

As Reported by the Senate Judiciary--Civil Justice Committee

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Sub. H. B. No. 426

**Representatives Dolan, Chandler, Yuko, Fessler, Wagoner, Reidelbach,
McGregor, J., Willamowski, DeGeeter, Harwood, Allen, Bulp, 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 the following 52
notices in 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

NOTICE: You, as the purchaser of this contract, will be 63
notified in writing when the trustee of this contract has received 64
a deposit of the funds you paid the seller under this contract. If 65
you do not receive the notice within sixty days of the date you 66
paid the funds to the seller, you should contact the trustee. 67

(C) Within thirty days after the seller of funeral goods or 68
services receives any payment under a preneed funeral contract, 69
the seller shall deliver the moneys received and not returned to 70
the purchaser as provided in division (B) of this section, to the 71
trustee designated in the preneed funeral contract or an amendment 72
to it. 73

(D) The trustee of each preneed funeral contract trust shall 74
be a financial institution or a natural person not required by 75
this chapter to be licensed to do trust business. A natural person 76
acting as trustee of a preneed funeral contract trust shall be 77
bonded by a corporate surety bond in an amount not less than one 78
hundred per cent of the funds in all of the preneed funeral 79

contract trusts the person serves as trustee. 80

(E)(1) A trustee shall establish a separate preneed funeral 81
contract trust for the moneys paid under each preneed funeral 82
contract, unless the purchaser under a preneed funeral contract 83
authorizes the trustee to place the moneys paid in a combined 84
preneed funeral contract trust. The trustee of a combined preneed 85
funeral contract trust shall keep exact records of the corpus, 86
income, expenses, and disbursements with regard to each 87
beneficiary of a preneed funeral contract for whom moneys are held 88
in the trust. The terms of a preneed funeral contract trust shall 89
be governed by this section. 90

(2) A trustee may charge a fee for managing a preneed funeral 91
contract trust. The fee shall not exceed the amount regularly or 92
usually charged for similar services rendered by the financial 93
institution when serving as a trustee, and shall be paid only from 94
the income on that trust. 95

The trustee of a preneed funeral contract shall notify the 96
purchaser of the contract in writing of the amount of any deposit 97
with the trustee of a payment under the contract within fifteen 98
days of receiving the deposit from the seller of the contract. 99

(F) No preneed funeral contract shall restrict the purchaser 100
from making the contract irrevocable. On the purchase by an 101
individual of an irrevocable preneed funeral contract, the selling 102
funeral director assumes the legal obligation to provide for the 103
funeral of the individual pursuant to the terms of the contract. 104

(G) The purchaser of a preneed funeral contract that is not 105
irrevocable may, on not less than fifteen days' notice, cancel the 106
contract and request and receive from the trustee payments made 107
under the contract and any income earned up to the time of 108
cancellation, less fees, distributions, and expenses made pursuant 109
to this section; except, if a preneed funeral contract stipulates 110

a firm or fixed or guaranteed price for funeral services and goods 111
for future use at a time determined by the death of the 112
beneficiary of the preneed funeral contract, the purchaser, on not 113
less than fifteen days' notice, may cancel the contract and 114
receive from the trustee ninety per cent of the principal paid 115
pursuant to the preneed funeral contract, not less than eighty per 116
cent of any interest earned up to the time of cancellation, and 117
not less than eighty per cent of any income earned on the funds 118
since the funds were paid to the seller and up to the time of 119
cancellation less any fees, distributions, and expenses. On 120
cancellation, after the funds have been distributed to the 121
purchaser pursuant to this division, the trustee shall distribute 122
all remaining funds attributable to the canceled preneed funeral 123
contract to the seller. If more than one purchaser enters into the 124
contract, all of those purchasers must request cancellation for it 125
to be effective under this division, and the trustee shall refund 126
to each purchaser only those funds that purchaser has paid under 127
the contract and a proportionate amount of any income earned on 128
those funds, less any fees, distributions, and expenses. 129

(H) A certified copy of the certificate of death or other 130
evidence of death satisfactory to the trustee shall be furnished 131
to the trustee as evidence of death, and the trustee shall 132
promptly pay the accumulated payments and income, if any, 133
according to the preneed funeral contract. The payment of the 134
accumulated payments and income pursuant to this section and, when 135
applicable, the preneed funeral contract, shall relieve the 136
trustee of any further liability on the accumulated payments and 137
income. 138

(I) For purposes of this section, the seller is deemed to 139
have delivered funeral goods pursuant to a preneed funeral 140
contract when either of the following occurs: 141

(1) The seller makes actual delivery of the goods to the 142

beneficiary; 143

(2) The seller does all of the following: 144

(a) Receives delivery of the goods on behalf of the 145
beneficiary; 146

(b) Stores the goods upon the real property of a funeral home 147
licensed in this state; 148

(c) Notifies the beneficiary of receipt of the goods and 149
identifies the specific location of the goods; 150

(d) At the time of the purchaser's final payment, provides 151
the beneficiary with evidence of ownership in the beneficiary's 152
name showing the goods to be free and clear of any liens or other 153
encumbrances. 154

(J) The seller of funeral goods or services under a preneed 155
funeral contract annually shall submit to the board of embalmers 156
and funeral directors the reports the board requires. 157

(K) The general assembly intends this section to be construed 158
as a limitation on the manner in which a person is permitted to 159
accept funds in prepayment for funeral services to be performed in 160
the future, or funeral goods to be used in connection with the 161
funeral or final disposition of human remains, to the end that at 162
all times members of the public may have an opportunity to arrange 163
and pay for funerals for themselves and their families in advance 164
of need while at the same time providing all possible safeguards 165
to ensure that prepaid funds cannot be dissipated, whether 166
intentionally or not, but remain available for payment for funeral 167
goods and services in connection with the funeral or final 168
disposition of dead human bodies. 169

(L) This section does not apply when the seller of funeral 170
goods or services under a preneed funeral contract is an 171
established and legally cognizable church or denomination that is 172

exempt from federal income taxation under section 501(c)(3) of the
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501,
as amended, and the preneed funeral contract pertains to a
cemetery owned and operated entirely and exclusively by the church
or denomination; provided the church or denomination adopts, on a
voluntary basis, rules and other measures to safeguard and secure
all funds received under any preneed funeral contract.

(M) This section does not prohibit persons who are not
licensed funeral directors from selling funeral goods pursuant to
a preneed funeral contract; however, all sellers of funeral goods
pursuant to a preneed funeral contract shall comply with this
section unless the seller is specifically exempt from compliance
by this section.

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

(B) Subject to the limitations and restrictions contained in 204
Chapters 1101. to 1127. of the Revised Code, a trust company 205
licensed under Chapter 1111. of the Revised Code or a national 206
bank or federal savings association that pledges securities in 207
accordance with section 1111.04 of the Revised Code or the 208
individuals described in division (C)(2) of this section have the 209
power as trustee to receive and to hold and invest in accordance 210
with sections 2109.37 and 2109.371 of the Revised Code moneys 211
under a preneed cemetery merchandise and services contract. 212

(C)(1) The greater of one hundred ten per cent of the 213
seller's actual cost or thirty per cent of the seller's retail 214
price of the merchandise and seventy per cent of the seller's 215
retail price of the services to be provided under a preneed 216
cemetery merchandise and services contract shall remain intact as 217
a fund until the death of the person for whose benefit the 218
contract is made or the merchandise is delivered as set forth in 219
division (K) of this section. However, any moneys held pursuant to 220
this section shall be released upon demand of the person for whose 221
benefit the contract was made or upon the demand of the seller for 222
its share of the moneys held and earned interest if the contract 223
has been canceled as set forth in division (G) of this section. 224

(2) The trustee of the fund described in division (C)(1) of 225
this section shall be a trust company licensed under Chapter 1111. 226
of the Revised Code or a national bank or federal savings 227
association that pledges securities in accordance with section 228
1111.04 of the Revised Code or at least three individuals who have 229
been residents of the county in which the seller is located for at 230
least one year, each of whom shall be bonded by a corporate surety 231
in an amount that is at least equal to the amount deposited in the 232
fund of which those persons serve as trustee. Amounts in the fund 233
shall be held and invested in the manner in which trust funds are 234
permitted to be held and invested pursuant to sections 2109.37 and 235

2109.371 of the Revised Code. 236

(3) Every preneed cemetery and merchandise contract entered 237
into on or after the effective date of this amendment shall 238
include a provision in substantially the following form: 239

NOTICE: Under Ohio law, the person holding the right of 240
disposition of the remains of the beneficiary of this contract 241
pursuant to section 2108.70 or 2108.81 of the Revised Code will 242
have the right to purchase cemetery merchandise and services 243
inconsistent with the merchandise and services set forth in this 244
contract. However, the beneficiary is encouraged to state his or 245
her preferences as to the manner of final disposition in a 246
declaration of the right of disposition pursuant to section 247
2108.72 of the Revised Code, including that the arrangements set 248
forth in this contract shall be followed. 249

(D) Within thirty days after the last business day of the 250
month in which the seller of cemetery merchandise or services 251
receives final contractual payment under a preneed cemetery 252
merchandise and services contract, the seller shall deliver the 253
greater of one hundred ten per cent of the seller's actual cost or 254
thirty per cent of the seller's retail price of the merchandise 255
and seventy per cent of the seller's current retail price of the 256
services as of the date of the contract to a trustee or to 257
trustees as described in division (C)(2) of this section, and the 258
moneys and accruals or income on the moneys shall be held in a 259
fund and designated for the person for whose benefit the fund was 260
established as a preneed cemetery merchandise and services 261
contract fund. 262

(E) The moneys received from more than one preneed cemetery 263
merchandise and services contract may, at the option of the 264
persons for whose benefit the contracts are made, be placed in a 265
common or pooled trust fund in this state under a single trust 266

instrument. If three individuals are designated as the trustees as 267
provided in division (C)(2) of this section, they shall be bonded 268
by a corporate surety or fidelity bond in an aggregate amount of 269
not less than one hundred per cent of the funds held by them as 270
trustees. The trustees or their agent shall, on a continuous 271
basis, keep exact records as to the amount of funds under a single 272
trust instrument being held for the individual beneficiaries 273
showing the amount paid, the amount deposited and invested, and 274
accruals and income. 275

(F) The seller of merchandise or services under a preneed 276
cemetery merchandise and services contract shall annually submit 277
to the division of real estate of the department of commerce an 278
affidavit in a form prescribed by the division, sworn under oath, 279
specifying each of the following: 280

(1) That, within the time specified in division (D) of this 281
section, the amounts required by that division were deposited in 282
an appropriate fund; 283

(2) That the fund has not been used to collateralize or 284
guarantee loans and has not otherwise been subjected to any 285
consensual lien; 286

(3) That the fund is invested in compliance with the 287
investing standards set forth in sections 2109.37 and 2109.371 of 288
the Revised Code; 289

(4) That no moneys have been removed from the fund, except as 290
provided for in this section. 291

(G) This division is subject to division (I) of this section. 292

Any person upon initially entering into a preneed cemetery 293
merchandise and services contract may, within seven days, cancel 294
the contract and request and receive from the seller one hundred 295
per cent of all payments made under the contract. After the 296

expiration of the above period, any person who has entered into a
preneed cemetery merchandise and services contract may, on not
less than fifteen days' notice, cancel the contract and request
and receive from the seller sixty per cent of the payments made
under the contract which have been paid up to the time of
cancellation; except that, if a preneed cemetery merchandise and
services contract stipulates a firm or fixed or guaranteed price
for the merchandise or services for future use at a time
determined by the death of the person on behalf of whom payments
are made, the person who has entered into the contract may, if the
merchandise has not been delivered or the services have not been
performed as set forth in division (K) or (L) of this section, on
not less than fifteen days' notice, cancel the contract and
receive from the seller sixty per cent of the principal paid
pursuant to the contract and not less than eighty per cent of any
interest paid, up to the time of cancellation, and not less than
eighty per cent of any accrual or income earned while the moneys
have been held pursuant to divisions (C) and (D) of this section,
up to the time of cancellation. Upon cancellation, after the
moneys have been distributed to the beneficiary pursuant to this
division, all remaining moneys being held pursuant to divisions
(C) and (D) of this section shall be paid to the seller. If more
than one person enters into the contract, all of those persons
must request cancellation for it to be effective under this
division. In such a case, the seller shall refund to each person
only those moneys that each person has paid under the contract.

(H) Upon receipt of a certified copy of the certificate of
death or evidence of delivery of the merchandise or performance of
the services pursuant to division (K) or (L) of this section, the
trustee described in division (C)(2) of this section or its agent,
shall forthwith pay the fund and accumulated interest, if any, to
the person entitled to them under the preneed cemetery merchandise

and services contract. The payment of the fund and accumulated
interest pursuant to this section, either to a seller or person
making the payments, shall relieve the trustee of any further
liability on the fund or accumulated interest.

(I) Notwithstanding any other provision of this section, any
preneed cemetery merchandise and services contract may specify
that it is irrevocable. All irrevocable preneed cemetery
merchandise and services contracts shall include a clear and
conspicuous disclosure of irrevocability in the contract and any
person entering into an irrevocable preneed cemetery merchandise
and services contract shall sign a separate acknowledgment of the
person's waiver of the right to revoke. If a contract satisfies
the requirements of this division, division (G) of this section
does not apply to that contract.

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

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

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

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

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

(b) The seller notifies the beneficiary of receipt of the

merchandise and identifies the specific location of the 359
merchandise. 360

(c) The seller at the time of the beneficiary's final payment 361
provides the beneficiary with evidence of ownership in the 362
beneficiary's name showing the merchandise to be free and clear of 363
any liens or other encumbrances. 364

(L) For purposes of this section, a seller is considered to 365
have performed services pursuant to a preneed cemetery merchandise 366
and services contract when the beneficiary's next of kin signs a 367
written statement that the services have been performed or, if no 368
next of kin of the beneficiary can be located through reasonable 369
diligence, when the owner or other person responsible for the 370
operation of the cemetery signs a statement of that nature. 371

(M) Notwithstanding any other provision of this chapter, any 372
trust may be charged a trustee's fee, which is to be deducted from 373
the earned income or accruals on that trust. The fee shall not 374
exceed the amount that is regularly or usually charged for similar 375
services rendered by the trustee described in division (C)(2) of 376
this section when serving as a trustee. 377

(N) The general assembly intends that this section be 378
construed as a limitation upon the manner in which a person is 379
permitted to accept moneys in prepayment for merchandise and 380
services to be delivered or provided in the future, or merchandise 381
and services to be used or provided in connection with the final 382
disposition of human remains, to the end that at all times members 383
of the public may have an opportunity to arrange and pay for 384
merchandise and services for themselves and their families in 385
advance of need while at the same time providing all possible 386
safeguards whereunder the prepaid moneys cannot be dissipated, 387
whether intentionally or not, so as to be available for the 388
payment for merchandise and services and the providing of 389

merchandise and services used or provided in connection with the 390
final disposition of dead human bodies. 391

(O) This section does not apply to the seller or provider of 392
merchandise or services under a preneed cemetery merchandise and 393
services contract if the contract pertains to a cemetery that is 394
owned and operated entirely and exclusively by an established and 395
legally cognizable church or denomination that is exempt from 396
federal income taxation under section 501(c)(3) of the "Internal 397
Revenue Code of 1954," 26 U.S.C.A. 501, an established fraternal 398
organization, or a municipal corporation or other political 399
subdivision of the state, to a cemetery that is a national 400
cemetery, or to a cemetery that is a family cemetery as defined in 401
section 4767.02 of the Revised Code; provided that, on a voluntary 402
basis, rules and other measures are adopted to safeguard and 403
secure all moneys received under a preneed cemetery merchandise 404
and services contract. 405

(P) This section does not prohibit persons other than 406
cemetery corporations or associations from selling outer burial 407
containers, monuments, markers, urns, or other types of 408
merchandise customarily sold by cemeteries pursuant to a preneed 409
cemetery merchandise and services contract; however all sellers of 410
merchandise pursuant to a preneed cemetery merchandise and 411
services contract shall comply with this section unless the seller 412
is specifically exempt from this section. 413

(Q) Any contract for preneed services or merchandise entered 414
into with a cemetery not registered under section 4767.03 of the 415
Revised Code is voidable. 416

Sec. 2101.24. (A)(1) Except as otherwise provided by law, the 417
probate court has exclusive jurisdiction: 418

(a) To take the proof of wills and to admit to record 419

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

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

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

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

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

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally
impaired as a result of a mental or physical illness or
disability, or mental retardation, or as a result of chronic
substance abuse, that they are unable to manage their property and
affairs effectively, subject to guardianship;

(h) To qualify assignees, appoint and qualify trustees and
commissioners of insolvents, control their conduct, and settle
their accounts;

(i) To authorize the sale of lands, equitable estates, or
interests in lands or equitable estates, and the assignments of
inchoate dower in such cases of sale, on petition by executors,
administrators, and guardians;

(j) To authorize the completion of real estate contracts on	450
petition of executors and administrators;	451
(k) To construe wills;	452
(l) To render declaratory judgments, including, but not	453
limited to, those rendered pursuant to section 2107.084 of the	454
Revised Code;	455
(m) To direct and control the conduct of fiduciaries and	456
settle their accounts;	457
(n) To authorize the sale or lease of any estate created by	458
will if the estate is held in trust, on petition by the trustee;	459
(o) To terminate a testamentary trust in any case in which a	460
court of equity may do so;	461
(p) To hear and determine actions to contest the validity of	462
wills;	463
(q) To make a determination of the presumption of death of	464
missing persons and to adjudicate the property rights and	465
obligations of all parties affected by the presumption;	466
(r) To hear and determine an action commenced pursuant to	467
section 3107.41 of the Revised Code to obtain the release of	468
information pertaining to the birth name of the adopted person and	469
the identity of the adopted person's biological parents and	470
biological siblings;	471
(s) To act for and issue orders regarding wards pursuant to	472
section 2111.50 of the Revised Code;	473
(t) To hear and determine actions against sureties on the	474
bonds of fiduciaries appointed by the probate court;	475
(u) To hear and determine actions involving informed consent	476
for medication of persons hospitalized pursuant to section	477
5122.141 or 5122.15 of the Revised Code;	478

(v) To hear and determine actions relating to durable powers 479
of attorney for health care as described in division (D) of 480
section 1337.16 of the Revised Code; 481

(w) To hear and determine actions commenced by objecting 482
individuals, in accordance with section 2133.05 of the Revised 483
Code; 484

(x) To hear and determine complaints that pertain to the use 485
or continuation, or the withholding or withdrawal, of 486
life-sustaining treatment in connection with certain patients 487
allegedly in a terminal condition or in a permanently unconscious 488
state pursuant to division (E) of section 2133.08 of the Revised 489
Code, in accordance with that division; 490

(y) To hear and determine applications that pertain to the 491
withholding or withdrawal of nutrition and hydration from certain 492
patients allegedly in a permanently unconscious state pursuant to 493
section 2133.09 of the Revised Code, in accordance with that 494
section; 495

(z) To hear and determine applications of attending 496
physicians in accordance with division (B) of section 2133.15 of 497
the Revised Code; 498

(aa) To hear and determine actions relative to the use or 499
continuation of comfort care in connection with certain principals 500
under durable powers of attorney for health care, declarants under 501
declarations, or patients in accordance with division (E) of 502
either section 1337.16 or 2133.12 of the Revised Code; 503

(bb) To hear and determine applications for an order 504
relieving an estate from administration under section 2113.03 of 505
the Revised Code; 506

(cc) To hear and determine applications for an order granting 507
a summary release from administration under section 2113.031 of 508

the Revised Code;*i* 509

(dd) To hear and determine actions relating to the exercise 510
of the right of disposition, in accordance with section 2108.90 of 511
the Revised Code; 512

(ee) To hear and determine actions relating to the 513
disinterment and reinterment of human remains under section 517.23 514
of the Revised Code. 515

(2) In addition to the exclusive jurisdiction conferred upon 516
the probate court by division (A)(1) of this section, the probate 517
court shall have exclusive jurisdiction over a particular subject 518
matter if both of the following apply: 519

(a) Another section of the Revised Code expressly confers 520
jurisdiction over that subject matter upon the probate court. 521

(b) No section of the Revised Code expressly confers 522
jurisdiction over that subject matter upon any other court or 523
agency. 524

(B)(1) The probate court has concurrent jurisdiction with, 525
and the same powers at law and in equity as, the general division 526
of the court of common pleas to issue writs and orders, and to 527
hear and determine actions as follows: 528

(a) If jurisdiction relative to a particular subject matter 529
is stated to be concurrent in a section of the Revised Code or has 530
been construed by judicial decision to be concurrent, any action 531
that involves that subject matter; 532

(b) Any action that involves an inter vivos trust; a trust 533
created pursuant to section 1339.51 of the Revised Code; a 534
charitable trust or foundation; subject to divisions (A)(1)(u) and 535
(z) of this section, a power of attorney, including, but not 536
limited to, a durable power of attorney; the medical treatment of 537
a competent adult; or a writ of habeas corpus. 538

(2) Any action that involves a concurrent jurisdiction 539
subject matter and that is before the probate court may be 540
transferred by the probate court, on its order, to the general 541
division of the court of common pleas. 542

(C) The probate court has plenary power at law and in equity 543
to dispose fully of any matter that is properly before the court, 544
unless the power is expressly otherwise limited or denied by a 545
section of the Revised Code. 546

(D) The jurisdiction acquired by a probate court over a 547
matter or proceeding is exclusive of that of any other probate 548
court, except when otherwise provided by law. 549

Sec. 2106.20. A surviving spouse or a person with the right 550
of disposition under section 2108.70 or 2108.81 of the Revised 551
Code is entitled to a reimbursement from the estate of the 552
~~deceased spouse decedent~~ for funeral and burial expenses, if paid 553
by the surviving spouse or person with the right of disposition, 554
to the extent that the rights of other creditors of the estate 555
will not be prejudiced by the reimbursement. 556

Sec. 2108.50. (A) Subject to section 2108.521 of the Revised 557
Code, an autopsy or post-mortem examination may be performed upon 558
the body of a deceased person by a licensed physician or surgeon 559
if consent has been given ~~in the order named by one of the~~ 560
~~following persons of sound mind and eighteen years of age or older~~ 561
~~in a written instrument executed by the person or on the person's~~ 562
~~behalf at the person's express direction:~~ 563

~~(1) The deceased person during the deceased person's~~ 564
~~lifetime;~~ 565

~~(2) The decedent's spouse;~~ 566

~~(3) If there is no surviving spouse, if the address of the~~ 567

surviving spouse is unknown or outside the United States, if the
surviving spouse is physically or mentally unable or incapable of
giving consent, or if the deceased person was separated and living
apart from such surviving spouse, then a person having the first
named degree of relationship in the following list in which a
relative of the deceased person survives and is physically and
mentally able and capable of giving consent may execute consent:

(a) Children;

(b) Parents;

(c) Brothers or sisters.

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

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

(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.

(B) Consent to an autopsy or post-mortem examination given
under this section may be revoked only by the person executing the
consent and in the same manner as required for execution of
consent under this section.

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

Sec. 2108.70. (A) As used in this section and sections
2108.71 to 2108.90 of the Revised Code:

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

(2) "Declarant" means an adult who has executed a written 597
declaration described in division (B) of this section. 598

(3) "Representative" means an adult or a group of adults, 599
collectively, to whom a declarant has assigned the right of 600
disposition. 601

(4) "Right of disposition" means one or more of the rights 602
described in division (B) of this section that a declarant chooses 603
to assign to a representative in a written declaration executed 604
under that division or all of the rights described in division (B) 605
of this section that are assigned to a person pursuant to section 606
2108.81 of the Revised Code. 607

(5) "Successor representative" means an adult or group of 608
adults, collectively, to whom the right of disposition for a 609
declarant has been reassigned because the declarant's 610
representative is disqualified from exercising the right under 611
section 2108.75 of the Revised Code. Each successor representative 612
shall be considered in the order the representative is designated 613
by the declarant. 614

(B) An adult who is of sound mind may execute at any time a 615
written declaration assigning to a representative one or more of 616
the following rights: 617

(1) The right to direct the disposition, after death, of the 618
declarant's body or any part of the declarant's body that becomes 619
separated from the body before death. This right includes the 620
right to determine the location, manner, and conditions of the 621
disposition of the declarant's bodily remains. 622

(2) The right to make arrangements and purchase goods and 623
services for the declarant's funeral. This right includes the 624
right to determine the location, manner, and condition of the 625
declarant's funeral. 626

(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.

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

(2) If a representative is a group of persons and not all of the persons in the group meet at least one criterion to be disqualified from serving as the representative, as described in section 2108.75 of the Revised Code, the persons in the group who are not disqualified shall remain the representative who has the right of disposition.

(D) The assignment or reassignment of a right of disposition to a representative and a successor representative supercedes an assignment of a right of disposition under section 2108.81 of the Revised Code.

Sec. 2108.71. The assignment or reassignment of a right of disposition by a declarant under section 2108.70 of the Revised Code vests in a representative or a successor representative at the time of the declarant's death.

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

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

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

(3) A statement that all decisions made by the declarant's 656
representative with respect to the right of disposition are 657
binding; 658

(4) The name, last known address, and last known telephone 659
number of the representative or, if the representative is a group 660
of persons, the name, last known address, and last known telephone 661
number of each person in the group; 662

(5) If the declarant chooses to have a successor 663
representative, a statement that if any person or group of persons 664
named as the declarant's representative is disqualified from 665
serving in such position as described in section 2108.75 of the 666
Revised Code, the declarant appoints a successor representative; 667

(6) If applicable, the name, last known address, and last 668
known telephone number of the successor representative or, if the 669
successor representative is a group of persons, the name, last 670
known address, and last known telephone number of each person in 671
the group; 672

(7) A space where the declarant may indicate the declarant's 673
preferences regarding how the right of disposition should be 674
exercised, including any religious observances the declarant 675
wishes the person with the right of disposition to consider; 676

(8) A space where the declarant may indicate one or more 677
sources of funds that may be used to pay for goods and services 678
associated with the exercise of the right of disposition; 679

(9) A statement that the declarant's written declaration 680
becomes effective on the declarant's death; 681

(10) A statement that the declarant revokes any written 682
declaration that the declarant executed, in accordance with 683
section 2108.70 of the Revised Code, prior to the execution of the 684
present written declaration. 685

(11) A space where the declarant can sign and date the 686
written declaration; 687

(12) A space where a notary public or two witnesses can sign 688
and date the written declaration as described in section 2108.73 689
of the Revised Code. 690

(B) A written declaration may take the following form: 691

APPOINTMENT OF REPRESENTATIVE FOR DISPOSITION OF BODILY 692
REMAINS, FUNERAL ARRANGEMENTS, AND BURIAL OR CREMATION GOODS AND 693
SERVICES: 694

I, (legal name and present address of 695
declarant), an adult being of sound mind, willfully and 696
voluntarily appoint my representative, named below, to have the 697
right of disposition, as defined in section 2108.70 of the Revised 698
Code, for my body upon my death. All decisions made by my 699
representative with respect to the right of disposition shall be 700
binding. 701

REPRESENTATIVE: 702

(If the representative is a group of persons, indicate the 703
name, last known address, and telephone number of each person in 704
the group.) 705

Name(s): 706

Address(es): 707

Telephone Number(s): 708

SUCCESSOR REPRESENTATIVE: 709

If my representative is disqualified from serving as my 710
representative as described in section 2108.75 of the Revised 711
Code, then I hereby appoint the following person or group of 712
persons to serve as my successor representative. 713

(If the successor representative is a group of persons, 714

<u>indicate the name, last known address, and telephone number of</u>	715
<u>each person in the group.)</u>	716
<u>Name(s):</u>	717
<u>Address(es):</u>	718
<u>Telephone Number(s):</u>	719
<u>PREFERENCES REGARDING HOW THE RIGHT OF DISPOSITION SHOULD BE</u>	720
<u>EXERCISED, INCLUDING ANY RELIGIOUS OBSERVANCES THE DECLARANT</u>	721
<u>WISHES A REPRESENTATIVE OR A SUCCESSOR REPRESENTATIVE TO CONSIDER:</u>	722
<u>.....</u>	723
<u>.....</u>	724
<u>.....</u>	725
<u>.....</u>	726
<u>ONE OR MORE SOURCES OF FUNDS THAT COULD BE USED TO PAY FOR</u>	727
<u>GOODS AND SERVICES ASSOCIATED WITH AN EXERCISE OF THE RIGHT OF</u>	728
<u>DISPOSITION:</u>	729
<u>.....</u>	730
<u>.....</u>	731
<u>.....</u>	732
<u>.....</u>	733
<u>DURATION:</u>	734
<u>The appointment of my representative and, if applicable,</u>	735
<u>successor representative, becomes effective upon my death.</u>	736
<u>PRIOR APPOINTMENTS REVOKED:</u>	737
<u>I hereby revoke any written declaration that I executed in</u>	738
<u>accordance with section 2108.70 of the Ohio Revised Code prior to</u>	739
<u>the date of execution of this written declaration indicated below.</u>	740
<u>AUTHORIZATION TO ACT:</u>	741
<u>I hereby agree that any of the following that receives a copy</u>	742
<u>of this written declaration may act under it:</u>	743

<u>- Cemetery organization;</u>	744
<u>- Crematory operator;</u>	745
<u>- Business operating a columbarium;</u>	746
<u>- Funeral director;</u>	747
<u>- Embalmer;</u>	748
<u>- Funeral home;</u>	749
<u>- Any other person asked to assist with my funeral, burial,</u>	750
<u>cremation, or other manner of final disposition.</u>	751
<u>MODIFICATION AND REVOCATION - WHEN EFFECTIVE:</u>	752
<u>Any modification or revocation of this written declaration is</u>	753
<u>not effective as to any party until that party receives actual</u>	754
<u>notice of the modification or revocation.</u>	755
<u>LIABILITY:</u>	756
<u>No person who acts in accordance with a properly executed</u>	757
<u>copy of this written declaration shall be liable for damages of</u>	758
<u>any kind associated with the person's reliance on this</u>	759
<u>declaration.</u>	760
<u>Signed this day of</u>	
<u>.....</u>	
<u>(Signature of declarant)</u>	
<u>ACKNOWLEDGMENT OF ASSUMPTION OF OBLIGATIONS AND COSTS:</u>	762
<u>By signing below, the representative, or successor</u>	763
<u>representative, if applicable, acknowledges that he or she, as</u>	764
<u>representative or successor representative, assumes the right of</u>	765
<u>disposition as defined in section 2108.70 of the Revised Code, and</u>	766
<u>understands that he or she is liable for the reasonable costs of</u>	767
<u>exercising the right, including any goods and services that are</u>	768
<u>purchased.</u>	769
<u>ACCEPTANCE (OPTIONAL):</u>	770

The undersigned hereby accepts this appointment as 771
representative or successor representative, as applicable, for the 772
right of disposition as defined in section 2108.70 of the Revised 773
Code. 774

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Signed this day of

.....

Signature of representative 777
(if representative is a group
of persons, each person in
the group shall sign)

778

Signed this day of

.....

Signature of successor 780
representative (if successor
representative is a group of
persons, each person in the
group shall sign)

WITNESSES: 781

I attest that the declarant signed or acknowledged this 782
assignment of the right of disposition under section 2108.70 of 783
the Revised Code in my presence and that the declarant is at least 784
eighteen years of age and appears to be of sound mind and not 785
under or subject to duress, fraud, or undue influence. I further 786
attest that I am not the declarant's representative or successor 787
representative, I am at least eighteen years of age, and I am not 788
related to the declarant by blood, marriage, or adoption. 789

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First witness: 791

Name (printed): 792

..... Residing at: 793
Signature: 794
..... 795
Date: 796
..... 797

..... 798
Second witness: 799
Name (printed): 800
..... Residing at: 801
Signature: 802
..... 803
Date: 804
..... 805

OR 806

NOTARY ACKNOWLEDGMENT: 807

State of Ohio 808

County of SS. 809

On, before me, the undersigned notary public, 810
personally appeared, known to me or 811
satisfactorily proven to be the person whose name is subscribed as 812
the declarant, and who has acknowledged that he or she executed 813
this written declaration under section 2108.70 of the Revised Code 814
for the purposes expressed in that section. I attest that the 815
declarant is at least eighteen years of age and appears to be of 816
sound mind and not under or subject to duress, fraud, or undue 817
influence. 818

Signature of notary public

.....

My commission expires on: 819

Sec. 2108.73. A written declaration executed by a declarant 821

under section 2108.70 of the Revised Code shall be signed and 822
dated by the declarant in the presence of either of the following: 823

(A) A notary public who shall make the certification 824
described in section 147.53 of the Revised Code. 825

(B) Two witnesses who are adults and who are not related by 826
blood, marriage, or adoption to the declarant. 827

Sec. 2108.74. A declarant who executes a written declaration 828
in accordance with section 2108.73 of the Revised Code warrants 829
the truthfulness of the entire content of the declaration. 830

Sec. 2108.75. (A) A person shall be disqualified from serving 831
as a representative or successor representative, or from having 832
the right of disposition for a deceased adult pursuant to section 833
2108.81 of the Revised Code, if any of the following occurs: 834
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(1) The person dies. 836

(2) A probate court declares or determines that the person is 837
incompetent. 838

(3) The person resigns or declines to exercise the right as 839
described in section 2108.88 of the Revised Code. 840

(4) The person refuses to exercise the right within two days 841
after notification of the declarant's death. 842

(5) The person cannot be located with reasonable effort. 843

(6) The person meets the criteria described in section 844
2108.76 or 2108.77 of the Revised Code. 845

(B) No owner, employee, or agent of a funeral home, cemetery, 846
or crematory providing funeral, burial, or cremation services for 847
a declarant shall serve as a representative or successor 848

representative for the declarant unless the owner, employee, or 849
agent is related to the declarant by blood, marriage, or adoption. 850

(C) Subject to divisions (C)(2) and (D)(2) of section 2108.70 851
of the Revised Code, if a person is disqualified from serving as 852
the declarant's representative or successor representative, or 853
from having the right of disposition for a deceased adult pursuant 854
to section 2108.81 of the Revised Code, as described in division 855
(A) of this section, the right is automatically reassigned to, and 856
vests in, the next person who has the right pursuant to the 857
declarant's written declaration or pursuant to the order of 858
priority in section 2108.81 of the Revised Code. 859

Sec. 2108.76. (A) Except as provided in division (B) of this 860
section, if the person named as the declarant's representative or 861
successor representative in a written declaration was the 862
declarant's spouse at the time the declaration was executed, but 863
is not the declarant's spouse at the time of the declarant's 864
death, the former spouse shall no longer be qualified to serve as 865
the declarant's representative or successor representative. 866

(B) Division (A) of this section shall not apply and a former 867
spouse is qualified to serve as a declarant's representative or 868
successor representative if the declarant signs and dates, after 869
the termination of the marriage, a document stating the 870
declarant's intent that the former spouse be the declarant's 871
representative or successor representative. The document must be 872
notarized or witnessed in accordance with the procedures described 873
in section 2108.73 of the Revised Code. 874

Sec. 2108.77. If the person named as the declarant's 875
representative or successor representative in a written 876
declaration, or the person who has a deceased adult's right of 877
disposition pursuant to section 2108.81 of the Revised Code, meets 878

any of the following criteria, the person shall be disqualified
from serving as the representative or successor representative, or
from having the right:

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

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

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

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

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

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

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a period of time that clearly demonstrates an absence of due
affection, trust, and regard between spouse and the declarant of
deceased adult.

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

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

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

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(C) If a majority of persons cannot reach a decision under
division (A) or (B) of this section, the probate court of the
county in which the declarant or deceased person resided at the
time of death shall make the decision in accordance with the
criteria set forth in division (B) of section 2108.82 of the

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Revised Code.

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

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

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

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

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

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

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

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(1) The deceased person's surviving spouse;

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

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<u>(3) The deceased person's surviving parent or parents;</u>	967
<u>(4) The deceased person's surviving sibling, whether of the</u>	968
<u>whole or of the half blood or, if there is more than one sibling</u>	969
<u>of the whole or of the half blood, all of the surviving siblings,</u>	970
<u>collectively;</u>	971
<u>(5) The deceased person's surviving grandparent or</u>	972
<u>grandparents;</u>	973
<u>(6) The lineal descendants of the deceased person's</u>	974
<u>grandparents, as described in division (I) of section 2105.06 of</u>	975
<u>the Revised Code;</u>	976
<u>(7) The person who was the deceased person's guardian at the</u>	977
<u>time of the deceased person's death, if a guardian had been</u>	978
<u>appointed;</u>	979
<u>(8) Any other person willing to assume the right of</u>	980
<u>disposition, including the personal representative of the deceased</u>	981
<u>person's estate or the licensed funeral director with custody of</u>	982
<u>the deceased person's body, after attesting in writing that a good</u>	983
<u>faith effort has been made to locate the persons in divisions</u>	984
<u>(B)(1) to (7) of this section.</u>	985
 <u>Sec. 2108.82. (A) Notwithstanding section 2108.81 of the</u>	986
<u>Revised Code and in accordance with division (B) of this section,</u>	987
<u>the probate court for the county in which the declarant or</u>	988
<u>deceased person resided at the time of death may, on its own</u>	989
<u>motion or the motion of another person, assign to any person the</u>	990
<u>right of disposition for a declarant or deceased person.</u>	991
 <u>(B) In making a determination for purposes of division (A) of</u>	992
<u>this section and division (C) of section 2108.79 of the Revised</u>	993
<u>Code, the court shall consider the following:</u>	994
 <u>(1) Whether evidence presented to, or in the possession of</u>	995
<u>the court, demonstrates that the person who is the subject of the</u>	996

motion and the declarant or deceased person had a close personal 997
relationship; 998

(2) The reasonableness and practicality of any plans that the 999
person who is the subject of the motion may have for the 1000
declarant's or deceased person's funeral, burial, cremation, or 1001
final disposition, including the degree to which such plans allow 1002
maximum participation by all persons who wish to pay their final 1003
respects to the deceased person; 1004

(3) The willingness of the person who is the subject of the 1005
motion to assume the responsibility to pay for the declarant's or 1006
deceased person's funeral, burial, cremation, or final disposition 1007
and the desires of that person; 1008

(4) The convenience and needs of other families and friends 1009
wishing to pay their final respects to the declarant or deceased 1010
person; 1011

(5) The express written desires of the declarant or deceased 1012
person. 1013

(C) Except to the extent considered under division (B)(3) of 1014
this section, the following persons do not have a greater claim to 1015
the right of disposition than such persons otherwise have pursuant 1016
to law: 1017

(1) A person who is willing to assume the responsibility to 1018
pay for the declarant's or deceased person's funeral, burial, 1019
cremation, or final disposition; 1020

(2) The personal representative of the declarant or deceased 1021
person. 1022

Sec. 2108.83. In the event of a dispute regarding the right 1023
of disposition, a funeral home, funeral director, crematory 1024
operator, cemetery operator, cemetery organization, or other 1025
person asked to assist with a declarant's or deceased person's 1026

funeral, burial, cremation, or other manner of final disposition 1027
shall not be liable for damages of any kind for refusing to accept 1028
the remains, refusing to inter, cremate, or otherwise dispose of 1029
the remains, or refusing to complete funeral or other arrangements 1030
pertaining to final disposition until such funeral home, funeral 1031
director, crematory operator, cemetery operator, cemetery 1032
organization, or other person receives a court order or a written 1033
document that is executed by a person that the funeral home, 1034
funeral director, crematory operator, cemetery operator, cemetery 1035
organization, or other person reasonably believes has the right of 1036
disposition and that clearly expresses how the right of 1037
disposition is to be exercised. 1038

Sec. 2108.84. If a funeral home, funeral director, crematory 1039
operator, or other person asked to assist with a declarant's or 1040
deceased person's funeral, burial, cremation, or other manner of 1041
final disposition is in possession of a declarant's or deceased 1042
person's remains while a dispute described in section 2108.83 of 1043
the Revised Code is pending, the funeral home, funeral director, 1044
crematory operator, or other person may embalm or refrigerate and 1045
shelter the remains to preserve them and may add the cost of 1046
embalming, refrigeration, and sheltering to the final disposition 1047
costs to be charged. 1048

Sec. 2108.85. (A) If a funeral home, funeral director, 1049
crematory operator, cemetery operator, cemetery organization, or 1050
other person asked to assist with a declarant's or deceased 1051
person's funeral, burial, cremation, or other manner of final 1052
disposition brings a legal action for purposes of section 2108.83 1053
or 2108.84 of the Revised Code, the funeral home, funeral 1054
director, crematory operator, cemetery operator, cemetery 1055
organization, or other person may add to the costs the person 1056

charges for the goods and services the person provided the legal 1057
fees, if reasonable, and the court costs that the person incurred. 1058

(B) The right created by division (A) of this section shall 1059
neither be construed to require, nor impose a duty on, a funeral 1060
home, funeral director, crematory operator, cemetery operator, 1061
cemetery organization, or other person asked to assist with a 1062
declarant's or deceased person's funeral, burial, cremation, or 1063
other manner of final disposition, to bring a legal action and 1064
such person shall not be held criminally or civilly liable for not 1065
bringing an action. 1066

Sec. 2108.86. (A) A funeral home, funeral director, crematory 1067
operator, cemetery operator, cemetery organization, or other 1068
person asked to assist with a declarant's funeral, burial, 1069
cremation, or other manner of final disposition has the right to 1070
rely on the content of a written declaration and the instructions 1071
of the person or group of persons whom the funeral home, funeral 1072
director, crematory operator, cemetery operator, cemetery 1073
organization, or other person reasonably believes has the right of 1074
disposition. 1075

(B) If the circumstances described in division (A) of section 1076
2108.81 of the Revised Code apply, a funeral home, funeral 1077
director, crematory operator, cemetery operator, cemetery 1078
organization, or other person asked to assist with a deceased 1079
person's funeral, burial, cremation, or other manner of final 1080
disposition has the right to rely on the instructions of the 1081
person or group of persons the funeral home, funeral director, 1082
crematory operator, cemetery operator, cemetery organization, or 1083
other person reasonably believes has the right of disposition 1084
pursuant to section 2108.81 of the Revised Code. 1085

(C) No funeral home, funeral director, crematory operator, 1086

cemetery operator, cemetery organization, or other person asked to 1087
assist with a deceased person's funeral, burial, cremation, or 1088
other manner of final disposition, who relies, pursuant to 1089
divisions (A) and (B) of this section, in good faith on the 1090
contents of a written declaration or the instructions of the 1091
person or group of persons the funeral home, funeral director, 1092
crematory operator, cemetery operator, cemetery organization, or 1093
other person reasonably believes has the right of disposition, 1094
shall be subject to criminal or civil liability or subject to 1095
disciplinary action for taking an action or not taking an action 1096
in reliance on such contents or instructions and for otherwise 1097
complying with sections 2108.70 to 2108.90 of the Revised Code. 1098

Sec. 2108.87. (A) A funeral home, funeral director, crematory 1099
operator, cemetery operator, cemetery organization, or other 1100
person asked to assist with a deceased person's funeral, burial, 1101
cremation, or other manner of final disposition may independently 1102
investigate the existence of, or locate or contact, the following 1103
persons: 1104

(1) A representative or successor representative named in a 1105
written declaration; 1106

(2) A person listed in section 2108.81 of the Revised Code. 1107

(B) In no circumstances shall a funeral home, funeral 1108
director, crematory operator, cemetery operator, cemetery 1109
organization, or other person asked to assist with a deceased 1110
person's funeral, burial, cremation, or other manner of final 1111
disposition have a duty to independently investigate the existence 1112
of, or locate or contact, the persons described in division (A) of 1113
this section. 1114

Sec. 2108.88. (A) A person to whom a declarant's or deceased 1115
person's right of disposition has been assigned or reassigned 1116

pursuant to section 2108.70 or 2108.81 of the Revised Code may 1117
decline to exercise the right or resign after beginning to 1118
exercise the right. 1119

(B) A person described in division (A) of this section who 1120
resigns after beginning to exercise the right shall be subject to 1121
section 2108.89 of the Revised Code. 1122

Sec. 2108.89. The following persons shall be liable for the 1123
reasonable costs of any goods or services purchased in connection 1124
with the exercise of the right of disposition for a declarant or 1125
deceased person: 1126

(A) A representative or successor who assumes liability for 1127
the cost of such goods and services by signing a written 1128
declaration that states that such an assumption is made; 1129

(B) A person to whom the right of disposition is assigned 1130
pursuant to section 2108.81 of the Revised Code and who has 1131
purchased goods or services associated with an exercise of the 1132
right. 1133

Sec. 2108.90. Pursuant to division (A) of section 2101.24 of 1134
the Revised Code, the probate court for the county in which the 1135
declarant or deceased person resided at the time of death or the 1136
county in which a living person whose post-death arrangements are 1137
the subject of dispute resides shall have exclusive jurisdiction 1138
over any action that results from sections 2108.70 to 2108.89 of 1139
the Revised Code. 1140

Sec. 2109.02. Every fiduciary, before entering upon the 1141
execution of a trust, shall receive letters of appointment from a 1142
probate court having jurisdiction of the subject matter of the 1143
trust. 1144

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

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

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

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

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

(3) To provide such maintenance and education for such ward
as the amount of the ward's estate justifies when the ward is a
minor and has no father or mother, or has a father or mother who
fails to maintain or educate the ward, which shall be paid out of

such ward's estate upon the order of the guardian of the person; 1175

(4) To obey all the orders and judgments of the probate court 1176
touching the guardianship. 1177

(B) Except as provided in section 2111.131 of the Revised 1178
Code, no part of the ward's estate shall be used for the support, 1179
maintenance, or education of such ward unless ordered and approved 1180
by the court. 1181

(C) A guardian of the person may authorize or approve the 1182
provision to the ward of medical, health, or other professional 1183
care, counsel, treatment, or services unless the ward or an 1184
interested party files objections with the probate court, or the 1185
court, by rule or order, provides otherwise. 1186

(D) A Unless a person with the right of disposition for a 1187
ward under section 2108.70 or 2108.81 of the Revised Code has made 1188
a decision regarding whether or not consent to an autopsy or 1189
post-mortem examination on the body of the deceased ward under 1190
section 2108.50 of the Revised Code shall be given, a guardian of 1191
the person of a ward who has died may consent to ~~an~~ the autopsy or 1192
post-mortem examination ~~upon the body of the deceased ward under~~ 1193
~~section 2108.50 of the Revised Code and, if the,~~ 1194

(E) If a deceased ward did not have a guardian of the estate 1195
~~and,~~ the estate is not required to be administered by a probate 1196
court, and a person with the right of disposition for a ward, as 1197
described in section 2108.70 or 2108.81 of the Revised Code, has 1198
not made a decision regarding the disposition of the ward's body 1199
or remains, the guardian of the person of the ward may authorize 1200
the burial or cremation of the ~~deceased~~ ward. A 1201

(F) A guardian who gives consent or authorization as 1202
described in ~~this division~~ divisions (D) and (E) of this section 1203
shall notify the probate court as soon as possible after giving 1204
the consent or authorization. 1205

Sec. 2113.031. (A) As used in this section: 1206

(1) "Financial institution" has the same meaning as in 1207
section 5725.01 of the Revised Code. "Financial institution" also 1208
includes a credit union and a fiduciary that is not a trust 1209
company but that does trust business. 1210

(2) "Funeral and burial expenses" means whichever of the 1211
following applies: 1212

(a) The funeral and burial expenses of the decedent that are 1213
included in the bill of a funeral director; 1214

(b) The funeral expenses of the decedent that are not 1215
included in the bill of a funeral director and that have been 1216
approved by the probate court; 1217

(c) The funeral and burial expenses of the decedent that are 1218
described in divisions (A)(2)(a) and (b) of this section. 1219

(3) "Surviving spouse" means either of the following: 1220

(a) The surviving spouse of a decedent who died leaving the 1221
surviving spouse and no minor children; 1222

(b) The surviving spouse of a decedent who died leaving the 1223
surviving spouse and minor children, all of whom are children of 1224
the decedent and the surviving spouse. 1225

(B)(1) If the value of the assets of the decedent's estate 1226
does not exceed the lesser of ~~two~~ five thousand dollars or the 1227
amount of the decedent's funeral and burial expenses, any person 1228
who is not a surviving spouse and who has paid or is obligated in 1229
writing to pay the decedent's funeral and burial expenses, 1230
including a person described in section 2108.89 of the Revised 1231
Code, may apply to the probate court for an order granting a 1232
summary release from administration in accordance with this 1233
section. 1234

(2) If either of the following applies, the decedent's 1235
surviving spouse may apply to the probate court for an order 1236
granting a summary release from administration in accordance with 1237
this section: 1238

(a) The decedent's funeral and burial expenses have been 1239
prepaid, and the value of the assets of the decedent's estate does 1240
not exceed the total of the following items: 1241

(i) The allowance for support that is made under division (A) 1242
of section 2106.13 of the Revised Code to the surviving spouse 1243
and, if applicable, to the decedent's minor children and that is 1244
distributable in accordance with division (B)(1) or (2) of that 1245
section; 1246

(ii) An amount, not exceeding ~~two~~ five thousand dollars, for 1247
the decedent's funeral and burial expenses referred to in division 1248
(A)(2)(c) of this section. 1249

(b) The decedent's funeral and burial expenses have not been 1250
prepaid, the decedent's surviving spouse has paid or is obligated 1251
in writing to pay the decedent's funeral and burial expenses, and 1252
the value of the assets of the decedent's estate does not exceed 1253
the total of the items referred to in divisions (B)(2)(a)(i) and 1254
(ii) of this section. 1255

(C) A probate court shall order a summary release from 1256
administration in connection with a decedent's estate only if the 1257
court finds that all of the following are satisfied: 1258

(1) A person described in division (B)(1) of this section is 1259
the applicant for a summary release from administration, and the 1260
value of the assets of the decedent's estate does not exceed the 1261
lesser of ~~two~~ five thousand dollars or the amount of the 1262
decedent's funeral and burial expenses, or the applicant for a 1263
summary release from administration is the decedent's surviving 1264
spouse, and the circumstances described in division (B)(2)(a) or 1265

(b) of this section apply. 1266

(2) The application for a summary release from administration 1267
does all of the following: 1268

(a) Describes all assets of the decedent's estate that are 1269
known to the applicant; 1270

(b) Is in the form that the supreme court prescribes pursuant 1271
to its powers of superintendence under Section 5 of Article IV, 1272
Ohio Constitution, and is consistent with the requirements of this 1273
division; 1274

(c) Has been signed and acknowledged by the applicant in the 1275
presence of a notary public or a deputy clerk of the probate 1276
court; 1277

(d) Sets forth the following information if the decedent's 1278
estate includes a described type of asset: 1279

(i) If the decedent's estate includes a motor vehicle, the 1280
motor vehicle's year, make, model, body type, manufacturer's 1281
vehicle identification number, certificate of title number, and 1282
date of death value; 1283

(ii) If the decedent's estate includes an account maintained 1284
by a financial institution, that institution's name and the 1285
account's complete identifying number and date of death balance; 1286

(iii) If the decedent's estate includes one or more shares of 1287
stock or bonds, the total number of the shares and bonds and their 1288
total date of death value and, for each share or bond, its serial 1289
number, the name of its issuer, its date of death value, and, if 1290
any, the name and address of its transfer agent. 1291

(3) The application for a summary release from administration 1292
is accompanied by all of the following that apply: 1293

(a) A receipt, contract, written declaration as defined in 1294
section 2108.70 of the Revised Code, or other document that 1295

confirms the applicant's payment or obligation to pay the 1296
decedent's funeral and burial expenses or, if applicable in the 1297
case of the decedent's surviving spouse, the prepayment of the 1298
decedent's funeral and burial expenses; 1299

(b) An application for a certificate of transfer as described 1300
in section 2113.61 of the Revised Code, if an interest in real 1301
property is included in the assets of the decedent's estate; 1302

(c) The fee required by division (A)(59) of section 2101.16 1303
of the Revised Code. 1304

(4) At the time of its determination on the application, 1305
there are no pending proceedings for the administration of the 1306
decedent's estate and no pending proceedings for relief of the 1307
decedent's estate from administration under section 2113.03 of the 1308
Revised Code. 1309

(5) At the time of its determination on the application, 1310
there are no known assets of the decedent's estate other than the 1311
assets described in the application. 1312

(D) If the probate court determines that the requirements of 1313
division (C) of this section are satisfied, the probate court 1314
shall issue an order that grants a summary release from 1315
administration in connection with the decedent's estate. The order 1316
has, and shall specify that it has, all of the following effects: 1317

(1) It relieves the decedent's estate from administration. 1318

(2) It directs the delivery to the applicant of the 1319
decedent's personal property together with the title to that 1320
property. 1321

(3) It directs the transfer to the applicant of the title to 1322
any interests in real property included in the decedent's estate. 1323

(4) It eliminates the need for a financial institution, 1324
corporation, or other entity or person referred to in any 1325

provision of divisions (A) to (F) of section 5731.39 of the
Revised Code to obtain, as otherwise would be required by any of
those divisions, the written consent of the tax commissioner prior
to the delivery, transfer, or payment to the applicant of an asset
of the decedent's estate.

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

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

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

(A) An executor;

(B) An administrator;

(C) A person with the right of disposition under section
2108.70 or 2108.81 of the Revised Code.

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

Sec. 2117.25. (A) Every executor or administrator shall
proceed with diligence to pay the debts of the decedent and shall
apply the assets in the following order:

(1) Costs and expenses of administration;

(2) An amount, not exceeding ~~two~~ four thousand dollars, for
funeral expenses that are included in the bill of a funeral
director, funeral expenses other than those in the bill of a
funeral director that are approved by the probate court, and an
amount, not exceeding ~~two~~ three thousand dollars, for burial and
cemetery expenses, including that portion of the funeral
director's bill allocated to cemetery expenses that have been paid
to the cemetery by the funeral director.

For purposes of this division, burial and cemetery expenses
shall be limited to the following:

(a) The purchase of a ~~place~~ right of interment;

(b) Monuments or other markers;

(c) The outer burial container;

(d) The cost of opening and closing the place of interment;

(e) The urn.

(3) The allowance for support made to the surviving spouse,
minor children, or both under section 2106.13 of the Revised Code;

(4) Debts entitled to a preference under the laws of the
United States;

(5) Expenses of the last sickness of the decedent;

(6) If the total bill of a funeral director for funeral

expenses exceeds ~~two~~ four thousand dollars, then, in addition to 1384
the amount described in division (A)(2) of this section, an 1385
amount, not exceeding ~~one~~ two thousand dollars, for funeral 1386
expenses that are included in the bill and that exceed ~~two~~ four 1387
thousand dollars; 1388

(7) Personal property taxes, claims made under the estate 1389
recovery program instituted pursuant to section 5111.11 of the 1390
Revised Code, and obligations for which the decedent was 1391
personally liable to the state or any of its subdivisions; 1392

(8) Debts for manual labor performed for the decedent within 1393
twelve months preceding the decedent's death, not exceeding three 1394
hundred dollars to any one person; 1395

(9) Other debts for which claims have been presented and 1396
finally allowed. 1397

(B) The part of the bill of a funeral director that exceeds 1398
the total of ~~three~~ six thousand dollars as described in divisions 1399
(A)(2) and (6) of this section, and the part of a claim included 1400
in division (A)(8) of this section that exceeds three hundred 1401
dollars shall be included as a debt under division (A)(9) of this 1402
section, depending upon the time when the claim for the additional 1403
amount is presented. 1404

(C) Any natural person or fiduciary who pays a claim of any 1405
creditor described in division (A) of this section shall be 1406
subrogated to the rights of that creditor proportionate to the 1407
amount of the payment and shall be entitled to reimbursement for 1408
that amount in accordance with the priority of payments set forth 1409
in that division. 1410

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating 1411
to the manner in which and the time within which claims shall be 1412
presented, shall apply to claims set forth in divisions (A)(2), 1413
(6), and (8) of this section. Claims for an expense of 1414

administration or for the allowance for support need not be 1415
presented. The executor or administrator shall pay debts included 1416
in divisions (A)(4) and (7) of this section, of which the executor 1417
or administrator has knowledge, regardless of presentation. 1418

(2) The giving of written notice to an executor or 1419
administrator of a motion or application to revive an action 1420
pending against the decedent at the date of death shall be 1421
equivalent to the presentation of a claim to the executor or 1422
administrator for the purpose of determining the order of payment 1423
of any judgment rendered or decree entered in such an action. 1424

(E) No payments shall be made to creditors of one class until 1425
all those of the preceding class are fully paid or provided for. 1426
If the assets are insufficient to pay all the claims of one class, 1427
the creditors of that class shall be paid ratably. 1428

(F) If it appears at any time that the assets have been 1429
exhausted in paying prior or preferred charges, allowances, or 1430
claims, those payments shall be a bar to an action on any claim 1431
not entitled to that priority or preference. 1432

Sec. 2117.251. A claim under the bill of a funeral director 1433
pursuant to section 2117.25 of the Revised Code arises subsequent 1434
to the death of the decedent and is not in satisfaction of a 1435
personal obligation of the individual during the individual's 1436
lifetime. If a decedent during the decedent's lifetime has 1437
purchased an irrevocable preneed funeral contract pursuant to 1438
section 1111.19 of the Revised Code, then those provisions of 1439
section 2117.25 of the Revised Code that relate to the bill of a 1440
funeral director, including divisions (A) and (B) of that section, 1441
do not apply to the estate of the decedent and the estate is not 1442
liable for the funeral expenses of the decedent. 1443

Sec. 4511.451. (A) As used in this section, "funeral 1444

procession" means two or more vehicles accompanying the cremated 1445
remains or the body of a deceased person in the daytime when each 1446
of the vehicles has its headlights lighted and is displaying a 1447
purple and white or an orange and white pennant attached to each 1448
vehicle in such a manner as to be clearly visible to traffic 1449
approaching from any direction. 1450

(B) Excepting public safety vehicles proceeding in accordance 1451
with section 4511.45 of the Revised Code or when directed 1452
otherwise by a police officer, pedestrians and the operators of 1453
all vehicles, street cars, and trackless trolleys shall yield the 1454
right of way to each vehicle that is a part of a funeral 1455
procession. Whenever the lead vehicle in a funeral procession 1456
lawfully enters an intersection, the remainder of the vehicles in 1457
the procession may continue to follow the lead vehicle through the 1458
intersection notwithstanding any traffic control devices or right 1459
of way provisions of the Revised Code, provided that the operator 1460
of each vehicle exercises due care to avoid colliding with any 1461
other vehicle or pedestrian. 1462

(C) No person shall operate any vehicle as a part of a 1463
funeral procession without having the headlights of the vehicle 1464
lighted and without displaying a purple and white or an orange and 1465
white pennant in such a manner as to be clearly visible to traffic 1466
approaching from any direction. 1467

~~(C)~~(D) Except as otherwise provided in this division, whoever 1468
violates this section is guilty of a minor misdemeanor. If, within 1469
one year of the offense, the offender previously has been 1470
convicted of or pleaded guilty to one predicate motor vehicle or 1471
traffic offense, whoever violates this section is guilty of a 1472
misdemeanor of the fourth degree. If, within one year of the 1473
offense, the offender previously has been convicted of two or more 1474
predicate motor vehicle or traffic offenses, whoever violates this 1475

section is guilty of a misdemeanor of the third degree. 1476

Sec. 4717.21. (A) Any person, on an antemortem basis, may 1477
serve as the person's own authorizing agent, authorize the 1478
person's own cremation, and specify the arrangements for the final 1479
disposition of the person's own cremated remains by executing an 1480
antemortem cremation authorization form. A guardian, custodian, or 1481
other personal representative who is authorized by law or contract 1482
to do so on behalf of a person, on an antemortem basis, may 1483
authorize the cremation of the person and specify the arrangements 1484
for the final disposition of the person's cremated remains by 1485
executing an antemortem cremation authorization form on the 1486
person's behalf. Any such antemortem cremation authorization form 1487
also shall be signed by one witness. The original copy of the 1488
executed authorization form shall be sent to the operator of the 1489
crematory facility being authorized to conduct the cremation, and 1490
a copy shall be retained by the person who executed the 1491
authorization form. The person who executed an antemortem 1492
cremation authorization form may revoke the authorization at any 1493
time by providing written notice of the revocation to the operator 1494
of the crematory facility named in the authorization form. The 1495
person who executed the authorization form may transfer the 1496
authorization to another crematory facility by providing written 1497
notice to the operator of the crematory facility named in the 1498
original authorization of the revocation of the authorization and, 1499
in accordance with this division, executing a new antemortem 1500
cremation authorization form authorizing the operator of another 1501
crematory facility to conduct the cremation. 1502

(B)(1) Each antemortem cremation authorization form shall 1503
specify the final disposition that is to be made of the cremated 1504
remains. 1505

(2) Every antemortem cremation authorization form entered 1506

into on or after the effective date of this amendment shall 1507
specify the final disposition that is to be made of the remains 1508
and shall include a provision in substantially the following form: 1509

NOTICE: Upon the death of the person who is the subject of 1510
this antemortem cremation authorization, the person holding the 1511
right of disposition under section 2108.70 or 2108.81 of the 1512
Revised Code may cancel the cremation arrangements, modify the 1513
arrangements for the final disposition of the cremated remains, or 1514
make alternative arrangements for the final disposition of the 1515
decedent's body. However, the person executing this antemortem 1516
cremation authorization is encouraged to state his or her 1517
preferences as to the manner of final disposition in a declaration 1518
of the right of disposition pursuant to section 2108.72 of the 1519
Revised Code, including that the arrangements set forth in this 1520
form shall be followed. 1521

(C) ~~When~~ (1) Except as provided in division (C)(2) of this 1522
section, ~~when~~ the operator of a crematory facility is in 1523
possession of a cremation authorization form that has been 1524
executed on an antemortem basis in accordance with this section, 1525
the other conditions set forth in division (A) of section 4717.23 1526
of the Revised Code have been met, the crematory facility has 1527
possession of the decedent to which the antemortem authorization 1528
pertains, and the crematory facility has received payment for the 1529
cremation of the decedent and the final disposition of the 1530
cremated remains of the decedent or is otherwise assured of 1531
payment for those services, the crematory facility shall cremate 1532
the decedent and dispose of the cremated remains in accordance 1533
with the instructions contained in the antemortem cremation 1534
authorization form, ~~unless a person identified as being entitled~~ 1535
~~to act as the authorizing agent for the cremation of the decedent~~ 1536
~~in the absence of the antemortem authorization under divisions~~ 1537
~~(A)(1) or (A)(4) to (8) of section 4717.22 of the Revised Code has~~ 1538

~~modified, in writing, the arrangements for the final disposition~~ 1539
~~of the cremated remains of the decedent or has canceled the~~ 1540
~~cremation and made alternative arrangements for the final~~ 1541
~~disposition of the decedent's body.~~ 1542

(2) A person with the right of disposition for a decedent 1543
under section 2108.70 of the Revised Code who is not disqualified 1544
under section 2108.75 of the Revised Code may cancel the 1545
arrangements for the decedent's cremation, modify the arrangements 1546
for the final disposition of the decedent's cremated remains, or 1547
make alternative arrangements for the final disposition of the 1548
decedent's body. If a person with the right takes any such action, 1549
the operator shall disregard the instructions contained in the 1550
cremation authorization form and follow the instructions of the 1551
person with the right. 1552

(D) An antemortem cremation authorization form executed under 1553
division (A) of this section does not constitute a contract for 1554
conducting the cremation of the person named in the authorization 1555
form or for the final disposition of the person's cremated 1556
remains. Despite the existence of such an antemortem cremation 1557
authorization, a person identified under ~~divisions (A)(1) or~~ 1558
~~(A)(4) to (8)~~ division (A) of section 4717.22 of the Revised Code 1559
as being entitled to act as the authorizing agent for the 1560
cremation of the decedent named in the antemortem authorization, 1561
in the descending order of priority in which they are listed, may 1562
modify, in writing, the arrangements for the final disposition of 1563
the cremated remains of the decedent set forth in the 1564
authorization form or may cancel the cremation and claim the 1565
decedent's body for purposes of making alternative arrangements 1566
for the final disposition of the decedent's body. The revocation 1567
of an antemortem cremation authorization form executed under 1568
division (A) of this section, or the cancellation of the cremation 1569
of the person named in the antemortem authorization or 1570

modification of the arrangements for the final disposition of the 1571
person's cremated remains as authorized by this division, does not 1572
affect the validity or enforceability of any contract entered into 1573
for the cremation of the person named in the antemortem 1574
authorization or for the final disposition of the person's 1575
cremated remains. 1576

(E) Nothing in this section applies to any antemortem 1577
cremation authorization form executed prior to the effective date 1578
of this section. Any cemetery, funeral home, crematory facility, 1579
or other party may specify, with the written approval of the 1580
person who executed the antemortem authorization, that such an 1581
antemortem authorization is subject to sections 4717.21 to 4717.30 1582
of the Revised Code. 1583

Sec. 4717.22. (A) ~~The following persons, in the descending~~ 1584
~~order of priority listed below, person who has the right of~~ 1585
~~disposition under section 2108.70 or 2108.81 of the Revised Code~~ 1586
may serve as an authorizing agent for the cremation of a dead 1587
human body, including, without limitation, a dead human body that 1588
was donated to science for purposes of medical education or 1589
research. 1590

~~(1) The spouse of the decedent at the time of the decedent's~~ 1591
~~death;~~ 1592

~~(2) Any person acting on the instructions of a decedent who~~ 1593
~~authorized the decedent's own cremation by executing an antemortem~~ 1594
~~cremation authorization form in accordance with section 4717.21 of~~ 1595
~~the Revised Code;~~ 1596

~~(3) A person serving as the executor or legal representative~~ 1597
~~of the decedent's estate who is acting in accordance with the~~ 1598
~~decedent's written instructions for the final disposition of the~~ 1599
~~decedent's body;~~ 1600

~~(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, 1663
2106.20, 2108.50, 2109.02, 2111.13, 2113.031, 2113.37, 2117.25, 1664
4511.451, 4717.21, and 4717.22 of the Revised Code are hereby 1665
repealed. 1666

Section 3. Section 4511.451 of the Revised Code is presented 1667
in this act as a composite of the section as amended by both Sub. 1668
H.B. 322 and Am. Sub. S.B. 123 of the 124th General Assembly. The 1669
General Assembly, applying the principle stated in division (B) of 1670
section 1.52 of the Revised Code that amendments are to be 1671
harmonized if reasonably capable of simultaneous operation, finds 1672
that the composite is the resulting version of the section in 1673
effect prior to the effective date of the section as presented in 1674
this act. 1675