

AN ACT

To amend sections 5126.01, 5126.02, 5126.021, 5126.022, 5126.023, 5126.03, 5126.031, 5126.033, 5126.034, 5126.056, 5126.058, 5126.081, 5126.30, 5705.191, and 5705.222, to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 5126.02 (5126.0213), 5126.021 (5126.0210), 5126.022 (5126.0216), 5126.023 (5126.0226), and 5126.024 (5126.0227), and to enact new sections 5126.02, 5126.021, 5126.022, 5126.023, and 5126.024 and sections 5126.025, 5126.026, 5126.027, 5126.028, 5126.029, 5126.0211, 5126.0212, 5126.0214, 5126.0215, 5126.0217, 5126.0218, 5126.0219, 5126.0220, 5126.0221, 5126.0222, 5126.0223, 5126.0224, 5126.0225, 5126.0228, 5126.0229, 5126.037, and 5126.038 of the Revised Code to revise the law governing county boards of mental retardation and developmental disabilities.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5126.01, 5126.02, 5126.021, 5126.022, 5126.023, 5126.03, 5126.031, 5126.033, 5126.034, 5126.056, 5126.058, 5126.081, 5126.30, 5705.191, and 5705.222 be amended, sections 5126.02 (5126.0213), 5126.021 (5126.0210), 5126.022 (5126.0216), 5126.023 (5126.0226), and 5126.024 (5126.0227) be amended for the purpose of adopting new section numbers as indicated in parentheses, and new sections 5126.02, 5126.021, 5126.022, 5126.023, and 5126.024 and sections 5126.025, 5126.026, 5126.027, 5126.028, 5126.029, 5126.0211, 5126.0212, 5126.0214, 5126.0215, 5126.0217, 5126.0218, 5126.0219, 5126.0220, 5126.0221, 5126.0222, 5126.0223, 5126.0224, 5126.0225, 5126.0228, 5126.0229, 5126.037, and 5126.038 of the Revised Code be enacted to read

as follows:

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;

(d) Sheltered employment;

(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;

(f) Community employment services and supported employment services.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

(2) "Adult day habilitation services" includes all of the following:

(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of mental retardation and developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide

the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

~~(D)~~(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

~~(E)~~(F) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

~~(F)~~(G)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

~~(G)~~(H) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

~~(H)~~(I) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

~~(I)~~(J) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.

~~(J)~~(K) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the medicaid components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

~~(K)~~(L) "Immediate family" means parents, brothers, sisters, spouses, sons, daughters, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.

(M) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(L)~~(N) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

~~(M)~~(O) "Mental retardation" means a mental impairment manifested

during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

~~(N)~~(P) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

~~(O)~~(Q) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

~~(P)~~(R) "Senior probate judge" means the current probate judge of a county who has served as probate judge of that county longer than any of the other current probate judges of that county. If a county has only one probate judge, "senior probate judge" means that probate judge.

(S) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.

~~(Q)~~(T)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of

daily living.

~~(R)~~(U) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations.

~~(S)~~(V)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.02. (A) Each county shall either have its own county board of mental retardation and developmental disabilities or, pursuant to section

5126.021 or 5126.022 of the Revised Code, be a member of a multicounty board of mental retardation and developmental disabilities. Subject to division (B) of this section:

(1) A county board shall be operated as a separate administrative and service entity.

(2) The functions of a county board shall not be combined with the functions of any other entity of county government.

(B) Division (A) of this section does not prohibit or restrict any county board from sharing administrative functions or personnel with one or more other county boards, including entering into an arrangement authorized by division (B) of section 5126.0225 of the Revised Code.

Sec. 5126.021. Subject to sections 5126.024 and 5126.025 of the Revised Code, a multicounty board of mental retardation and developmental disabilities may be created if each of the following, before January 1, 2007, and within a one-hundred-eighty-day period, adopt an identical resolution or issue an identical order providing for the creation of the multicounty board:

(A) A majority of the members of each of the boards of county commissioners seeking to create the multicounty board;

(B) The senior probate judge of each county served by those boards of county commissioners.

Sec. 5126.022. Subject to sections 5126.024 and 5126.025 of the Revised Code, a county that is not part of the creation of a multicounty board of mental retardation and developmental disabilities under section 5126.021 of the Revised Code may join the multicounty board if each of the following, within a sixty-day period, adopt an identical resolution or issue an identical order providing for the county to join the multicounty board:

(A) A majority of the members of the board of county commissioners of the county seeking to join the multicounty board;

(B) A majority of the members of each of the boards of county commissioners that are members of the multicounty board;

(C) The senior probate judge of the county seeking to join the multicounty board;

(D) The senior probate judge of each of the counties that are members of the multicounty board.

Sec. 5126.023. (A) Subject to section 5126.024 of the Revised Code, the board of county commissioners of a county that is a member of a multicounty board of mental retardation and developmental disabilities and the senior probate judge of that county may terminate the county's membership in the multicounty board in the manner provided in this section. To terminate the county's membership in the multicounty board, the board

of county commissioners shall adopt a resolution, and the senior probate judge shall issue an order, providing for the termination.

(B) A resolution and order of termination adopted or issued under this section shall specify the last day that the county will be a member of the multicounty board. The resolution and order also shall provide for the county to do one of the following on the day immediately following the last day that the county will be a member of the multicounty board:

(1) Create a single county board of mental retardation and developmental disabilities;

(2) If the day immediately following the last day that the county will be a member of the current multicounty board is before January 1, 2007, co-create a new multicounty board pursuant to section 5126.021 of the Revised Code;

(3) Join a different multicounty board pursuant to section 5126.022 of the Revised Code.

(C) A resolution and an order of termination adopted or issued under this section shall include a plan for the equitable adjustment and division of all services, assets, property, debts, and obligations, if any, of the multicounty board that the county will cease to be a member of.

(D) Any county terminating its membership in a multicounty board shall continue to have levied against its tax list and duplicate any tax levied by the board of county commissioners for mental retardation and developmental disability services during the period in which the county was a member of the multicounty board until the levy expires or is renewed or replaced.

Sec. 5126.024. (A) If a board of county commissioners and senior probate judge propose to join in the creation of, join, or terminate the county's membership in a multicounty board of mental retardation and developmental disabilities as provided in section 5126.01, 5126.022, or 5126.023 of the Revised Code, the board of county commissioners and judge shall do both of the following:

(1) Notify the county board of mental retardation and developmental disabilities in writing of their intent to join in the creation of, join, or terminate the county's membership in a multicounty board, including a written explanation of the administrative, fiscal, and performance considerations underlying the proposed action;

(2) Provide the county board an opportunity to comment on the proposed action.

(B) If the county board, not more than sixty days after receiving the notice under division (A) of this section, votes to oppose the proposed action and notifies the board of county commissioners and judge of the vote, the

county may join in creation of a multicounty board, join a multicounty board, or terminate the county's membership in a multicounty board only on the unanimous vote of the board of county commissioners and the order of that judge to proceed with the creation of, joining, or termination of the county's membership in a multicounty board.

Sec. 5126.025. Not more than five counties may be members of the same multicounty board of mental retardation and developmental disabilities. Only contiguous counties may be members of the same multicounty board.

Sec. 5126.026. A board of county commissioners shall provide the director of mental retardation and developmental disabilities with a copy of each resolution the board adopts under section 5126.021, 5126.022, or 5126.023 of the Revised Code. A senior probate judge shall provide the director with a copy of each order the judge issues under those sections.

Sec. 5126.027. (A) A reference to a county board of mental retardation and developmental disabilities in a law enacted by the general assembly shall mean the following:

(1) In the case of a county with its own county board, a single county board;

(2) In the case of a county that is a member of a multicounty board, a multicounty board.

(B) Unless the context provides otherwise, a law enacted by the general assembly that refers to a county, or an entity or official of a county, that a county board of mental retardation and developmental disabilities serves shall be deemed to refer to the following:

(1) In the case of a county with a single county board, that county or the county entity or official specified in the law;

(2) In the case of a county that is a member of a multicounty board, each of the counties that are members of the multicounty board or the specified entity or official of each of those counties.

Sec. 5126.028. Each county board of mental retardation and developmental disabilities shall consist of seven members. In the case of a single county board, the board of county commissioners of the county shall appoint five members and the senior probate judge of the county shall appoint two members. In the case of a multicounty board, the membership shall be appointed as follows:

(A) If there are five member counties, the board of county commissioners of each of the member counties shall each appoint one member and the senior probate judges of the member counties with the largest and second largest population shall each appoint one member.

(B) If there are four member counties, the board of county commissioners of the member county with the largest population shall appoint two members, the other three boards of county commissioners shall each appoint one member, and the senior probate judges of the member counties with the largest and second largest population shall each appoint one member.

(C) If there are three member counties, the boards of county commissioners of the member counties with the largest and second largest populations shall each appoint two members, the other board of county commissioners shall appoint one member, and the senior probate judges of the member counties with the largest and second largest population shall each appoint one member.

(D) If there are two member counties, the board of county commissioners of the member county with the largest population shall appoint three members, the board of county commissioners of the other county shall appoint two members, and the senior probate judge of each county shall each appoint one member.

Sec. 5126.029. (A) When making appointments to a county board of mental retardation and developmental disabilities, an appointing authority shall do all of the following:

(1) Appoint only individuals who are residents of the county the appointing authority serves, citizens of the United States, and interested and knowledgeable in the field of mental retardation and other allied fields;

(2) If the appointing authority is a board of county commissioners, appoint, subject to division (C) of this section, at least two individuals who are immediate family members of individuals eligible for services provided by the county board and, whenever possible, ensure that one of those two members is an immediate family member of an individual eligible for adult services and the other is an immediate family member of an individual eligible for early intervention services or services for preschool or school-age children;

(3) If the appointing authority is a senior probate judge, appoint, subject to division (C) of this section, at least one individual who is an immediate family member of an individual eligible for residential services or supported living;

(4) Appoint, to the maximum extent possible, individuals who have professional training and experience in business management, finance, law, health care practice, personnel administration, or government service;

(5) Provide for the county board's membership to reflect, as nearly as possible, the composition of the county or counties that the county board

serves.

(B) The appointing authorities of a multicounty board shall coordinate their appointments to the extent necessary to satisfy the requirements of this section. The coordination may provide for one of the boards of county commissioners making one of the two appointments required by division (B)(2) of this section and another board of county commissioners making the other appointment required by that division. The coordination shall ensure that at least one of the senior probate judges satisfies the requirement of division (B)(3) of this section.

~~Sec. 5126.021~~ 5126.0210. ~~As used in this section, "immediate family" means parents, brothers, sisters, spouses, sons, daughters, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.~~

~~(A) The~~ None of the following individuals ~~shall not~~ may serve as ~~members~~ a member of ~~a county boards~~ a board of mental retardation and developmental disabilities:

(1) ~~Elected~~ An elected public ~~officials~~ official, except for ~~a township trustees~~ trustee, township ~~elers~~ clerk, ~~and those~~ or individual excluded from the definition of public official or employee in division (B) of section 102.01 of the Revised Code;

(2) ~~Members of the~~ An immediate family member of another county board member;

(3) ~~Board employees and members of the~~ A county board employee or immediate family member of a county board employees employee;

(4) ~~Former board employees within~~ An individual who had been employed by the county board not less than one calendar year of the termination of employment with the board on which the former employee before the individual would begin to serve.

~~(B) A person may not serve as a member of a~~ the county board of mental retardation and developmental disabilities ~~when either the person or a member of the person's;~~

(5) An individual who or whose immediate family member is a board member or an employee of an agency licensed or certified by the department of mental retardation and developmental disabilities to provide services to individuals with mental retardation or developmental disabilities;

(6) An individual who or whose immediate family member is a board member or employee of a contract an agency of that contracting with the county board that is not licensed or certified by the department of mental retardation and developmental disabilities to provide services to individuals with mental retardation or developmental disabilities unless there is no

~~conflict of interest. In no circumstance shall a member of a county board vote on any matter before the board concerning a contract agency of which the member or a member of the member's immediate family is also a board member or an employee. All questions relating to the existence of a conflict of interest shall be submitted to the local prosecuting attorney and the Ohio ethics commission for resolution.~~

~~(C) No~~

~~employee of an agency contracting with a county board of mental retardation and developmental disabilities or member of the immediate family of such an employee shall serve as a board member or an employee of the county board except that a county board may, pursuant to a resolution adopted by the board, employ a member of the immediate family of an employee of an agency contracting with the board.~~

~~(D) No person shall serve as a member or employee of a county board of mental retardation and developmental disabilities if a member of the person's:~~

~~(7) An individual with an immediate family member who serves as a county commissioner of the a county served by the county board unless the person individual was a member or employee prior to of the county board before October 31, 1980.~~

~~(E) A county board of mental retardation and developmental disabilities shall not contract with an agency whose board includes a county commissioner of the county served by the county board.~~

~~(F) Notwithstanding any provision of the Revised Code to the contrary, including applicable provisions of sections 102.03, 102.04, 2921.42, and 2921.43 of the Revised Code, an employee of a county board of mental retardation and developmental disabilities also may be a member of the governing board of an agency or a political subdivision, including the board of education of a school district. The county board of mental retardation and developmental disabilities may contract with the governing board of an agency or political subdivision whose member is also an employee of the county board, provided that in no circumstances shall such employee of the county board vote on any matter before the governing board of the agency or political subdivision concerning a county board contract or participate in any discussion or debate regarding that contract.~~

(B) All questions relating to the existence of a conflict of interest for the purpose of division (A)(5) of this section shall be submitted to the local prosecuting attorney for resolution. The Ohio ethics commission may examine any issues arising under Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the Revised Code.

Sec. 5126.0211. (A) No individual may be appointed or reappointed to a county board of mental retardation and developmental disabilities unless the individual, before the appointment or reappointment, provides to the appointing authority a written declaration specifying both of the following:

(1) That no circumstance described in section 5126.029 of the Revised Code exists that bars the individual from serving on the county board;

(2) Whether the individual or an immediate family member of the individual has an ownership interest in or is under contract with an agency contracting with the county board, and, if such an ownership interest or contract exists, the identity of the agency and the nature of the relationship to that agency.

(B) On appointment or reappointment of an individual to the county board, the appointing authority shall provide a copy of the individual's declaration to the superintendent of the county board. The declaration is a public record for the purpose of section 149.43 of the Revised Code.

Sec. 5126.0212. Except for members appointed under section 5126.0213 of the Revised Code to fill a vacancy, members of a county board of mental retardation and developmental disabilities shall be appointed or reappointed not later than the last day of November, commence their terms on the date of the stated annual organizational meeting in the following January as provided under section 5126.0215 of the Revised Code, and serve terms of four years. The membership of an individual appointed as a relative of a recipient of services shall not be terminated because the services are no longer received.

Sec. 5126.02 5126.0213. (A) As used in this section, "relative" means a spouse, parent, parent-in-law, sibling, sibling-in-law, child, child-in-law, grandparent, aunt, or uncle.

(B)(1) There is hereby created in each county a county board of mental retardation and developmental disabilities consisting of seven members, five of whom shall be appointed by the board of county commissioners of the county, and two of whom shall be appointed by the probate judge of the county. Each member shall be a resident of the county. The membership of the board shall, as nearly as possible, reflect the composition of the population of the county.

All board members shall be persons interested and knowledgeable in the field of mental retardation and other allied fields. All board members shall be citizens of the United States. Of the members appointed by the board of county commissioners, at least two shall be relatives of persons eligible for services provided by the county board of mental retardation and developmental disabilities, and, whenever possible, one shall be a relative of

~~a person eligible for adult services, and the other shall be a relative of a person eligible for early intervention services or services for pre-school or school-age children. Of the two members appointed by the probate judge, at least one shall be a relative of a person eligible for residential services or supported living.~~

~~Both the board of county commissioners and the probate judge shall appoint under this section, to the maximum extent possible, members who fulfill any applicable requirements of this section for appointment and who also have professional training and experience in business management, finance, law, health care practice, personnel administration, or government service.~~

~~(2) All appointments shall be for terms of four years. The membership of a person appointed as a relative of a recipient of services shall not be terminated because the services are no longer received.~~

~~Members may be reappointed, except Except as otherwise provided in division (B)(3) of this section and section 5126.022 5126.0224 of the Revised Code, a member of a county board of mental retardation and developmental disabilities may be reappointed to the county board. Prior to making a reappointment, the appointing authority shall ascertain, through written communication with the board, that the member being considered for reappointment meets the requirements of ~~this section and section 5126.022~~ sections 5126.028 and 5126.0224 of the Revised Code.~~

~~(3) A member who has served during each of three consecutive terms shall not be reappointed for a subsequent term until two years after ceasing to be a member of the board, except that a member who has served for ten years or less within three consecutive terms may be reappointed for a subsequent term before becoming ineligible for reappointment for two years.~~

~~(4) Within sixty days after a vacancy occurs, it shall be filled by the appointing authority for the unexpired term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Appointment other than appointment to fill a vacancy shall be made no later than the last day of November of each year, and the term of office shall commence on the date of the stated annual organizational meeting in January.~~

~~(5) Board members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the conduct of board business, including those incurred within the county of residence.~~

~~(C) Each year each board member shall attend at least one in-service~~

~~training session provided by or approved by the department of mental retardation and developmental disabilities. These training sessions shall not be considered regularly scheduled meetings of the board.~~

~~(D) A county board of mental retardation and developmental disabilities shall be operated as a separate administrative and service entity. The board's functions shall not be combined with the functions of any other entity of county government.~~

Sec. 5126.0214. Within sixty days after a vacancy on a county board of mental retardation and developmental disabilities occurs, including a vacancy created under section 5126.0219 of the Revised Code, the appointing authority shall fill the vacancy for the unexpired term. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term.

Sec. 5126.0215. Members of a county board of mental retardation and developmental disabilities shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the conduct of county board business, including expenses that are incurred in the member's county of residence in accordance with an established policy of the county board.

~~Sec. 5126.022~~ 5126.0216. Each county board of mental retardation and developmental disabilities shall hold an organizational meeting no later than the thirty-first day of January of each year and shall elect its officers, which shall include a president, vice-president, and recording secretary. After its annual organizational meeting, the board shall meet in such manner and at such times as prescribed by rules adopted by the board, but the board shall meet at least ten times annually in regularly scheduled sessions in accordance with section 121.22 of the Revised Code, not including in-service training sessions. A majority of the board constitutes a quorum. The board shall adopt rules for the conduct of its business and a record shall be kept of board proceedings, which shall be open for public inspection.

~~A board member shall be removed from the board by the appointing authority for neglect of duty, misconduct, malfeasance, failure to attend at least one in-service training session each year, a violation of section 5126.021 of the Revised Code, or upon the absence of a member within one year from either four regularly scheduled board meetings or from two regularly scheduled board meetings if the member gave no prior notice of the member's absence. This removal provision does not apply to absences from special meetings or work sessions. The board shall supply the board member and the member's appointing authority with written notice of the charges against the member. The appointing authority shall afford the~~

~~member an opportunity for a hearing, in accordance with procedures it adopts, and shall, upon determining that the charges are accurate, remove the member and appoint another person to complete the member's term.~~

~~A member removed from the board is ineligible for reappointment for not less than one year. When a member is removed, the appointing authority shall specify the time during which the member is ineligible for reappointment. If the member is removed for failing to attend in-service training, the board also shall specify the training the member must complete prior to being eligible for reappointment.~~

Sec. 5126.0217. Each year, each member of a county board of mental retardation and developmental disabilities shall attend at least four hours of in-service training provided or approved by the department of mental retardation and developmental disabilities. This training shall not be considered regularly scheduled meetings of the county board.

Sec. 5126.0218. A member of a county board of mental retardation and developmental disabilities shall be considered present at an in-service training session even though the member is not physically present in the room in which the session is held if the member is connected to the session through a system that enables the member to communicate with the individuals participating in the session and such individuals to communicate with the member.

Sec. 5126.0219. In no circumstance shall a member of a county board of mental retardation and developmental disabilities participate in or vote on any matter before the county board concerning a contract agency of which the member or an immediate family member of the member is also a board member or an employee.

Sec. 5126.0220. (A) Subject to sections 5126.0220 and 5126.0223 of the Revised Code, an appointing authority shall remove a member of a county board of mental retardation and developmental disabilities for any of the following reasons:

- (1) Neglect of duty;
- (2) Misconduct;
- (3) Malfeasance;
- (4) Ineligibility to serve on the county board pursuant to section 5126.029 of the Revised Code;
- (5) Failure to attend at least four hours of in-service training session each year;
- (6) Failure to attend within one year four regularly scheduled board meetings;
- (7) Failure to attend within one year two regularly scheduled board

meetings if the member gave no prior notice of the member's absence:

(8) Consistently poor performance on the county board, as demonstrated by documentation that the president of the county board provides to the appointing authority and the appointing authority determines is convincing evidence.

(B) The removal provisions of divisions (A)(6) and (7) of this section do not apply to absences from special meetings or work sessions.

Sec. 5126.0221. An appointing authority shall not remove a member of a county board of mental retardation and developmental disabilities from the county board by reason of division (A)(5), (6), or (7) of section 5126.0219 of the Revised Code if the director of mental retardation and developmental disabilities waives the requirement that the member be removed. The director may issue the waiver only if the appointing authority requests that the director issue the waiver and provides the director evidence that is satisfactory to the director that the member's absences from the in-service training sessions or regularly scheduled board meetings are due to a serious health problem of the member or a member of the member's immediate family. The director's decision on whether to issue the waiver is final and not subject to appeal.

The county board on which the member serves may pass a resolution urging the appointing authority to request that the director issue the waiver. The member whose absences from the sessions or meetings are at issue may not vote on the resolution. The appointing authority may request the waiver regardless of whether the county board adopts the resolution.

Sec. 5126.0222. If there are grounds for the mandatory removal of a member of a county board of mental retardation and developmental disabilities under section 5126.0219 of the Revised Code, the county board shall supply the board member and the member's appointing authority with written notice of the grounds.

Sec. 5126.0223. An appointing authority shall afford a member of a county board of mental retardation and developmental disabilities an opportunity for a hearing on the member's proposed removal in accordance with procedures the appointing authority shall establish, unless the appointing authority requested that the director of mental retardation and developmental disabilities waive the mandatory removal under section 5126.0220 of the Revised Code and the director refused to issue the waiver. The appointing authority shall hold the hearing if the member requests the hearing not later than thirty days after the date that the county board sends the member the notice required by section 5126.0221 of the Revised Code.

Sec. 5126.0224. If a member of a county board of mental retardation

and developmental disabilities requests a hearing within the time required by section 5126.0222 of the Revised Code, the appointing authority may not remove the member from the board before the conclusion of the hearing.

Sec. 5126.0225. A member of a county board of mental retardation and developmental disabilities who is removed from the county board is ineligible for reappointment to the board for not less than one year. The appointing authority shall specify the time during which the member is ineligible for reappointment. If the member is removed under division (A)(5) of section 5126.0219 of the Revised Code, the county board shall specify the training the member must complete before being eligible for reappointment.

~~Sec. 5126.023~~ 5126.0226. (A) Each county board of mental retardation and developmental disabilities shall either employ a superintendent or obtain the services of the superintendent of another county board of mental retardation and developmental disabilities. The board shall provide for a superintendent who is qualified, as specified in rules adopted by the department of mental retardation and developmental disabilities in accordance with Chapter 119. of the Revised Code. The superintendent shall have no voting privileges on the board.

The board shall prescribe the duties of its superintendent and review the superintendent's performance. The superintendent may be removed, suspended, or demoted for cause pursuant to section 5126.23 of the Revised Code. The board shall fix the superintendent's compensation and reimburse the superintendent for actual and necessary expenses.

Each county board that employs its own superintendent shall employ the superintendent under a contract. To enter into a contract, the board shall adopt a resolution agreeing to the contract. Each contract for employment or re-employment of a superintendent shall be for a term of not less than one and not more than five years. At the expiration of a superintendent's current term of employment, the superintendent ~~shall~~ may be re-employed ~~for a term of one year at the same salary, plus any increments that may be authorized by the board, unless.~~ If the board gives ~~intends not to re-employ the superintendent,~~ the board shall give the superintendent written notification of its intention ~~not to re-employ the superintendent.~~ With regard to an initial contract, if the contract is for one year, the notice shall be provided not less than sixty days prior to the contract's expiration; if the contract is for more than one year, the notice shall be provided not less than ninety days prior to the contract's expiration. With regard to contracts for re-employment, the The notice shall be given not less than ninety days prior to the contract's expiration, ~~regardless of its duration~~ the superintendent's

contract.

(B) Two or more county boards may enter into an arrangement under which the superintendent of one county board acts as the superintendent of another county board. To enter into such an arrangement, each board shall adopt a resolution agreeing to the arrangement. The resolutions shall specify the duration of the arrangement and the contribution each board is to make to the superintendent's compensation and reimbursement for expenses.

(C) If a vacancy occurs in the position of superintendent, a county board may appoint a person who holds a valid superintendent's certificate issued under the rules of the department to work under a contract for an interim period not to exceed one hundred eighty days until a permanent superintendent can be employed or arranged for under division (A) or (B) of this section. The director of the department may approve additional periods of time for these types of interim appointments when so requested by a resolution adopted by a county board, if the director determines that the additional periods are warranted and the services of a permanent superintendent are not available.

Sec. ~~5126.024~~ 5126.0227. The superintendent of the county board of mental retardation and developmental disabilities shall:

(A) Administer the work of the board, subject to the board's rules;

(B) Recommend to the board the changes necessary to increase the effectiveness of the programs and services offered pursuant to Chapters 3323. and 5126. of the Revised Code;

(C) Employ persons for all positions authorized by the board, approve contracts of employment for management employees that are for a term of one year or less, and approve personnel actions that involve employees in the classified civil service as may be necessary for the work of the board;

(D) Approve compensation for employees within the limits set by the salary schedule and budget set by the board and in accordance with section 5126.26 of the Revised Code, and ensure that all employees and consultants are properly reimbursed for actual and necessary expenses incurred in the performance of official duties;

(E) Provide consultation to public agencies as defined in division (C) of section 102.01 of the Revised Code, including other county boards of mental retardation and developmental disabilities, and to individuals, agencies, or organizations providing services supported by the board.

The superintendent may authorize the payment of board obligations by the county auditor.

Sec. 5126.0228. (A) As used in this section, "specialized services" has the same meaning as in section 5126.281 of the Revised Code.

(B) Except as provided in division (C) of section 5126.033 of the Revised Code, none of the following individuals may be employed by a county board of mental retardation and developmental disabilities:

(1) An employee of an agency contracting with the county board:

(2) An immediate family member of an employee of an agency contracting with the county board unless the county board adopts a resolution authorizing the immediate family member's employment with the county board or the employment is consistent with a policy adopted by the board establishing parameters for such employment and the policy is consistent with Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the Revised Code:

(3) An individual with an immediate family member who serves as a county commissioner of any of the counties served by the county board unless the individual was an employee of the county board before October 31, 1980:

(4) An individual who is employed by, has an ownership interest in, performs or provides administrative duties for, or is a member of the governing board of an entity that provides specialized services, regardless of whether the entity contracts with the county board to provide specialized services.

Sec. 5126.0229. As used in this section, "specialized services" has the same meaning as in section 5126.281 of the Revised Code.

Notwithstanding any provision of the Revised Code to the contrary, including applicable provisions of sections 102.03, 102.04, 2921.42, and 2921.43 of the Revised Code, an employee of a county board of mental retardation and developmental disabilities also may be a member of the governing board of a political subdivision, including the board of education of a school district, or an agency that does not provide specialized services. The county board may contract with such a governing board even though the governing board includes an individual who is an employee of the county board. That member of the governing board may not vote on any matter before the governing board concerning a contract with the county board or participate in any discussion or debate regarding such a contract.

Sec. 5126.03. As used in this section and in sections 5126.031 to 5126.034 of the Revised Code:

(A) "Direct services contract" means any legally enforceable agreement with an individual, agency, or other entity that, pursuant to its terms or operation, may result in a payment from a county board of mental retardation and developmental disabilities to an eligible person or to a member of the immediate family of an eligible person for services rendered

to the eligible person. "Direct services contract" includes a contract for supported living pursuant to sections 5126.40 to 5126.47 of the Revised Code, family support services under section 5126.11 of the Revised Code, and reimbursement for transportation expenses.

(B) "Eligible person" means a person eligible to receive services from a county board or from an entity under contract with a county board.

(C) "Former board member" means a person whose service on the county board ended less than one year prior to commencement of services under a direct services contract.

(D) "Former employee" means a person whose employment by the county board ended less than one year prior to commencement of services under a direct services contract.

~~(E) "Immediate family" has the same meaning as in section 5126.021 of the Revised Code.~~

Sec. 5126.031. (A) Except as provided in division (B) of this section, annually at the ~~organization~~ organizational meeting required by section ~~5126.022~~ 5126.0215 of the Revised Code, the chairperson of the county board of mental retardation and developmental disabilities shall appoint three members of the board to an ethics council to review all direct services contracts. The board's chairperson may be one of those appointed. The superintendent of the board shall be a nonvoting member of the council. The chairperson shall not appoint a person to the council if the person, or any member of the person's immediate family, will have any interest in any direct services contract under review by the council while the person serves on the council or during the twelve-month period after completing service on the council. If a council member or a member of the council member's immediate family has or will have such an interest, the chairperson shall replace the member by appointing another board member to the council.

The council shall meet regularly as directed by the board to perform its duties. Minutes shall be kept of the actions of the council. The minutes shall be part of the public record of the county board.

Any action taken by the council on direct services contracts under its review shall be in public. The council shall afford an affected party the opportunity to meet with the council on matters related to a direct services contract or any action taken by the council.

(B) If a county board establishes a policy specifying that the board is not willing to enter into direct services contracts with any person who is a board member or former board member or a member of the immediate family of a board member or former board member, the board may assume the responsibilities and perform the duties of an ethics council specified in

section 5126.032 of the Revised Code. The policy shall be established by resolution adopted by a majority of the members of the board in attendance at a meeting at which there is a quorum and shall be in effect for one year after its adoption, at which time the board shall, by resolution adopted in the same manner as the initial resolution, either renew the policy or establish a new one.

Sec. 5126.033. (A) A county board of mental retardation and developmental disabilities shall not enter into a direct services contract unless the contract is limited either to the actual amount of the expenses or to a reasonable and allowable amount projected by the board.

(B) A county board shall not enter into a direct services contract that would result in payment to a board member, former board member, employee, former employee, or member of the immediate family of a board member, former board member, employee, or former employee if the person who would receive services under the contract stands to receive any preferential treatment or any unfair advantage over other eligible persons.

(C) A county board shall not enter into a direct services contract for services provided in accordance with section 5126.11 or sections 5126.40 to 5126.46 of the Revised Code under which an individual, agency, or other entity will employ ~~a management employee, professional employee, or service employee, as defined in section 5126.20 of the Revised Code,~~ an individual who is also an employee of that county board unless all of the following conditions are met:

(1) The employee is not in a capacity to influence the award of the contract.

(2) The employee has not attempted in any manner to secure the contract on behalf of the individual, agency, or other entity.

(3) The employee is not employed in management level two or three according to rules adopted by the director of mental retardation and developmental disabilities and does not provide service and support administration.

(4) The employee is not employed by the board during the period when the contract is developed as an administrator or supervisor responsible for approving or supervising services to be provided under the contract and agrees not to take such a position while the contract is in effect, regardless of whether the position is related to the services provided under the contract.

(5) The employee has not taken any actions that create the need for the services to be provided under the contract.

(6) The individual, agency, or other entity seeks the services of the employee because of the employee's expertise and familiarity with the care

and condition of one or more eligible persons and other individuals with such expertise and familiarity are unavailable, or an eligible person has requested to have the services provided by that employee.

The superintendent of the county board shall notify the employee and the individual, agency, or other entity that seeks the employee's services of the ethics council's determination under section 5126.032 of the Revised Code regarding the contract. The council's determination shall be binding on all parties.

The employee who is the subject of the contract shall inform the superintendent of the county board of any employment the employee has outside the county board that is with any individual, agency, or other entity that has a contract with the county board.

Sec. 5126.034. (A) If the requirements of section 5126.033 of the Revised Code have been met for a particular direct services contract, a former member of a county board of mental retardation and developmental disabilities, ~~former board member~~, a board employee, or former employee, or an immediate family member of a county board member, former board member, employee, or former employee, is not in violation of the restrictions in Chapter 102. and sections 2921.42 and ~~5126.024~~ 5126.029 of the Revised Code with regard to that contract.

(B) Nothing in section 5126.033 of the Revised Code shall be construed to allow a member or employee of a county board to authorize, or use the authority of the member's or employee's office or employment to secure authorization of, a contract that could result in receipt by the board member or employee or a member of the immediate family of the board member or employee of payment for expenses incurred on behalf of an immediate family member who is an eligible person.

Sec. 5126.037. No county board of mental retardation and developmental disabilities shall contract with an agency whose board includes a county commissioner of any of the counties served by the county board.

Sec. 5126.038. (A)(1) As used in this section, "professional services" means all of the following services provided on behalf of a county board of mental retardation and developmental disabilities, members or employees of a county board, or both:

- (a) Lobbying and other governmental affairs services;
- (b) Legal services other than the legal services provided by a county prosecutor or provided for the purpose of collective bargaining;
- (c) Public relation services;
- (d) Consulting services;

(e) Personnel training services, not including tuition or professional growth reimbursement programs for county board members or employees.

(2) "Professional services" does not mean services provided pursuant to a service contract as defined in section 5126.035 of the Revised Code.

(B) Each county board of mental retardation and developmental disabilities shall submit to the board of county commissioners of each county that is served by the county board, in accordance with the normal budget process and as part of its budget request, a list identifying the total expenditures projected for any of the following:

(1) Any membership dues of the members or employees of the county board, in any organization, association, or other entity;

(2) Any professional services of the county board, its members or employees, or both;

(3) Any training of the members or employees of the county board.

Sec. 5126.056. (A) The department of mental retardation and developmental disabilities shall take action under division (B) of this section against a county board of mental retardation and developmental disabilities if any of the following are the case:

(1) The county board fails to submit to the department all the components of its three-year plan required by section 5126.054 of the Revised Code within the time required by division (B) of that section.

(2) The department disapproves the county board's three-year plan under section 5123.046 of the Revised Code.

(3) The county board fails, as required by division (C) of section 5126.054 of the Revised Code, to update and renew its three-year plan in accordance with a schedule the department develops under that section.

(4) The county board fails to implement its initial or renewed three-year plan approved by the department.

(5) The county board fails to correct a deficiency within the time required by division (G) of section 5126.055 of the Revised Code to the satisfaction of the department.

(6) The county board fails to submit an acceptable plan of correction to the department within the time required by division (G)(2) of section 5126.055 of the Revised Code.

(B) If required by division (A) of this section to take action against a county board, the department shall issue an order terminating the county board's medicaid local administrative authority over all or part of home and community-based services, medicaid case management services, habilitation center services, all or part of two of those services, or all or part of all three of those services. The department shall provide a copy of the order to the

board of county commissioners, senior probate judge, county auditor, and president and superintendent of the county board. The department shall specify in the order the medicaid local administrative authority that the department is terminating, the reason for the termination, and the county board's option and responsibilities under this division.

A county board whose medicaid local administrative authority is terminated may, not later than thirty days after the department issues the termination order, recommend to the department that another county board that has not had any of its medicaid local administrative authority terminated or another entity the department approves administer the services for which the county board's medicaid local administrative authority is terminated. The department may contract with the other county board or entity to administer the services. If the department enters into such a contract, the county board shall adopt a resolution giving the other county board or entity full medicaid local administrative authority over the services that the other county board or entity is to administer. The other county board or entity shall be known as the contracting authority.

If the department rejects the county board's recommendation regarding a contracting authority, the county board may appeal the rejection under section 5123.043 of the Revised Code.

If the county board does not submit a recommendation to the department regarding a contracting authority within the required time or the department rejects the county board's recommendation and the rejection is upheld pursuant to an appeal, if any, under section 5123.043 of the Revised Code, the department shall appoint an administrative receiver to administer the services for which the county board's medicaid local administrative authority is terminated. To the extent necessary for the department to appoint an administrative receiver, the department may utilize employees of the department, management personnel from another county board, or other individuals who are not employed by or affiliated with in any manner a person that provides home and community-based services, medicaid case management services, or habilitation center services pursuant to a contract with any county board. The administrative receiver shall assume full administrative responsibility for the county board's services for which the county board's medicaid local administrative authority is terminated.

The contracting authority or administrative receiver shall develop and submit to the department a plan of correction to remediate the problems that caused the department to issue the termination order. If, after reviewing the plan, the department approves it, the contracting authority or administrative receiver shall implement the plan.

The county board shall transfer control of state and federal funds it is otherwise eligible to receive for the services for which the county board's medicaid local administrative authority is terminated and funds the county board may use under division (B) of section 5126.057 of the Revised Code to pay the nonfederal share of the services that the county board is required by division (A) of that section to pay. The county board shall transfer control of the funds to the contracting authority or administrative receiver administering the services. The amount the county board shall transfer shall be the amount necessary for the contracting authority or administrative receiver to fulfill its duties in administering the services, including its duties to pay its personnel for time worked, travel, and related matters. If the county board fails to make the transfer, the department may withhold the state and federal funds from the county board and bring a mandamus action against the county board in the court of common pleas of the county served by the county board or in the Franklin county court of common pleas. The mandamus action may not require that the county board transfer any funds other than the funds the county board is required by division (B) of this section to transfer.

The contracting authority or administrative receiver has the right to authorize the payment of bills in the same manner that the county board may authorize payment of bills under this chapter and section 319.16 of the Revised Code.

Sec. 5126.058. (A) Each county board of mental retardation and developmental disabilities shall prepare a memorandum of understanding that is developed by all of the following and that is signed by the persons identified in divisions (A)(~~3~~)(2) to (~~8~~)(7) of this section:

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

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

~~(3)~~ The county peace officer;

~~(4)~~(3) All chief municipal peace officers within the county;

~~(5)~~(4) Other law enforcement officers handling abuse, neglect, and exploitation of mentally retarded and developmentally disabled persons in the county;

~~(6)~~(5) The prosecuting attorney of the county;

~~(7)~~(6) The public children services agency;

~~(8)~~(7) The coroner of the county.

(B) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and sections 313.12, 2151.421, 2903.16, 5126.31, and 5126.33 of the Revised Code and shall have as its primary goal the elimination of all unnecessary interviews of persons who are the subject of reports made pursuant to this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charge or complaint arising from any reported case of abuse, neglect, or exploitation or the suppression of any evidence obtained as a result of any reported abuse, neglect, or exploitation and does not give any rights or grounds for appeal or post-conviction relief to any person.

(C) A memorandum of understanding shall include, but is not limited to, all of the following:

(1) The roles and responsibilities for handling emergency and nonemergency cases of abuse, neglect, or exploitation;

(2) The roles and responsibilities for handling and coordinating investigations of reported cases of abuse, neglect, or exploitation and methods to be used in interviewing the person who is the subject of the report and who allegedly was abused, neglected, or exploited;

(3) The roles and responsibilities for addressing the categories of persons who may interview the person who is the subject of the report and who allegedly was abused, neglected, or exploited;

(4) The roles and responsibilities for providing victim services to mentally retarded and developmentally disabled persons pursuant to Chapter 2930. of the Revised Code;

(5) The roles and responsibilities for the filing of criminal charges against persons alleged to have abused, neglected, or exploited mentally retarded or developmentally disabled persons.

(D) A memorandum of understanding may be signed by victim advocates, municipal court judges, municipal prosecutors, and any other person whose participation furthers the goals of a memorandum of understanding, as set forth in this section.

Sec. 5126.081. (A) In addition to the rules adopted under division (A)(2) of section 5126.08 of the Revised Code establishing standards for the administration, provision, arrangement, and operation of programs and services by county boards of mental retardation and developmental disabilities, the department of mental retardation and developmental disabilities shall establish a system of accreditation for county boards of mental retardation and developmental disabilities to ensure that the boards

are in compliance with federal and state statutes and rules. The department shall adopt rules in accordance with Chapter 119. of the Revised Code governing the system of accreditation. The rules shall include appropriate timelines for compliance when a board is found to be not in compliance and appropriate actions to be taken by boards in complying with the accreditation requirements.

(B) Prior to accrediting a board, the department shall conduct a comprehensive, on-site review of the board. During the review, the department shall document the board's compliance with the department's accreditation requirements. After completing the review, the department shall conduct an exit conference with the president of the board, the superintendent of the board, and any other officials the board asks to have present. The department shall discuss its findings from the review with the board's representatives and provide a written report of its findings not later than thirty days following the exit conference. If the department finds that the board is in compliance with the requirements for accreditation, the department shall issue evidence of accreditation to the board.

Accreditation may be granted for periods of up to five years and may be renewed. Not less than once prior to the date a board's accreditation is scheduled to expire, the department shall conduct a comprehensive, on-site review of the board.

Each board shall conduct an annual audit of itself to evaluate its compliance with the requirements for accreditation. The department may conduct an interim review of any new program or service initiated by a board after its last comprehensive review. The department may conduct other reviews and investigations as necessary to enforce this section.

(C) If the department determines through its review of a board that the board is not in compliance with the requirements for accreditation, the department shall, except as provided in division (F) of this section, grant the board an opportunity to correct the matters in which it is not in compliance. The department shall grant the board an appropriate length of time to comply with the requirements prior to taking any action to deny accreditation to the board. To avoid denial of accreditation, the board superintendent shall prepare a plan of correction to remediate the matters specified in the department's written report as not being in compliance with the requirements for accreditation. The superintendent shall submit the plan to the board for review, and the board shall review the plan. If the board believes that the plan is sufficient to correct the matters, the board shall approve the plan by resolution and submit the plan to the department for its review. The department shall review the plan of correction. If the

department approves the plan, the board shall commence action to implement the plan. The department shall, as necessary, conduct follow-up reviews of the board to determine whether it has met the requirements for accreditation. If the plan of correction submitted by a board is disapproved, the department shall inform the board of the reasons for disapproval and may grant the board an opportunity to submit a revised plan of correction.

A board may request technical assistance from the department, other boards, or professional organizations in preparing plans of correction and in implementing plans of correction.

(D) If, after being given the opportunity to implement a plan of correction, a board continues to fail to meet the requirements for accreditation, the department shall issue an order denying accreditation to the board. The department may deny accreditation to the board for all or part of the programs or services offered by the board.

The department shall simultaneously notify all of the following officials in the county: the members of the board of county commissioners, the senior probate judge, the county auditor, and the president and superintendent of the county board of mental retardation and developmental disabilities. The notice shall identify the programs and services that have been denied accreditation, the requirements for accreditation with which the board is not in compliance, and the responsibilities of the county officials to contract under division (E)(1) of this section to have the board's programs and services administered by another party or become subject to administrative receivership under division (E)(2) of this section.

(E)(1) When a board is denied accreditation, the department shall first give the board the option of contracting to have the board's programs and services that were denied accreditation administered by an accredited county board of mental retardation and developmental disabilities or another qualified entity subject to the approval of the department. The board may contract with more than one board that has been accredited. When a board enters into a contract, the board shall, by resolution, give the contractor full administrative authority over the programs and services that the contractor will administer.

(2) If a board fails to exercise its option of entering into a contract under division (E)(1) of this section sooner than thirty days after the department denies accreditation, the department shall appoint an administrative receiver of the board's programs and services that were denied accreditation. The department may appoint employees of the department, management personnel from county boards of mental retardation and developmental disabilities, or individuals from other entities as necessary to meet its needs

for appointing an administrative receiver, except that individuals from other entities may be appointed only when qualified department employees or board management personnel are unavailable. The department may not appoint an individual who is employed by or affiliated with an entity that is under contract with the board. The administrative receiver shall assume full administrative responsibility for the board's programs and services that were denied accreditation.

(3) The board or entity that contracts with a board under division (E)(1) of this section, or the administrative receiver appointed under division (E)(2) of this section, shall develop and implement a plan of correction to remediate the matters that caused the department to deny accreditation. The contractor or administrative receiver shall submit the plan to the department, and the department shall review the plan. If the plan is approved by the department, the contractor or administrative receiver shall commence action to implement the plan. The contractor or administrative receiver shall report to the department any findings it can make pertaining to issues or circumstances that are beyond the control of the board and result in the unlikelihood that compliance with the requirements for accreditation can be achieved unless the issues or circumstances are remediated.

(4) For purposes of divisions (E)(1) and (2) of this section, the department shall require the board that has been denied accreditation to transfer control of state and federal funds it is eligible to receive for the board's programs and services that have been denied accreditation in an amount necessary for the contractor or administrative receiver to fulfill its duties in administering the programs and services for the board. The transfer of control of funds does not cause any programs and services of the board that are accredited to lose their accreditation. If the board refuses to transfer control of funds, the department may withhold state and federal funds from the board in an amount necessary for the contractor or administrative receiver to fulfill its duties. The amount transferred or withheld from a board shall include reimbursements for the personnel of the contractor or administrative receiver, including amounts for time worked, travel, and related expenses.

A contractor or administrative receiver that has assumed the administration of a board's programs and services has the right to authorize the payment of bills in the same manner that a board may authorize payment of bills under this chapter and section 319.16 of the Revised Code.

(F) When the department's review of a board reveals serious health and safety issues within the programs and services offered by the board, the department shall order the board to correct the violations immediately or

appoint an administrative receiver.

(G) At any time a board can demonstrate that it is capable of assuming its duties in compliance with the department's requirements for accreditation, the department shall reverse its order denying accreditation and issue evidence of accreditation to the board.

A board may appeal the department's denial of accreditation or refusal to reverse a denial of accreditation only by filing a complaint under section 5123.043 of the Revised Code. If in its appeal the board can demonstrate that it is capable of assuming its duties in compliance with the department's requirements for accreditation, the department shall reverse its order denying accreditation and shall issue evidence of accreditation to the board.

(H) All notices issued to a board by the department under this section shall be delivered to the board's president and superintendent.

(I) A board's president may designate another member of the board as the individual to be responsible for fulfilling all or part of the president's responsibilities established under this section.

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

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

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

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

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

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

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

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

(H) "Emergency protective services" means protective services

furnished to a person with mental retardation or a developmental disability to prevent immediate physical harm.

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

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

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

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

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

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

(3) Any other person designated as a party by the probate court including but not limited to, the adult's spouse, custodian, guardian, or parent.

(M) "Board" ~~has the same meaning as in section 5126.02 of the Revised Code~~ means a county board of mental retardation and developmental disabilities.

Sec. 5705.191. The taxing authority of any subdivision, other than the board of education of a school district or the taxing authority of a county school financing district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the purposes in section 5705.19 of the Revised Code, or to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary, or special election to be held at a time therein specified. Such resolution shall not include a levy on the current tax list and duplicate unless such election is to be held at or prior to the general election day of the current tax year. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except

that a levy to supplement the general fund for the purposes of public assistance, human or social services, relief, welfare, hospitalization, health, or the support of general or tuberculosis hospitals may not be for a longer period than ten years. All other levies under this section may not be for a longer period than five years unless a longer period is permitted by section 5705.19 of the Revised Code, and the resolution shall specify the date of holding such election, which shall not be earlier than seventy-five days after the adoption and certification of such resolution. The resolution shall go into immediate effect upon its passage and no publication of the same is necessary other than that provided for in the notice of election. A copy of such resolution, immediately after its passage, shall be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election, to which section 5705.25 of the Revised Code refers, excepting that such election shall be held on the date specified in the resolution, which shall be consistent with the requirements of section 3501.01 of the Revised Code, provided that only one special election for the submission of such question may be held in any one calendar year and provided that a special election may be held upon the same day a primary election is held. Publication of notice of such election shall be made in one or more newspapers of general circulation in the county once a week for four consecutive weeks.

If a majority of the electors voting on the question vote in favor thereof, the taxing authority of the subdivision may make the necessary levy within such subdivision at the additional rate or at any lesser rate outside the ten-mill limitation on the tax list and duplicate for the purpose stated in the resolution. Such tax levy shall be included in the next annual tax budget that is certified to the county budget commission.

After the approval of such a levy by the electors, the taxing authority of the subdivision may anticipate a fraction of the proceeds of such levy and issue anticipation notes. In the case of a continuing levy that is not levied for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy for the succeeding ten years, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a levy for a fixed period that is not for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the remaining life of the

levy, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a levy for current expenses, notes may be issued after the approval of the levy by the electors and prior to the time when the first tax collection from the levy can be made. Such notes may be issued in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the term of the levy in the case of a levy for a fixed period, or fifty per cent of the total estimated proceeds for the first ten years of the levy in the case of a continuing levy.

No anticipation notes that increase the net indebtedness of a county may be issued without the prior consent of the board of county commissioners of that county. The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not exceeding the life of the levy anticipated, and may have a principal payment in the year of their issuance.

"Taxing authority" and "subdivision" have the same meanings as in section 5705.01 of the Revised Code.

"Human or social services" includes a county's contributions to a multicounty board of mental retardation and developmental disabilities of which the county is a member.

This section is supplemental to and not in derogation of sections 5705.20, 5705.21, and 5705.22 of the Revised Code.

Sec. 5705.222. (A) At any time the board of county commissioners of any county by a majority vote of the full membership may declare by resolution and certify to the board of elections of the county that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide the necessary requirements of the single county board of mental retardation and developmental disabilities established pursuant to Chapter 5126. of the Revised Code, or the county's contribution to a multicounty board created under that chapter of which the county is a member, and that it is necessary to levy a tax in excess of such limitation for the operation of programs and services by county boards of mental retardation and developmental disabilities and for the acquisition, construction, renovation, financing, maintenance, and operation of mental retardation and developmental disabilities facilities.

Such resolution shall conform to section 5705.19 of the Revised Code, except that the increased rate may be in effect for any number of years not exceeding ten or for a continuing period of time.

The resolution shall be certified and submitted in the manner provided

in section 5705.25 of the Revised Code, except that it may be placed on the ballot in any election, and shall be certified to the board of elections not less than seventy-five days before the election at which it will be voted upon.

If the majority of the electors voting on a levy for the support of the programs and services of the county board of mental retardation and developmental disabilities vote in favor of the levy, the board of county commissioners may levy a tax within the county at the additional rate outside the ten-mill limitation during the specified or continuing period, for the purpose stated in the resolution. The county board of mental retardation and developmental disabilities, within its budget and with the approval of the board of county commissioners through annual appropriations, shall use the proceeds of a levy approved under this section solely for the purposes authorized by this section.

(B) When electors have approved a tax levy under this section, the county commissioners may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

(C) The county auditor, upon receipt of a resolution from the county board of mental retardation and developmental disabilities, shall establish a capital improvements account or a reserve balance account, or both, as specified in the resolution. The capital improvements account shall be a contingency account for the necessary acquisition, replacement, renovation, or construction of facilities and movable and fixed equipment. Upon the request of the county board of mental retardation and developmental disabilities, moneys not needed to pay for current expenses may be appropriated to this account, in amounts such that this account does not exceed twenty-five per cent of the replacement value of all capital facilities and equipment currently used by the county board of mental retardation and developmental disabilities for mental retardation and developmental disabilities programs and services. Other moneys available for current capital expenses from federal, state, or local sources may also be appropriated to this account.

The reserve balance account shall contain those moneys that are not needed to pay for current operating expenses and not deposited in the capital improvements account but that will be needed to pay for operating expenses in the future. Upon the request of a county board of mental retardation and developmental disabilities, the board of county commissioners may appropriate moneys to the reserve balance account.

SECTION 2. That existing sections 5126.01, 5126.02, 5126.021,

5126.022, 5126.023, 5126.024, 5126.03, 5126.031, 5126.033, 5126.034, 5126.056, 5126.058, 5126.081, 5126.30, 5705.191, and 5705.222 of the Revised Code are hereby repealed.

SECTION 3. (A) As used in this section, "immediate family" has the same meaning as in section 5126.01 of the Revised Code.

Not later than thirty days after the effective date of this section, each individual who serves as a member of a county board of mental retardation and developmental disabilities on the effective date of this section shall provide to the superintendent of the county board a written declaration specifying both of the following:

(1) That no circumstance described in section 5126.029 of the Revised Code exists that bars the individual from serving on the county board;

(2) Whether the individual or an immediate family member of the individual has an ownership interest in or is under contract with an agency contracting with the county board, and, if such an ownership interest or contract exists, the identity of the agency and the nature of the relationship to that agency.

(B) Each declaration provided to a county board superintendent under this section is a public record for the purpose of section 149.43 of the Revised Code.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____