner in which a person is permitted to 150
accept funds in prepayment for funeral services to be performed in 151
the future, or funeral goods to be used in connection with the 152
funeral or final disposition of human remains, to the end that at 153
all times members of the public may have an opportunity to arrange 154
and pay for funerals for themselves and their families in advance 155
of need while at the same time providing all possible safeguards 156
to ensure that prepaid funds cannot be dissipated, whether 157
intentionally or not, but remain available for payment for funeral 158
goods and services in connection with the funeral or final 159
disposition of dead human bodies. 160

(L) This section does not apply when the seller of funeral 161
goods or services under a preneed funeral contract is an 162
established and legally cognizable church or denomination that is 163
exempt from federal income taxation under section 501(c)(3) of the 164
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, 165
as amended, and the preneed funeral contract pertains to a 166
cemetery owned and operated entirely and exclusively by the church 167
or denomination; provided the church or denomination adopts, on a 168
voluntary basis, rules and other measures to safeguard and secure 169
all funds received under any preneed funeral contract. 170

(M) This section does not prohibit persons who are not 171
licensed funeral directors from selling funeral goods pursuant to 172

a preneed funeral contract; however, all sellers of funeral goods 173
pursuant to a preneed funeral contract shall comply with this 174
section unless the seller is specifically exempt from compliance 175
by this section. 176

Sec. 1721.211. (A) As used in this section, "preneed cemetery 177
merchandise and services contract" means a written agreement, 178
contract, or series of contracts to sell or otherwise provide an 179
outer burial container, monument, marker, urn, other type of 180
merchandise customarily sold by cemeteries, or opening and closing 181
services to be used or provided in connection with the final 182
disposition of a dead human body, where payment for the container, 183
monument, marker, urn, other type of merchandise customarily sold 184
by cemeteries, or opening and closing services is made either 185
outright or on an installment basis, prior to the death of the 186
person so purchasing or for whom so purchased. "Preneed cemetery 187
merchandise and services contract" does not include any preneed 188
funeral contract or any agreement, contract, or series of 189
contracts pertaining to the sale of any burial lot, burial or 190
interment right, entombment right, or columbarium right with 191
respect to which an endowment care trust is established or is 192
exempt from establishment pursuant to section 1721.21 of the 193
Revised Code. 194

(B) Subject to the limitations and restrictions contained in 195
Chapters 1101. to 1127. of the Revised Code, a trust company 196
licensed under Chapter 1111. of the Revised Code or a national 197
bank or federal savings association that pledges securities in 198
accordance with section 1111.04 of the Revised Code or the 199
individuals described in division (C)(2) of this section have the 200
power as trustee to receive and to hold and invest in accordance 201
with sections 2109.37 and 2109.371 of the Revised Code moneys 202
under a preneed cemetery merchandise and services contract. 203

(C)(1) The greater of one hundred ten per cent of the 204
seller's actual cost or thirty per cent of the seller's retail 205
price of the merchandise and seventy per cent of the seller's 206
retail price of the services to be provided under a preneed 207
cemetery merchandise and services contract shall remain intact as 208
a fund until the death of the person for whose benefit the 209
contract is made or the merchandise is delivered as set forth in 210
division (K) of this section. However, any moneys held pursuant to 211
this section shall be released upon demand of the person for whose 212
benefit the contract was made or upon the demand of the seller for 213
its share of the moneys held and earned interest if the contract 214
has been canceled as set forth in division (G) of this section. 215

(2) The trustee of the fund described in division (C)(1) of 216
this section shall be a trust company licensed under Chapter 1111. 217
of the Revised Code or a national bank or federal savings 218
association that pledges securities in accordance with section 219
1111.04 of the Revised Code or at least three individuals who have 220
been residents of the county in which the seller is located for at 221
least one year, each of whom shall be bonded by a corporate surety 222
in an amount that is at least equal to the amount deposited in the 223
fund of which those persons serve as trustee. Amounts in the fund 224
shall be held and invested in the manner in which trust funds are 225
permitted to be held and invested pursuant to sections 2109.37 and 226
2109.371 of the Revised Code. 227

(3) Every preneed cemetery and merchandise contract entered 228
into on or after the effective date of this amendment shall 229
include a provision in substantially the following form: 230

NOTICE: Under Ohio law, the person holding the right of 231
disposition of the remains of the beneficiary of this contract 232
pursuant to section 2108.70 or 2108.81 of the Revised Code will 233
have the right to purchase cemetery merchandise and services 234
inconsistent with the merchandise and services set forth in this 235

contract. However, the beneficiary is encouraged to state his or 236
her preferences as to the manner of final disposition in a 237
declaration of the right of disposition pursuant to section 238
2108.72 of the Revised Code, including that the arrangements set 239
forth in this contract shall be followed. 240

(D) Within thirty days after the last business day of the 241
month in which the seller of cemetery merchandise or services 242
receives final contractual payment under a preneed cemetery 243
merchandise and services contract, the seller shall deliver the 244
greater of one hundred ten per cent of the seller's actual cost or 245
thirty per cent of the seller's retail price of the merchandise 246
and seventy per cent of the seller's current retail price of the 247
services as of the date of the contract to a trustee or to 248
trustees as described in division (C)(2) of this section, and the 249
moneys and accruals or income on the moneys shall be held in a 250
fund and designated for the person for whose benefit the fund was 251
established as a preneed cemetery merchandise and services 252
contract fund. 253

(E) The moneys received from more than one preneed cemetery 254
merchandise and services contract may, at the option of the 255
persons for whose benefit the contracts are made, be placed in a 256
common or pooled trust fund in this state under a single trust 257
instrument. If three individuals are designated as the trustees as 258
provided in division (C)(2) of this section, they shall be bonded 259
by a corporate surety or fidelity bond in an aggregate amount of 260
not less than one hundred per cent of the funds held by them as 261
trustees. The trustees or their agent shall, on a continuous 262
basis, keep exact records as to the amount of funds under a single 263
trust instrument being held for the individual beneficiaries 264
showing the amount paid, the amount deposited and invested, and 265
accruals and income. 266

(F) The seller of merchandise or services under a preneed 267

cemetery merchandise and services contract shall annually submit 268
to the division of real estate of the department of commerce an 269
affidavit in a form prescribed by the division, sworn under oath, 270
specifying each of the following: 271

(1) That, within the time specified in division (D) of this 272
section, the amounts required by that division were deposited in 273
an appropriate fund; 274

(2) That the fund has not been used to collateralize or 275
guarantee loans and has not otherwise been subjected to any 276
consensual lien; 277

(3) That the fund is invested in compliance with the 278
investing standards set forth in sections 2109.37 and 2109.371 of 279
the Revised Code; 280

(4) That no moneys have been removed from the fund, except as 281
provided for in this section. 282

(G) This division is subject to division (I) of this section. 283

Any person upon initially entering into a preneed cemetery 284
merchandise and services contract may, within seven days, cancel 285
the contract and request and receive from the seller one hundred 286
per cent of all payments made under the contract. After the 287
expiration of the above period, any person who has entered into a 288
preneed cemetery merchandise and services contract may, on not 289
less than fifteen days' notice, cancel the contract and request 290
and receive from the seller sixty per cent of the payments made 291
under the contract which have been paid up to the time of 292
cancellation; except that, if a preneed cemetery merchandise and 293
services contract stipulates a firm or fixed or guaranteed price 294
for the merchandise or services for future use at a time 295
determined by the death of the person on behalf of whom payments 296
are made, the person who has entered into the contract may, if the 297
merchandise has not been delivered or the services have not been 298

performed as set forth in division (K) or (L) of this section, on 299
not less than fifteen days' notice, cancel the contract and 300
receive from the seller sixty per cent of the principal paid 301
pursuant to the contract and not less than eighty per cent of any 302
interest paid, up to the time of cancellation, and not less than 303
eighty per cent of any accrual or income earned while the moneys 304
have been held pursuant to divisions (C) and (D) of this section, 305
up to the time of cancellation. Upon cancellation, after the 306
moneys have been distributed to the beneficiary pursuant to this 307
division, all remaining moneys being held pursuant to divisions 308
(C) and (D) of this section shall be paid to the seller. If more 309
than one person enters into the contract, all of those persons 310
must request cancellation for it to be effective under this 311
division. In such a case, the seller shall refund to each person 312
only those moneys that each person has paid under the contract. 313

(H) Upon receipt of a certified copy of the certificate of 314
death or evidence of delivery of the merchandise or performance of 315
the services pursuant to division (K) or (L) of this section, the 316
trustee described in division (C)(2) of this section or its agent, 317
shall forthwith pay the fund and accumulated interest, if any, to 318
the person entitled to them under the preneed cemetery merchandise 319
and services contract. The payment of the fund and accumulated 320
interest pursuant to this section, either to a seller or person 321
making the payments, shall relieve the trustee of any further 322
liability on the fund or accumulated interest. 323

(I) Notwithstanding any other provision of this section, any 324
preneed cemetery merchandise and services contract may specify 325
that it is irrevocable. All irrevocable preneed cemetery 326
merchandise and services contracts shall include a clear and 327
conspicuous disclosure of irrevocability in the contract and any 328
person entering into an irrevocable preneed cemetery merchandise 329
and services contract shall sign a separate acknowledgment of the 330

person's waiver of the right to revoke. If a contract satisfies 331
the requirements of this division, division (G) of this section 332
does not apply to that contract. 333

(J) Any preneed cemetery merchandise and services contract 334
that involves the payment of money shall be in writing and in 335
compliance with the laws and rules of this state. 336

(K) For purposes of this section, the seller is considered to 337
have delivered merchandise pursuant to a preneed cemetery 338
merchandise and services contract when either of the following 339
occur: 340

(1) The seller makes actual delivery of the merchandise to 341
the beneficiary, or the seller pays for the merchandise and 342
identifies it as being stored for the benefit of the beneficiary 343
at a manufacturer's warehouse. 344

(2) The seller receives delivery of the merchandise on behalf 345
of the beneficiary, and all of the following occur: 346

(a) The merchandise is permanently affixed to or stored upon 347
the real property of a cemetery located in this state. 348

(b) The seller notifies the beneficiary of receipt of the 349
merchandise and identifies the specific location of the 350
merchandise. 351

(c) The seller at the time of the beneficiary's final payment 352
provides the beneficiary with evidence of ownership in the 353
beneficiary's name showing the merchandise to be free and clear of 354
any liens or other encumbrances. 355

(L) For purposes of this section, a seller is considered to 356
have performed services pursuant to a preneed cemetery merchandise 357
and services contract when the beneficiary's next of kin signs a 358
written statement that the services have been performed or, if no 359
next of kin of the beneficiary can be located through reasonable 360

diligence, when the owner or other person responsible for the 361
operation of the cemetery signs a statement of that nature. 362

(M) Notwithstanding any other provision of this chapter, any 363
trust may be charged a trustee's fee, which is to be deducted from 364
the earned income or accruals on that trust. The fee shall not 365
exceed the amount that is regularly or usually charged for similar 366
services rendered by the trustee described in division (C)(2) of 367
this section when serving as a trustee. 368

(N) The general assembly intends that this section be 369
construed as a limitation upon the manner in which a person is 370
permitted to accept moneys in prepayment for merchandise and 371
services to be delivered or provided in the future, or merchandise 372
and services to be used or provided in connection with the final 373
disposition of human remains, to the end that at all times members 374
of the public may have an opportunity to arrange and pay for 375
merchandise and services for themselves and their families in 376
advance of need while at the same time providing all possible 377
safeguards whereunder the prepaid moneys cannot be dissipated, 378
whether intentionally or not, so as to be available for the 379
payment for merchandise and services and the providing of 380
merchandise and services used or provided in connection with the 381
final disposition of dead human bodies. 382

(O) This section does not apply to the seller or provider of 383
merchandise or services under a preneed cemetery merchandise and 384
services contract if the contract pertains to a cemetery that is 385
owned and operated entirely and exclusively by an established and 386
legally cognizable church or denomination that is exempt from 387
federal income taxation under section 501(c)(3) of the "Internal 388
Revenue Code of 1954," 26 U.S.C.A. 501, an established fraternal 389
organization, or a municipal corporation or other political 390
subdivision of the state, to a cemetery that is a national 391
cemetery, or to a cemetery that is a family cemetery as defined in 392

section 4767.02 of the Revised Code; provided that, on a voluntary 393
basis, rules and other measures are adopted to safeguard and 394
secure all moneys received under a preneed cemetery merchandise 395
and services contract. 396

(P) This section does not prohibit persons other than 397
cemetery corporations or associations from selling outer burial 398
containers, monuments, markers, urns, or other types of 399
merchandise customarily sold by cemeteries pursuant to a preneed 400
cemetery merchandise and services contract; however all sellers of 401
merchandise pursuant to a preneed cemetery merchandise and 402
services contract shall comply with this section unless the seller 403
is specifically exempt from this section. 404

(Q) Any contract for preneed services or merchandise entered 405
into with a cemetery not registered under section 4767.03 of the 406
Revised Code is voidable. 407

Sec. 2101.24. (A)(1) Except as otherwise provided by law, the 408
probate court has exclusive jurisdiction: 409

(a) To take the proof of wills and to admit to record 410
authenticated copies of wills executed, proved, and allowed in the 411
courts of any other state, territory, or country. If the probate 412
judge is unavoidably absent, any judge of the court of common 413
pleas may take proof of wills and approve bonds to be given, but 414
the record of these acts shall be preserved in the usual records 415
of the probate court. 416

(b) To grant and revoke letters testamentary and of 417
administration; 418

(c) To direct and control the conduct and settle the accounts 419
of executors and administrators and order the distribution of 420
estates; 421

(d) To appoint the attorney general to serve as the 422

administrator of an estate pursuant to section 2113.06 of the	423
Revised Code;	424
(e) To appoint and remove guardians, conservators, and	425
testamentary trustees, direct and control their conduct, and	426
settle their accounts;	427
(f) To grant marriage licenses;	428
(g) To make inquests respecting persons who are so mentally	429
impaired as a result of a mental or physical illness or	430
disability, or mental retardation, or as a result of chronic	431
substance abuse, that they are unable to manage their property and	432
affairs effectively, subject to guardianship;	433
(h) To qualify assignees, appoint and qualify trustees and	434
commissioners of insolvents, control their conduct, and settle	435
their accounts;	436
(i) To authorize the sale of lands, equitable estates, or	437
interests in lands or equitable estates, and the assignments of	438
inchoate dower in such cases of sale, on petition by executors,	439
administrators, and guardians;	440
(j) To authorize the completion of real estate contracts on	441
petition of executors and administrators;	442
(k) To construe wills;	443
(l) To render declaratory judgments, including, but not	444
limited to, those rendered pursuant to section 2107.084 of the	445
Revised Code;	446
(m) To direct and control the conduct of fiduciaries and	447
settle their accounts;	448
(n) To authorize the sale or lease of any estate created by	449
will if the estate is held in trust, on petition by the trustee;	450
(o) To terminate a testamentary trust in any case in which a	451

court of equity may do so;	452
(p) To hear and determine actions to contest the validity of wills;	453 454
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	455 456 457
(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;	458 459 460 461 462
(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	463 464
(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	465 466
(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;	467 468 469
(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;	470 471 472
(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;	473 474 475
(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division;	476 477 478 479 480 481

(y) To hear and determine applications that pertain to the 482
withholding or withdrawal of nutrition and hydration from certain 483
patients allegedly in a permanently unconscious state pursuant to 484
section 2133.09 of the Revised Code, in accordance with that 485
section; 486

(z) To hear and determine applications of attending 487
physicians in accordance with division (B) of section 2133.15 of 488
the Revised Code; 489

(aa) To hear and determine actions relative to the use or 490
continuation of comfort care in connection with certain principals 491
under durable powers of attorney for health care, declarants under 492
declarations, or patients in accordance with division (E) of 493
either section 1337.16 or 2133.12 of the Revised Code; 494

(bb) To hear and determine applications for an order 495
relieving an estate from administration under section 2113.03 of 496
the Revised Code; 497

(cc) To hear and determine applications for an order granting 498
a summary release from administration under section 2113.031 of 499
the Revised Code; 500

(dd) To hear and determine actions relating to the exercise 501
of the right of disposition, in accordance with section 2108.90 of 502
the Revised Code; 503

(ee) To hear and determine actions relating to the 504
disinterment and reinterment of human remains under section 517.23 505
of the Revised Code. 506

(2) In addition to the exclusive jurisdiction conferred upon 507
the probate court by division (A)(1) of this section, the probate 508
court shall have exclusive jurisdiction over a particular subject 509
matter if both of the following apply: 510

(a) Another section of the Revised Code expressly confers 511

jurisdiction over that subject matter upon the probate court. 512

(b) No section of the Revised Code expressly confers 513
jurisdiction over that subject matter upon any other court or 514
agency. 515

(B)(1) The probate court has concurrent jurisdiction with, 516
and the same powers at law and in equity as, the general division 517
of the court of common pleas to issue writs and orders, and to 518
hear and determine actions as follows: 519

(a) If jurisdiction relative to a particular subject matter 520
is stated to be concurrent in a section of the Revised Code or has 521
been construed by judicial decision to be concurrent, any action 522
that involves that subject matter; 523

(b) Any action that involves an inter vivos trust; a trust 524
created pursuant to section 1339.51 of the Revised Code; a 525
charitable trust or foundation; subject to divisions (A)(1)(u) and 526
(z) of this section, a power of attorney, including, but not 527
limited to, a durable power of attorney; the medical treatment of 528
a competent adult; or a writ of habeas corpus. 529

(2) Any action that involves a concurrent jurisdiction 530
subject matter and that is before the probate court may be 531
transferred by the probate court, on its order, to the general 532
division of the court of common pleas. 533

(C) The probate court has plenary power at law and in equity 534
to dispose fully of any matter that is properly before the court, 535
unless the power is expressly otherwise limited or denied by a 536
section of the Revised Code. 537

(D) The jurisdiction acquired by a probate court over a 538
matter or proceeding is exclusive of that of any other probate 539
court, except when otherwise provided by law. 540

Sec. 2106.20. A surviving spouse or a person with the right 541

of disposition under section 2108.70 or 2108.81 of the Revised 542
Code is entitled to a reimbursement from the estate of the 543
~~deceased spouse~~ decedent for funeral and burial expenses, if paid 544
by the surviving spouse or person with the right of disposition, 545
to the extent that the rights of other creditors of the estate 546
will not be prejudiced by the reimbursement. 547

Sec. 2108.50. (A) Subject to section 2108.521 of the Revised 548
Code, an autopsy or post-mortem examination may be performed upon 549
the body of a deceased person by a licensed physician or surgeon 550
if consent has been given ~~in the order named by one of the~~ 551
~~following persons of sound mind and eighteen years of age or older~~ 552
~~in a written instrument executed by the person or on the person's~~ 553
~~behalf at the person's express direction:~~ 554

~~(1) The deceased person during the deceased person's~~ 555
~~lifetime;~~ 556

~~(2) The decedent's spouse;~~ 557

~~(3) If there is no surviving spouse, if the address of the~~ 558
~~surviving spouse is unknown or outside the United States, if the~~ 559
~~surviving spouse is physically or mentally unable or incapable of~~ 560
~~giving consent, or if the deceased person was separated and living~~ 561
~~apart from such surviving spouse, then a person having the first~~ 562
~~named degree of relationship in the following list in which a~~ 563
~~relative of the deceased person survives and is physically and~~ 564
~~mentally able and capable of giving consent may execute consent:~~ 565

~~(a) Children;~~ 566

~~(b) Parents;~~ 567

~~(c) Brothers or sisters.~~ 568

~~(4) If there are no surviving persons of any degree of~~ 569
~~relationship listed in division (A)(3) of this section, any other~~ 570
~~relative or person who assumes custody of the body for burial;~~ 571

~~(5) A person authorized by written instrument executed by the
deceased person to make arrangements for burial;~~ 572
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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 by the person who has the right of disposition under
section 2108.70 or 2108.81 of the Revised Code.~~ 574
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(B) Consent to an autopsy or post-mortem examination given 578
under this section may be revoked only by the person executing the 579
consent and in the same manner as required for execution of 580
consent under this section. 581

~~(C) As used in this section, "written instrument" includes a
telegram or cablegram.~~ 582
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Sec. 2108.70. (A) As used in this section and sections 584
2108.71 to 2108.90 of the Revised Code: 585

(1) "Adult" means an individual who is eighteen years of age 586
or older. 587

(2) "Declarant" means an adult who has executed a written 588
declaration described in division (B) of this section. 589

(3) "First successor representative" means an adult or group 590
of adults, collectively, to whom the right of disposition for a 591
declarant has been reassigned because the declarant's 592
representative is disqualified from exercising the right under 593
section 2108.75 of the Revised Code. 594

(4) "Representative" means an adult or a group of adults, 595
collectively, to whom a declarant has assigned the right of 596
disposition. 597

(5) "Right of disposition" means one or more of the rights 598
described in division (B) of this section that a declarant chooses 599
to assign to a representative in a written declaration executed 600

under that division or all of the rights described in division (B) of this section that are assigned to a person pursuant to section 2108.81 of the Revised Code.

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(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 2108.75 of the Revised Code.

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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:

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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.

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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.

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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.

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(C)(1) Subject to division (C)(2) of this section, a declarant may designate a first successor representative.

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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

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disqualified from serving as the representative, as described in 631
section 2108.75 of the Revised Code, the persons in the group who 632
are not disqualified shall remain the representative who has the 633
right of disposition. 634

(D)(1) Subject to division (D)(2) of this section, a 635
declarant may designate a second successor representative. 636

(2) If the first successor representative is a group of 637
persons and not all of the persons in the group meet at least one 638
criterion to be disqualified from serving as the first successor 639
representative, as described in section 2108.75 of the Revised 640
Code, the persons in the group who are not disqualified shall 641
remain the first successor representative to whom the right of 642
disposition is reassigned. 643

(E) The assignment or reassignment of a right of disposition 644
to a representative, first successor representative, and second 645
successor representative supercedes an assignment of a right of 646
disposition under section 2108.81 of the Revised Code. 647

Sec. 2108.71. The assignment or reassignment of a right of 648
disposition by a declarant under section 2108.70 of the Revised 649
Code vests in a representative, first successor representative, or 650
second successor representative at the time of the declarant's 651
death. 652

Sec. 2108.72. (A) The written declaration described in 653
section 2108.70 of the Revised Code shall include all of the 654
following: 655

(1) The declarant's legal name and present address; 656

(2) A statement that the declarant, an adult being of sound 657
mind, willfully and voluntarily appoints a representative to have 658
the declarant's right of disposition for the declarant's body upon 659

the declarant's death; 660

(3) A statement that all decisions made by the declarant's representative with respect to the right of disposition are binding; 661
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(4) The name, last known address, and last known telephone number of the representative or, if the representative is a group of persons, the name, last known address, and last known telephone number of each person in the group; 664
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(5) If the declarant chooses to have a first successor representative, a statement that if any person or group of persons named as the declarant's representative is disqualified from serving in such position as described in section 2108.75 of the Revised Code, the declarant appoints a first successor representative; 668
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(6) If the declarant chooses to have a second successor representative, a statement that if a person or group of persons named as the declarant's representative or first successor representative are both disqualified from serving in such positions as described in section 2108.75 of the Revised Code, that the declarant appoints a second successor representative; 674
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(7) If applicable, the name, last known address, and last known telephone number of the first and second successor representative or, if the first or second successor representative is a group of persons, the name, last known address, and last known telephone number of each person in the group; 680
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(8) A space where the declarant may indicate the declarant's preferences regarding how the right of disposition should be exercised, including any religious observances the declarant wishes the person with the right of disposition to consider; 685
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(9) A space where the declarant may indicate one or more 689

<u>sources of funds that may be used to pay for goods and services</u>	690
<u>associated with the exercise of the right of disposition;</u>	691
<u>(10) A statement that the declarant's written declaration</u>	692
<u>becomes effective on the declarant's death;</u>	693
<u>(11) A statement that the declarant revokes any written</u>	694
<u>declaration that the declarant executed, in accordance with</u>	695
<u>section 2108.70 of the Revised Code, prior to the execution of the</u>	696
<u>present written declaration.</u>	697
<u>(12) A space where the declarant can sign and date the</u>	698
<u>written declaration;</u>	699
<u>(13) A space where a notary public or two witnesses can sign</u>	700
<u>and date the written declaration as described in section 2108.73</u>	701
<u>of the Revised Code.</u>	702
<u>(B) A written declaration may take the following form:</u>	703
<u>APPOINTMENT OF REPRESENTATIVE FOR DISPOSITION OF BODILY</u>	704
<u>REMAINS, FUNERAL ARRANGEMENTS, AND BURIAL OR CREMATION GOODS AND</u>	705
<u>SERVICES:</u>	706
<u>I, (legal name and present address of</u>	707
<u>declarant), an adult being of sound mind, willfully and</u>	708
<u>voluntarily appoint my representative, named below, to have the</u>	709
<u>right of disposition, as defined in section 2108.70 of the Revised</u>	710
<u>Code, for my body upon my death. All decisions made by my</u>	711
<u>representative with respect to the right of disposition shall be</u>	712
<u>binding.</u>	713
<u>REPRESENTATIVE:</u>	714
<u>(If the representative is a group of persons, indicate the</u>	715
<u>name, last known address, and telephone number of each person in</u>	716
<u>the group.)</u>	717
<u>Name(s):</u>	718

<u>Address(es):</u>	719
<u>Telephone Number(s):</u>	720
<u>FIRST SUCCESSOR REPRESENTATIVE:</u>	721
<u>If my representative is disqualified from serving as my</u>	722
<u>representative as described in section 2108.75 of the Revised</u>	723
<u>Code, then I hereby appoint the following person or group of</u>	724
<u>persons to serve as my first successor representative.</u>	725
<u>(If the first successor representative is a group of persons,</u>	726
<u>indicate the name, last known address, and telephone number of</u>	727
<u>each person in the group.)</u>	728
<u>Name(s):</u>	729
<u>Address(es):</u>	730
<u>Telephone Number(s):</u>	731
<u>SECOND SUCCESSOR REPRESENTATIVE:</u>	732
<u>If my representative and first successor representative are</u>	733
<u>disqualified from serving in such positions as described in</u>	734
<u>section 2108.75 of the Revised Code, then I hereby appoint the</u>	735
<u>following person or group of persons to serve as my second</u>	736
<u>successor representative.</u>	737
<u>(If the second successor representative is a group of</u>	738
<u>persons, indicate the name, last known address, and telephone</u>	739
<u>number of each person in the group.)</u>	740
<u>Name(s):</u>	741
<u>Address(es):</u>	742
<u>Telephone Number(s):</u>	743
<u>PREFERENCES REGARDING HOW THE RIGHT OF DISPOSITION SHOULD BE</u>	744
<u>EXERCISED, INCLUDING ANY RELIGIOUS OBSERVANCES THE DECLARANT</u>	745
<u>WISHES A REPRESENTATIVE, FIRST SUCCESSOR REPRESENTATIVE, OR SECOND</u>	746

<u>SUCCESSOR REPRESENTATIVE TO CONSIDER:</u>	747
.....	748
.....	749
.....	750
.....	751
<u>ONE OR MORE SOURCES OF FUNDS THAT COULD BE USED TO PAY FOR</u>	752
<u>GOODS AND SERVICES ASSOCIATED WITH AN EXERCISE OF THE RIGHT OF</u>	753
<u>DISPOSITION:</u>	754
.....	755
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.....	758
<u>DURATION:</u>	759
<u>The appointment of my representative and, if applicable,</u>	760
<u>first successor representative and second successor</u>	761
<u>representatives, becomes effective upon my death.</u>	762
<u>PRIOR APPOINTMENTS REVOKED:</u>	763
<u>I hereby revoke any written declaration that I executed in</u>	764
<u>accordance with section 2108.70 of the Ohio Revised Code prior to</u>	765
<u>the date of execution of this written declaration indicated below.</u>	766
<u>AUTHORIZATION TO ACT:</u>	767
<u>I hereby agree that any of the following that receives a copy</u>	768
<u>of this written declaration may act under it:</u>	769
<u>- Cemetery organization;</u>	770
<u>- Business operating a crematory;</u>	771
<u>- Business operating a columbarium;</u>	772
<u>- Funeral director;</u>	773
<u>- Embalmer;</u>	774
<u>- Funeral home;</u>	775

- Any other person asked to assist with my funeral, burial, cremation, or other manner of final disposition. 776
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MODIFICATION AND REVOCATION - WHEN EFFECTIVE: 778

Any modification or revocation of this written declaration is not effective as to any party until that party receives actual notice of the modification or revocation. 779
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LIABILITY: 782

No person who acts in accordance with a properly executed copy of this written declaration shall be liable for damages of any kind associated with the person's reliance on this declaration. 783
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786

Signed this day of

.....

(Signature of declarant)

ACKNOWLEDGMENT OF ASSUMPTION OF OBLIGATIONS AND COSTS: 788

By signing below, the representative, or first or second successor representative, if applicable, acknowledges that he or she, as representative or first or second successor representative, assumes the right of disposition as defined in section 2108.70 of the Revised Code, and understands that he or she is liable for the reasonable costs of exercising the right, including any goods and services that are purchased. 789
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ACCEPTANCE (OPTIONAL): 796

The undersigned hereby accepts this appointment as representative, first successor representative, or second successor representative, as applicable, for the right of disposition as defined in section 2108.70 of the Revised Code. 797
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Signed this day of

.....

Signature of representative 803
(if representative is a group
of persons, each person in
the group shall sign)

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Signed this day of

.....

Signature of first successor 806
representative (if first
successor representative is a
group of persons, each person
in the group shall sign)

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Signed this day of

.....

Signature of second successor 809
representative (if second
successor representative is a
group of persons, each person
in the group shall sign)

WITNESSES: 810

I attest that the declarant signed or acknowledged this 811
assignment of the right of disposition under section 2108.70 of 812
the Revised Code in my presence and that the declarant is at least 813
eighteen years of age and appears to be of sound mind and not 814
under or subject to duress, fraud, or undue influence. I further 815
attest that I am not the declarant's representative, first 816
successor representative, or second successor representative, I am 817
at least eighteen years of age, and I am not related to the 818
declarant by blood, marriage, or adoption. 819

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First witness: 821
Name (printed): 822
..... Residing at: 823
Signature: 824
..... 825
Date: 826
..... 827

Second witness: 828
Name (printed): 829
..... Residing at: 830
Signature: 831
..... 832
Date: 833
..... 834
..... 835

OR 836

NOTARY ACKNOWLEDGMENT: 837

State of Ohio 838

County of SS. 839

On, before me, the undersigned notary public, 840
personally appeared, known to me or 841
satisfactorily proven to be the person whose name is subscribed as 842
the declarant, and who has acknowledged that he or she executed 843
this written declaration under section 2108.70 of the Revised Code 844
for the purposes expressed in that section. I attest that the 845
declarant is at least eighteen years of age and appears to be of 846
sound mind and not under or subject to duress, fraud, or undue 847
influence. 848

Signature of notary public

.....
My commission expires on: 849

Sec. 2108.73. A written declaration executed by a declarant 851
under section 2108.70 of the Revised Code shall be signed and 852
dated by the declarant in the presence of either of the following: 853

(A) A notary public who shall make the certification 854
described in section 147.53 of the Revised Code. 855

(B) Two witnesses who are adults and who are not related by 856
blood, marriage, or adoption to the declarant. 857

Sec. 2108.74. A declarant who executes a written declaration 858
in accordance with section 2108.73 of the Revised Code warrants 859
the truthfulness of the entire content of the declaration. 860

Sec. 2108.75. (A) A person shall be disqualified from serving 861
as a representative, first successor representative, or second 862
successor representative, or from having the right of disposition 863
for a deceased adult pursuant to section 2108.81 of the Revised 864
Code, if any of the following occurs: 865

(1) The person dies. 866

(2) A probate court declares or determines that the person is 867
incompetent. 868

(3) The person resigns or declines to exercise the right as 869
described in section 2108.88 of the Revised Code. 870

(4) The person refuses to exercise the right within two days 871
after notification of the declarant's death. 872

(5) The person cannot be located with reasonable effort. 873

(6) The person meets the criteria described in section 874
2108.76 or 2108.77 of the Revised Code. 875

(B) Subject to divisions (C)(2) and (D)(2) of section 2108.70 876
of the Revised Code, if a person is disqualified from serving as 877

the declarant's representative, first successor representative, or 878
second successor representative, or from having the right of 879
disposition for a deceased adult pursuant to section 2108.81 of 880
the Revised Code, as described in division (A) of this section, 881
the right is automatically reassigned to, and vests in, the next 882
person who has the right pursuant to the declarant's written 883
declaration or pursuant to the order of priority in section 884
2108.81 of the Revised Code. 885

Sec. 2108.76. (A) Except as provided in division (B) of this 886
section, if the person named as the declarant's representative, 887
first successor representative, or second successor representative 888
in a written declaration was the declarant's spouse at the time 889
the declaration was executed, but is not the declarant's spouse at 890
the time of the declarant's death, the former spouse shall no 891
longer be qualified to serve as the declarant's representative, 892
first successor representative, or second successor 893
representative. 894

(B) Division (A) of this section shall not apply and a former 895
spouse is qualified to serve as a declarant's representative, 896
first successor representative, or second successor representative 897
if the declarant signs and dates, after the termination of the 898
marriage, a document stating the declarant's intent that the 899
former spouse be the declarant's representative, first successor 900
representative, or second successor representative. The document 901
must be notarized or witnessed in accordance with the procedures 902
described in section 2108.73 of the Revised Code. 903

Sec. 2108.77. If the person named as the declarant's 904
representative, first successor representative, or second 905
successor representative in a written declaration, or the person 906
who has a deceased adult's right of disposition pursuant to 907

section 2108.81 of the Revised Code, meets any of the following 908
criteria, the person shall be disqualified from serving as the 909
representative, first successor representative, or second 910
successor representative, or from having the right: 911

(A)(1) Subject to division (A)(2) of this section, the person 912
has been charged with murder, aggravated murder, or voluntary 913
manslaughter. 914

(2) If the charges against the person described in division 915
(A)(1) of this section are dismissed or if the person is acquitted 916
of such charges, the right is restored to the person. 917

(B)(1) Subject to division (B)(2) of this section, the person 918
has been charged with an act of domestic violence under section 919
2919.25 of the Revised Code and it has been alleged in the 920
charging instrument or accompanying papers that the act resulted 921
in or contributed to the declarant's death. 922

(2) If the charges against the person described in division 923
(B)(1) of this section are dismissed or if the person is acquitted 924
of such charges, the right is restored to the person. 925

(C) The person and the declarant or deceased adult are 926
spouses and an action to terminate the marriage pursuant to 927
Chapter 3105. of the Revised Code was pending at the time of the 928
declarant's or deceased adult's death. 929

(D) The person and the declarant or deceased adult are 930
spouses and a probate court, on the motion of any other person or 931
its own motion, determines that the declarant's or deceased 932
adult's spouse and the declarant were estranged at the time of the 933
declarant's or deceased adult's death. As used in this division, 934
"estranged" means that a declarant's or a deceased adult's spouse 935
and the declarant or deceased adult were physically and 936
emotionally separated from each other, at the time of the 937

declarant's or deceased adult's death, and had been separated for 938
a period of time that clearly demonstrates an absence of due 939
affection, trust, and regard between spouse and the declarant of 940
deceased adult. 941

Sec. 2108.78. If a declarant or deceased adult has made a 942
valid declaration of an anatomical gift by will or any other 943
document or means described in section 2108.04 of the Revised 944
Code, any person to whom the declarant has assigned the right of 945
disposition under section 2108.70 of the Revised Code, or who has 946
the right as described in section 2108.81 of the Revised Code, is 947
bound by the declaration of the anatomical gift and must follow 948
the instructions associated with the gift before making any 949
decisions or taking any other actions associated with the right. 950

Sec. 2108.79. (A) Subject to divisions (B) and (C) of this 951
section, if a declarant's representative, first successor 952
representative, or second successor representative is a group of 953
people in whom the right of disposition has vested as described in 954
section 2108.71 of the Revised Code, or if a class of persons has 955
the right as described in section 2108.81 of the Revised Code, and 956
the persons in the group or class disagree regarding how the right 957
is to be exercised, the decisions of the majority of the persons 958
in the group or class shall prevail. 959

(B) If, after reasonable efforts, less than all of the 960
persons in a group or class described in division (A) of this 961
section have been located, the decisions of the majority of the 962
persons in the group or class who have been located prevail. 963

(C) If a majority of persons cannot reach a decision under 964
division (A) or (B) of this section, the probate court of the 965
county in which the declarant or deceased person resided at the 966
time of death shall make the decision in accordance with the 967

criteria set forth in division (B) of section 2108.82 of the 968
Revised Code. 969

Sec. 2108.80. A declarant may revoke a written declaration 970
executed under section 2108.70 of the Revised Code by indicating 971
the declarant's desire to revoke the declaration in a document 972
signed and dated by the declarant in the presence of either of the 973
following: 974

(A) A notary public who shall make the certification 975
described in section 147.53 of the Revised Code. 976

(B) Two witnesses who are adults and are not related by 977
blood, marriage, or adoption to the declarant. 978

Sec. 2108.81. (A) If either of the following is true, 979
division (B) of this section shall apply: 980

(1) An adult has not executed a written declaration pursuant 981
to sections 2108.70 to 2108.73 of the Revised Code that remains in 982
force at the time of the adult's death. 983

(2) Each person to whom the right of disposition has been 984
assigned or reassigned pursuant to a written declaration is 985
disqualified from exercising the right as described in section 986
2108.75 of the Revised Code. 987

(B) Subject to division (A) of this section and sections 988
2108.75 and 2108.79 of the Revised Code, the right of disposition 989
is assigned to the following persons, if mentally competent adults 990
who can be located with reasonable effort, in the order of 991
priority stated: 992

(1) The deceased person's surviving spouse; 993

(2) The sole surviving child of the deceased person or, if 994
there is more than one surviving child, all of the surviving 995
children, collectively. 996

<u>(3) The deceased person's surviving parent or parents;</u>	997
<u>(4) The deceased person's surviving sibling, whether of the whole or of the half blood or, if there is more than one sibling of the whole or of the half blood, all of the surviving siblings, collectively;</u>	998 999 1000 1001
<u>(5) The deceased person's surviving grandparent or grandparents;</u>	1002 1003
<u>(6) The lineal descendants of the deceased person's grandparents, as described in division (I) of section 2105.06 of the Revised Code;</u>	1004 1005 1006
<u>(7) The person who was the deceased person's guardian at the time of the deceased person's death, if a guardian had been appointed;</u>	1007 1008 1009
<u>(8) Any other person willing to assume the right of disposition, including the personal representative of the deceased person's estate or the licensed funeral director with custody of the deceased person's body, after attesting in writing that a good faith effort has been made to locate the persons in divisions (B)(1) to (7) of this section.</u>	1010 1011 1012 1013 1014 1015
Sec. 2108.82. <u>(A) Notwithstanding section 2108.81 of the Revised Code and in accordance with division (B) of this section, the probate court for the county in which the declarant or deceased person resided at the time of death may, on its own motion or the motion of another person, assign to any person the right of disposition for a declarant or deceased person.</u>	1016 1017 1018 1019 1020 1021
<u>(B) In making a determination for purposes of division (A) of this section and division (C) of section 2108.79 of the Revised Code, the court shall consider the following:</u>	1022 1023 1024
<u>(1) Whether evidence presented to, or in the possession of the court, demonstrates that the person who is the subject of the</u>	1025 1026

motion and the declarant or deceased person had a close personal relationship; 1027
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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 person'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 person; 1029
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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 person's funeral, burial, cremation, or final disposition and the desires of that person; 1035
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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 person; 1039
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(5) The express written desires of the declarant or deceased person. 1042
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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 claim to the right of disposition than such persons otherwise have pursuant to law: 1044
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(1) A person who is willing to assume the responsibility to pay for the declarant's or deceased person's funeral, burial, cremation, or final disposition; 1048
1049
1050

(2) The personal representative of the declarant or deceased person. 1051
1052

Sec. 2108.83. In the event of a dispute regarding the right of disposition, a funeral home, funeral director, crematory operator, cemetery operator, cemetery organization, or other person asked to assist with a declarant's or deceased person's 1053
1054
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1056

funeral, burial, cremation, or other manner of final disposition 1057
shall not be liable for damages of any kind for refusing to accept 1058
the remains, refusing to inter, cremate, or otherwise dispose of 1059
the remains, or refusing to complete funeral or other arrangements 1060
pertaining to final disposition until such funeral home, funeral 1061
director, crematory operator, cemetery operator, cemetery 1062
organization, or other person receives a court order or a written 1063
document that is executed by a person that the funeral home, 1064
funeral director, crematory operator, cemetery operator, cemetery 1065
organization, or other person reasonably believes has the right of 1066
disposition and that clearly expresses how the right of 1067
disposition is to be exercised. 1068

Sec. 2108.84. If a funeral home, funeral director, crematory 1069
operator, or other person asked to assist with a declarant's or 1070
deceased person's funeral, burial, cremation, or other manner of 1071
final disposition is in possession of a declarant's or deceased 1072
person's remains while a dispute described in section 2108.83 of 1073
the Revised Code is pending, the funeral home, funeral director, 1074
crematory operator, or other person may embalm or refrigerate and 1075
shelter the remains to preserve them and may add the cost of 1076
embalming, refrigeration, and sheltering to the final disposition 1077
costs to be charged. 1078

Sec. 2108.85. (A) If a funeral home, funeral director, 1079
crematory operator, cemetery operator, cemetery organization, or 1080
other person asked to assist with a declarant's or deceased 1081
person's funeral, burial, cremation, or other manner of final 1082
disposition brings a legal action for purposes of section 2108.83 1083
or 2108.84 of the Revised Code, the funeral home, funeral 1084
director, crematory operator, cemetery operator, cemetery 1085
organization, or other person may add to the costs the person 1086

charges for the goods and services the person provided the legal 1087
fees, if reasonable, and the court costs that the person incurred. 1088

(B) The right created by division (A) of this section shall 1089
neither be construed to require, nor impose a duty on, a funeral 1090
home, funeral director, crematory operator, cemetery operator, 1091
cemetery organization, or other person asked to assist with a 1092
declarant's or deceased person's funeral, burial, cremation, or 1093
other manner of final disposition, to bring a legal action and 1094
such person shall not be held criminally or civilly liable for not 1095
bringing an action. 1096

Sec. 2108.86. (A) A funeral home, funeral director, crematory 1097
operator, cemetery operator, cemetery organization, or other 1098
person asked to assist with a declarant's funeral, burial, 1099
cremation, or other manner of final disposition has the right to 1100
rely on the content of a written declaration and the instructions 1101
of the person or group of persons whom the funeral home, funeral 1102
director, crematory operator, cemetery operator, cemetery 1103
organization, or other person reasonably believes has the right of 1104
disposition. 1105

(B) If the circumstances described in division (A) of section 1106
2108.81 of the Revised Code apply, a funeral home, funeral 1107
director, crematory operator, cemetery operator, cemetery 1108
organization, or other person asked to assist with a deceased 1109
person's funeral, burial, cremation, or other manner of final 1110
disposition has the right to rely on the instructions of the 1111
person or group of persons the funeral home, funeral director, 1112
crematory operator, cemetery operator, cemetery organization, or 1113
other person reasonably believes has the right of disposition 1114
pursuant to section 2108.81 of the Revised Code. 1115

(C) No funeral home, funeral director, crematory operator, 1116

cemetery operator, cemetery organization, or other person asked to 1117
assist with a deceased person's funeral, burial, cremation, or 1118
other manner of final disposition, who relies, pursuant to 1119
divisions (A) and (B) of this section, in good faith on the 1120
contents of a written declaration or the instructions of the 1121
person or group of persons the funeral home, funeral director, 1122
crematory operator, cemetery operator, cemetery organization, or 1123
other person reasonably believes has the right of disposition, 1124
shall be subject to criminal or civil liability or subject to 1125
disciplinary action for taking an action or not taking an action 1126
in reliance on such contents or instructions and for otherwise 1127
complying with sections 2108.70 to 2108.90 of the Revised Code. 1128

Sec. 2108.87. (A) A funeral home, funeral director, crematory 1129
operator, cemetery operator, cemetery organization, or other 1130
person asked to assist with a deceased person's funeral, burial, 1131
cremation, or other manner of final disposition may independently 1132
investigate the existence of, or locate or contact, the following 1133
persons: 1134

(1) A representative, first successor representative, or 1135
second successor representative named in a written declaration; 1136

(2) A person listed in section 2108.81 of the Revised Code. 1137

(B) In no circumstances shall a funeral home, funeral 1138
director, crematory operator, cemetery operator, cemetery 1139
organization, or other person asked to assist with a deceased 1140
person's funeral, burial, cremation, or other manner of final 1141
disposition have a duty to independently investigate the existence 1142
of, or locate or contact, the persons described in division (A) of 1143
this section. 1144

Sec. 2108.88. (A) A person to whom a declarant's or deceased 1145
person's right of disposition has been assigned or reassigned 1146

pursuant to section 2108.70 or 2108.81 of the Revised Code may 1147
decline to exercise the right or resign after beginning to 1148
exercise the right. 1149

(B) A person described in division (A) of this section who 1150
resigns after beginning to exercise the right shall be subject to 1151
section 2108.89 of the Revised Code. 1152

Sec. 2108.89. The following persons shall be liable for the 1153
reasonable costs of any goods or services purchased in connection 1154
with the exercise of the right of disposition for a declarant or 1155
deceased person: 1156

(A) A representative, first successor representative, or 1157
second successor who assumes liability for the cost of such goods 1158
and services by signing a written declaration that states that 1159
such an assumption is made; 1160

(B) A person to whom the right of disposition is assigned 1161
pursuant to section 2108.81 of the Revised Code and who has 1162
purchased goods or services associated with an exercise of the 1163
right. 1164

Sec. 2108.90. Pursuant to division (A) of section 2101.24 of 1165
the Revised Code, the probate court for the county in which the 1166
declarant or deceased person resided at the time of death or the 1167
county in which a living person whose post-death arrangements are 1168
the subject of dispute resides shall have exclusive jurisdiction 1169
over any action that results from sections 2108.70 to 2108.89 of 1170
the Revised Code. 1171

Sec. 2109.02. Every fiduciary, before entering upon the 1172
execution of a trust, shall receive letters of appointment from a 1173
probate court having jurisdiction of the subject matter of the 1174

trust. 1175

The duties of a fiduciary shall be those required by law, and 1176
such additional duties as the court orders. Letters of appointment 1177
shall not issue until a fiduciary has executed a written 1178
acceptance of ~~his~~ the fiduciary's duties, acknowledging that ~~he~~ 1179
the fiduciary is subject to removal for failure to perform ~~his~~ the 1180
fiduciary's duties, and that ~~he~~ the fiduciary is subject to 1181
possible penalties for conversion of property ~~he~~ the fiduciary 1182
holds as a fiduciary. The written acceptance may be filed with the 1183
application for appointment. 1184

No act or transaction by a fiduciary is valid prior to the 1185
issuance of letters of appointment to ~~him~~ the fiduciary. This 1186
section does not prevent an executor named in a will, ~~or~~ an 1187
executor nominated pursuant to a power as described in section 1188
2107.65 of the Revised Code, or a person with the right of 1189
disposition under section 2108.70 or 2108.81 of the Revised Code 1190
from paying funeral expenses, or prevent necessary acts for the 1191
preservation of the trust estate prior to the issuance of such 1192
letters. 1193

Sec. 2111.13. (A) When a guardian is appointed to have the 1194
custody and maintenance of a ward, and to have charge of the 1195
education of the ward if the ward is a minor, the guardian's 1196
duties are as follows: 1197

(1) To protect and control the person of the ward; 1198

(2) To provide suitable maintenance for the ward when 1199
necessary, which shall be paid out of the estate of such ward upon 1200
the order of the guardian of the person; 1201

(3) To provide such maintenance and education for such ward 1202
as the amount of the ward's estate justifies when the ward is a 1203
minor and has no father or mother, or has a father or mother who 1204

fails to maintain or educate the ward, which shall be paid out of 1205
such ward's estate upon the order of the guardian of the person; 1206

(4) To obey all the orders and judgments of the probate court 1207
touching the guardianship. 1208

(B) Except as provided in section 2111.131 of the Revised 1209
Code, no part of the ward's estate shall be used for the support, 1210
maintenance, or education of such ward unless ordered and approved 1211
by the court. 1212

(C) A guardian of the person may authorize or approve the 1213
provision to the ward of medical, health, or other professional 1214
care, counsel, treatment, or services unless the ward or an 1215
interested party files objections with the probate court, or the 1216
court, by rule or order, provides otherwise. 1217

(D) A Unless a person with the right of disposition for a 1218
ward under section 2108.70 or 2108.81 of the Revised Code has made 1219
a decision regarding whether or not consent to an autopsy or 1220
post-mortem examination on the body of the deceased ward under 1221
section 2108.50 of the Revised Code shall be given, a guardian of 1222
the person of a ward who has died may consent to an the autopsy or 1223
post-mortem examination ~~upon the body of the deceased ward under~~ 1224
~~section 2108.50 of the Revised Code and, if the,~~ 1225

(E) If a deceased ward did not have a guardian of the estate 1226
and, the estate is not required to be administered by a probate 1227
court, and a person with the right of disposition for a ward, as 1228
described in section 2108.70 or 2108.81 of the Revised Code, has 1229
not made a decision regarding the disposition of the ward's body 1230
or remains, the guardian of the person of the ward may authorize 1231
the burial or cremation of the ~~deceased~~ ward. A 1232

(F) A guardian who gives consent or authorization as 1233
described in ~~this division~~ divisions (D) and (E) of this section 1234
shall notify the probate court as soon as possible after giving 1235

the consent or authorization.	1236
Sec. 2113.031. (A) As used in this section:	1237
(1) "Financial institution" has the same meaning as in	1238
section 5725.01 of the Revised Code. "Financial institution" also	1239
includes a credit union and a fiduciary that is not a trust	1240
company but that does trust business.	1241
(2) "Funeral and burial expenses" means whichever of the	1242
following applies:	1243
(a) The funeral and burial expenses of the decedent that are	1244
included in the bill of a funeral director;	1245
(b) The funeral expenses of the decedent that are not	1246
included in the bill of a funeral director and that have been	1247
approved by the probate court;	1248
(c) The funeral and burial expenses of the decedent that are	1249
described in divisions (A)(2)(a) and (b) of this section.	1250
(3) "Surviving spouse" means either of the following:	1251
(a) The surviving spouse of a decedent who died leaving the	1252
surviving spouse and no minor children;	1253
(b) The surviving spouse of a decedent who died leaving the	1254
surviving spouse and minor children, all of whom are children of	1255
the decedent and the surviving spouse.	1256
(B)(1) If the value of the assets of the decedent's estate	1257
does not exceed the lesser of two <u>five</u> thousand dollars or the	1258
amount of the decedent's funeral and burial expenses, any person	1259
who is not a surviving spouse and who has paid or is obligated in	1260
writing to pay the decedent's funeral and burial expenses,	1261
<u>including a person described in section 2108.89 of the Revised</u>	1262
<u>Code,</u> may apply to the probate court for an order granting a	1263
summary release from administration in accordance with this	1264

section. 1265

(2) If either of the following applies, the decedent's 1266
surviving spouse may apply to the probate court for an order 1267
granting a summary release from administration in accordance with 1268
this section: 1269

(a) The decedent's funeral and burial expenses have been 1270
prepaid, and the value of the assets of the decedent's estate does 1271
not exceed the total of the following items: 1272

(i) The allowance for support that is made under division (A) 1273
of section 2106.13 of the Revised Code to the surviving spouse 1274
and, if applicable, to the decedent's minor children and that is 1275
distributable in accordance with division (B)(1) or (2) of that 1276
section; 1277

(ii) An amount, not exceeding ~~two~~ five thousand dollars, for 1278
the decedent's funeral and burial expenses referred to in division 1279
(A)(2)(c) of this section. 1280

(b) The decedent's funeral and burial expenses have not been 1281
prepaid, the decedent's surviving spouse has paid or is obligated 1282
in writing to pay the decedent's funeral and burial expenses, and 1283
the value of the assets of the decedent's estate does not exceed 1284
the total of the items referred to in divisions (B)(2)(a)(i) and 1285
(ii) of this section. 1286

(C) A probate court shall order a summary release from 1287
administration in connection with a decedent's estate only if the 1288
court finds that all of the following are satisfied: 1289

(1) A person described in division (B)(1) of this section is 1290
the applicant for a summary release from administration, and the 1291
value of the assets of the decedent's estate does not exceed the 1292
lesser of ~~two~~ five thousand dollars or the amount of the 1293
decedent's funeral and burial expenses, or the applicant for a 1294
summary release from administration is the decedent's surviving 1295

spouse, and the circumstances described in division (B)(2)(a) or	1296
(b) of this section apply.	1297
(2) The application for a summary release from administration	1298
does all of the following:	1299
(a) Describes all assets of the decedent's estate that are	1300
known to the applicant;	1301
(b) Is in the form that the supreme court prescribes pursuant	1302
to its powers of superintendence under Section 5 of Article IV,	1303
Ohio Constitution, and is consistent with the requirements of this	1304
division;	1305
(c) Has been signed and acknowledged by the applicant in the	1306
presence of a notary public or a deputy clerk of the probate	1307
court;	1308
(d) Sets forth the following information if the decedent's	1309
estate includes a described type of asset:	1310
(i) If the decedent's estate includes a motor vehicle, the	1311
motor vehicle's year, make, model, body type, manufacturer's	1312
vehicle identification number, certificate of title number, and	1313
date of death value;	1314
(ii) If the decedent's estate includes an account maintained	1315
by a financial institution, that institution's name and the	1316
account's complete identifying number and date of death balance;	1317
(iii) If the decedent's estate includes one or more shares of	1318
stock or bonds, the total number of the shares and bonds and their	1319
total date of death value and, for each share or bond, its serial	1320
number, the name of its issuer, its date of death value, and, if	1321
any, the name and address of its transfer agent.	1322
(3) The application for a summary release from administration	1323
is accompanied by all of the following that apply:	1324
(a) A receipt, contract, <u>written declaration as defined in</u>	1325

section 2108.70 of the Revised Code, or other document that 1326
confirms the applicant's payment or obligation to pay the 1327
decedent's funeral and burial expenses or, if applicable in the 1328
case of the decedent's surviving spouse, the prepayment of the 1329
decedent's funeral and burial expenses; 1330

(b) An application for a certificate of transfer as described 1331
in section 2113.61 of the Revised Code, if an interest in real 1332
property is included in the assets of the decedent's estate; 1333

(c) The fee required by division (A)(59) of section 2101.16 1334
of the Revised Code. 1335

(4) At the time of its determination on the application, 1336
there are no pending proceedings for the administration of the 1337
decedent's estate and no pending proceedings for relief of the 1338
decedent's estate from administration under section 2113.03 of the 1339
Revised Code. 1340

(5) At the time of its determination on the application, 1341
there are no known assets of the decedent's estate other than the 1342
assets described in the application. 1343

(D) If the probate court determines that the requirements of 1344
division (C) of this section are satisfied, the probate court 1345
shall issue an order that grants a summary release from 1346
administration in connection with the decedent's estate. The order 1347
has, and shall specify that it has, all of the following effects: 1348

(1) It relieves the decedent's estate from administration. 1349

(2) It directs the delivery to the applicant of the 1350
decedent's personal property together with the title to that 1351
property. 1352

(3) It directs the transfer to the applicant of the title to 1353
any interests in real property included in the decedent's estate. 1354

(4) It eliminates the need for a financial institution, 1355

corporation, or other entity or person referred to in any 1356
provision of divisions (A) to (F) of section 5731.39 of the 1357
Revised Code to obtain, as otherwise would be required by any of 1358
those divisions, the written consent of the tax commissioner prior 1359
to the delivery, transfer, or payment to the applicant of an asset 1360
of the decedent's estate. 1361

(E) A certified copy of an order that grants a summary 1362
release from administration together with a certified copy of the 1363
application for that order constitutes sufficient authority for a 1364
financial institution, corporation, or other entity or person 1365
referred to in divisions (A) to (F) of section 5731.39 of the 1366
Revised Code or for a clerk of a court of common pleas to transfer 1367
title to an asset of the decedent's estate to the applicant for 1368
the summary release from administration. 1369

(F) This section does not affect the ability of qualified 1370
persons to file an application to relieve an estate from 1371
administration under section 2113.03 of the Revised Code or to 1372
file an application for the grant of letters testamentary or 1373
letters of administration in connection with the decedent's 1374
estate. 1375

Sec. 2113.37. The probate court, in settlement of an 1376
~~executor's or administrator's~~ account, may allow as a credit to 1377
~~the executor or administrator~~ the following persons a just amount 1378
expended by ~~him~~ the person for a tombstone or monument for the 1379
deceased and a just amount paid by ~~him~~ the person to a cemetery 1380
association or corporation as a perpetual fund for caring for and 1381
preserving the lot on which the deceased is buried. ~~It:~~ 1382

(A) An executor; 1383

(B) An administrator; 1384

(C) A person with the right of disposition under section 1385

<u>2108.70 or 2108.81 of the Revised Code.</u>	1386
<u>It</u> is not incumbent on an executor or administrator <u>such a</u>	1387
<u>person</u> to procure a tombstone or monument or to pay any sum into	1388
such fund.	1389
Sec. 2117.25. (A) Every executor or administrator shall	1390
proceed with diligence to pay the debts of the decedent and shall	1391
apply the assets in the following order:	1392
(1) Costs and expenses of administration;	1393
(2) An amount, not exceeding two <u>four</u> thousand dollars, for	1394
funeral expenses that are included in the bill of a funeral	1395
director, funeral expenses other than those in the bill of a	1396
funeral director that are approved by the probate court, and an	1397
amount, not exceeding two <u>three</u> thousand dollars, for burial and	1398
cemetery expenses, including that portion of the funeral	1399
director's bill allocated to cemetery expenses that have been paid	1400
to the cemetery by the funeral director.	1401
For purposes of this division, burial and cemetery expenses	1402
shall be limited to the following:	1403
(a) The purchase of a place <u>right</u> of interment;	1404
(b) Monuments or other markers;	1405
(c) The outer burial container;	1406
(d) The cost of opening and closing the place of interment;	1407
(e) The urn.	1408
(3) The allowance for support made to the surviving spouse,	1409
minor children, or both under section 2106.13 of the Revised Code;	1410
(4) Debts entitled to a preference under the laws of the	1411
United States;	1412
(5) Expenses of the last sickness of the decedent;	1413

(6) If the total bill of a funeral director for funeral expenses exceeds ~~two~~ four thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding ~~one~~ two thousand dollars, for funeral expenses that are included in the bill and that exceed ~~two~~ four thousand dollars;

(7) Personal property taxes, claims made under the estate 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~~ six 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 1445
administration or for the allowance for support need not be 1446
presented. The executor or administrator shall pay debts included 1447
in divisions (A)(4) and (7) of this section, of which the executor 1448
or administrator has knowledge, regardless of presentation. 1449

(2) The giving of written notice to an executor or 1450
administrator of a motion or application to revive an action 1451
pending against the decedent at the date of death shall be 1452
equivalent to the presentation of a claim to the executor or 1453
administrator for the purpose of determining the order of payment 1454
of any judgment rendered or decree entered in such an action. 1455

(E) No payments shall be made to creditors of one class until 1456
all those of the preceding class are fully paid or provided for. 1457
If the assets are insufficient to pay all the claims of one class, 1458
the creditors of that class shall be paid ratably. 1459

(F) If it appears at any time that the assets have been 1460
exhausted in paying prior or preferred charges, allowances, or 1461
claims, those payments shall be a bar to an action on any claim 1462
not entitled to that priority or preference. 1463

Sec. 2117.251. A claim under the bill of a funeral director 1464
pursuant to section 2117.25 of the Revised Code arises subsequent 1465
to the death of the decedent and is not in satisfaction of a 1466
personal obligation of the individual during the individual's 1467
lifetime. If a decedent during the decedent's lifetime has 1468
purchased an irrevocable preneed funeral contract pursuant to 1469
section 1111.19 of the Revised Code, then those provisions of 1470
section 2117.25 of the Revised Code that relate to the bill of a 1471
funeral director, including divisions (A) and (B) of that section, 1472
do not apply to the estate of the decedent and the estate is not 1473
liable for the funeral expenses of the decedent. 1474

Sec. 4511.451. (A) As used in this section, "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(B) Excepting public safety vehicles proceeding in accordance with section 4511.45 of the Revised Code or when directed otherwise by a police officer, pedestrians and the operators of all vehicles, street cars, and trackless trolleys shall yield the right of way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right of way provisions of the Revised Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.

(C) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.

~~(C)~~(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more

predicate motor vehicle or traffic offenses, whoever violates this 1506
section is guilty of a misdemeanor of the third degree. 1507

Sec. 4717.21. (A) Any person, on an antemortem basis, may 1508
serve as the person's own authorizing agent, authorize the 1509
person's own cremation, and specify the arrangements for the final 1510
disposition of the person's own cremated remains by executing an 1511
antemortem cremation authorization form. A guardian, custodian, or 1512
other personal representative who is authorized by law or contract 1513
to do so on behalf of a person, on an antemortem basis, may 1514
authorize the cremation of the person and specify the arrangements 1515
for the final disposition of the person's cremated remains by 1516
executing an antemortem cremation authorization form on the 1517
person's behalf. Any such antemortem cremation authorization form 1518
also shall be signed by one witness. The original copy of the 1519
executed authorization form shall be sent to the operator of the 1520
crematory facility being authorized to conduct the cremation, and 1521
a copy shall be retained by the person who executed the 1522
authorization form. The person who executed an antemortem 1523
cremation authorization form may revoke the authorization at any 1524
time by providing written notice of the revocation to the operator 1525
of the crematory facility named in the authorization form. The 1526
person who executed the authorization form may transfer the 1527
authorization to another crematory facility by providing written 1528
notice to the operator of the crematory facility named in the 1529
original authorization of the revocation of the authorization and, 1530
in accordance with this division, executing a new antemortem 1531
cremation authorization form authorizing the operator of another 1532
crematory facility to conduct the cremation. 1533

(B)(1) Each antemortem cremation authorization form shall 1534
specify the final disposition that is to be made of the cremated 1535
remains. 1536

(2) Every antemortem cremation authorization form entered 1537
into on or after the effective date of this amendment shall 1538
specify the final disposition that is to be made of the remains 1539
and shall include a provision in substantially the following form: 1540

NOTICE: Upon the death of the person who is the subject of 1541
this antemortem cremation authorization, the person holding the 1542
right of disposition under section 2108.70 or 2108.81 of the 1543
Revised Code may cancel the cremation arrangements, modify the 1544
arrangements for the final disposition of the cremated remains, or 1545
make alternative arrangements for the final disposition of the 1546
decedent's body. However, the person executing this antemortem 1547
cremation authorization is encouraged to state his or her 1548
preferences as to the manner of final disposition in a declaration 1549
of the right of disposition pursuant to section 2108.72 of the 1550
Revised Code, including that the arrangements set forth in this 1551
form shall be followed. 1552

(C) ~~When~~ (1) Except as provided in division (C)(2) of this 1553
section, when the operator of a crematory facility is in 1554
possession of a cremation authorization form that has been 1555
executed on an antemortem basis in accordance with this section, 1556
the other conditions set forth in division (A) of section 4717.23 1557
of the Revised Code have been met, the crematory facility has 1558
possession of the decedent to which the antemortem authorization 1559
pertains, and the crematory facility has received payment for the 1560
cremation of the decedent and the final disposition of the 1561
cremated remains of the decedent or is otherwise assured of 1562
payment for those services, the crematory facility shall cremate 1563
the decedent and dispose of the cremated remains in accordance 1564
with the instructions contained in the antemortem cremation 1565
authorization form, ~~unless a person identified as being entitled~~ 1566
~~to act as the authorizing agent for the cremation of the decedent~~ 1567
~~in the absence of the antemortem authorization under divisions~~ 1568

~~(A)(1) or (A)(4) to (8) of section 4717.22 of the Revised Code has modified, in writing, the arrangements for the final disposition of the cremated remains of the decedent or has canceled the cremation and made alternative arrangements for the final disposition of the decedent's body.~~

(2) A person with the right of disposition for a decedent under section 2108.70 of the Revised Code who is not disqualified under section 2108.75 of the Revised Code may cancel the arrangements for the decedent's cremation, modify the arrangements for the final disposition of the decedent's cremated remains, or make alternative arrangements for the final disposition of the decedent's body. If a person with the right takes any such action, the operator shall disregard the instructions contained in the cremation authorization form and follow the instructions of the person with the right.

(D) An antemortem cremation authorization form executed under division (A) of this section does not constitute a contract for conducting the cremation of the person named in the authorization form or for the final disposition of the person's cremated remains. Despite the existence of such an antemortem cremation authorization, a person identified under ~~divisions (A)(1) or (A)(4) to (8)~~ division (A) of section 4717.22 of the Revised Code as being entitled to act as the authorizing agent for the cremation of the decedent named in the antemortem authorization, in the descending order of priority in which they are listed, may modify, in writing, the arrangements for the final disposition of the cremated remains of the decedent set forth in the authorization form or may cancel the cremation and claim the decedent's body for purposes of making alternative arrangements for the final disposition of the decedent's body. The revocation of an antemortem cremation authorization form executed under division (A) of this section, or the cancellation of the cremation

of the person named in the antemortem authorization or 1601
modification of the arrangements for the final disposition of the 1602
person's cremated remains as authorized by this division, does not 1603
affect the validity or enforceability of any contract entered into 1604
for the cremation of the person named in the antemortem 1605
authorization or for the final disposition of the person's 1606
cremated remains. 1607

(E) Nothing in this section applies to any antemortem 1608
cremation authorization form executed prior to the effective date 1609
of this section. Any cemetery, funeral home, crematory facility, 1610
or other party may specify, with the written approval of the 1611
person who executed the antemortem authorization, that such an 1612
antemortem authorization is subject to sections 4717.21 to 4717.30 1613
of the Revised Code. 1614

Sec. 4717.22. (A) ~~The following persons, in the descending~~ 1615
~~order of priority listed below, person who has the right of~~ 1616
~~disposition under section 2108.70 or 2108.81 of the Revised Code~~ 1617
may serve as an authorizing agent for the cremation of a dead 1618
human body, including, without limitation, a dead human body that 1619
was donated to science for purposes of medical education or 1620
research. 1621

~~(1) The spouse of the decedent at the time of the decedent's~~ 1622
~~death;~~ 1623

~~(2) Any person acting on the instructions of a decedent who~~ 1624
~~authorized the decedent's own cremation by executing an antemortem~~ 1625
~~cremation authorization form in accordance with section 4717.21 of~~ 1626
~~the Revised Code;~~ 1627

~~(3) A person serving as the executor or legal representative~~ 1628
~~of the decedent's estate who is acting in accordance with the~~ 1629
~~decedent's written instructions for the final disposition of the~~ 1630
~~decedent's body;~~ 1631

~~(4) The decedent's surviving adult children. If the decedent is survived by more than one adult child, any of them who states on the cremation authorization form authorizing the cremation of the decedent executed in accordance with section 4717.24 of the Revised Code that all of the decedent's other adult children have been notified of the decedent's death and of the plans to cremate the decedent and that none of them have expressed an objection to the cremation may serve as the authorizing agent.~~

~~(5) The decedent's surviving parent or, if the decedent was under eighteen years of age at death, a surviving parent or the guardian or custodian of the decedent. If the decedent is survived by both parents, either of them may serve as the authorizing agent by stating on the cremation authorization form authorizing the cremation of the decedent executed in accordance with section 4717.24 of the Revised Code that the other parent has been notified of the decedent's death and of the plans to cremate the decedent and that the other parent expressed no objection to the cremation.~~

~~(6) The person in the next degree of kinship to the decedent in the order named in section 2105.06 of the Revised Code to inherit the estate of the decedent if the decedent had died intestate. If there is more than one person of that degree of kinship, any of them may serve as the authorizing agent.~~

~~(7) If the decedent was an indigent person or other person the final disposition of whose body is the responsibility of this state or a political subdivision of this state, the public officer or employee responsible for arranging the final disposition of the decedent's body;~~

~~(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;~~

~~(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.~~

(B) If body parts were removed from a living person, the
person from whom the body parts were removed or ~~the guardian,
eustodian, 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
2108.81 of the Revised Code may serve as the authorizing agent for
the cremation of the body parts.

(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 2108.81 of the Revised Code may serve as the authorizing agent
for the cremation of the body parts. In the absence of any action
by the person with the right of disposition with respect to the
cremation of such body parts, the medical education or research
facility to which the decedent's body was donated may serve as the
authorizing agent for the cremation of ~~the body~~ such parts.

Section 2. That existing sections 1111.19, 1721.211, 2101.24, 1694
2106.20, 2108.50, 2109.02, 2111.13, 2113.031, 2113.37, 2117.25, 1695
4511.451, 4717.21, and 4717.22 of the Revised Code are hereby 1696
repealed. 1697

Section 3. Section 4511.451 of the Revised Code is presented 1698
in this act as a composite of the section as amended by both Sub. 1699
H.B. 322 and Am. Sub. S.B. 123 of the 124th General Assembly. The 1700
General Assembly, applying the principle stated in division (B) of 1701
section 1.52 of the Revised Code that amendments are to be 1702
harmonized if reasonably capable of simultaneous operation, finds 1703
that the composite is the resulting version of the section in 1704
effect prior to the effective date of the section as presented in 1705
this act. 1706