

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**H. B. No. 219**

**Representative Patton**

**Cosponsors: Representatives Healy, Yuko**

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**A B I L L**

To amend section 2317.02 of the Revised Code to 1  
create a testimonial privilege for communications 2  
between a representative of an employee 3  
organization and a bargaining unit member. 4

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

**Section 1.** That section 2317.02 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 2317.02.** The following persons shall not testify in 7  
certain respects: 8

(A) An attorney, concerning a communication made to the 9  
attorney by a client in that relation or the attorney's advice to 10  
a client, except that the attorney may testify by express consent 11  
of the client or, if the client is deceased, by the express 12  
consent of the surviving spouse or the executor or administrator 13  
of the estate of the deceased client. However, if the client 14  
voluntarily testifies or is deemed by section 2151.421 of the 15  
Revised Code to have waived any testimonial privilege under this 16  
division, the attorney may be compelled to testify on the same 17  
subject. 18

The testimonial privilege established under this division 19

does not apply concerning a communication between a client who has  
since died and the deceased client's attorney if the communication  
is relevant to a dispute between parties who claim through that  
deceased client, regardless of whether the claims are by testate  
or intestate succession or by inter vivos transaction, and the  
dispute addresses the competency of the deceased client when the  
deceased client executed a document that is the basis of the  
dispute or whether the deceased client was a victim of fraud,  
undue influence, or duress when the deceased client executed a  
document that is the basis of the dispute.

(B)(1) A physician or a dentist concerning a communication  
made to the physician or dentist by a patient in that relation or  
the physician's or dentist's advice to a patient, except as  
otherwise provided in this division, division (B)(2), and division  
(B)(3) of this section, and except that, if the patient is deemed  
by section 2151.421 of the Revised Code to have waived any  
testimonial privilege under this division, the physician may be  
compelled to testify on the same subject.

The testimonial privilege established under this division  
does not apply, and a physician or dentist may testify or may be  
compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery  
provisions of the Rules of Civil Procedure in connection with a  
civil action, or in connection with a claim under Chapter 4123. of  
the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal  
representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or  
the executor or administrator of the patient's estate gives  
express consent;

(iii) If a medical claim, dental claim, chiropractic claim,

or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in

the records is maintained. Measures to ensure confidentiality that 83  
may be taken by the court include sealing its records or deleting 84  
specific information from its records. 85

(e)(i) If the communication was between a patient who has 86  
since died and the deceased patient's physician or dentist, the 87  
communication is relevant to a dispute between parties who claim 88  
through that deceased patient, regardless of whether the claims 89  
are by testate or intestate succession or by inter vivos 90  
transaction, and the dispute addresses the competency of the 91  
deceased patient when the deceased patient executed a document 92  
that is the basis of the dispute or whether the deceased patient 93  
was a victim of fraud, undue influence, or duress when the 94  
deceased patient executed a document that is the basis of the 95  
dispute. 96

(ii) If neither the spouse of a patient nor the executor or 97  
administrator of that patient's estate gives consent under 98  
division (B)(1)(a)(ii) of this section, testimony or the 99  
disclosure of the patient's medical records by a physician, 100  
dentist, or other health care provider under division (B)(1)(e)(i) 101  
of this section is a permitted use or disclosure of protected 102  
health information, as defined in 45 C.F.R. 160.103, and an 103  
authorization or opportunity to be heard shall not be required. 104

(iii) Division (B)(1)(e)(i) of this section does not require 105  
a mental health professional to disclose psychotherapy notes, as 106  
defined in 45 C.F.R. 164.501. 107

(iv) An interested person who objects to testimony or 108  
disclosure under division (B)(1)(e)(i) of this section may seek a 109  
protective order pursuant to Civil Rule 26. 110

(v) A person to whom protected health information is 111  
disclosed under division (B)(1)(e)(i) of this section shall not 112  
use or disclose the protected health information for any purpose 113

other than the litigation or proceeding for which the information 114  
was requested and shall return the protected health information to 115  
the covered entity or destroy the protected health information, 116  
including all copies made, at the conclusion of the litigation or 117  
proceeding. 118

(2)(a) If any law enforcement officer submits a written 119  
statement to a health care provider that states that an official 120  
criminal investigation has begun regarding a specified person or 121  
that a criminal action or proceeding has been commenced against a 122  
specified person, that requests the provider to supply to the 123  
officer copies of any records the provider possesses that pertain 124  
to any test or the results of any test administered to the 125  
specified person to determine the presence or concentration of 126  
alcohol, a drug of abuse, a combination of them, a controlled 127  
substance, or a metabolite of a controlled substance in the 128  
person's whole blood, blood serum or plasma, breath, or urine at 129  
any time relevant to the criminal offense in question, and that 130  
conforms to section 2317.022 of the Revised Code, the provider, 131  
except to the extent specifically prohibited by any law of this 132  
state or of the United States, shall supply to the officer a copy 133  
of any of the requested records the provider possesses. If the 134  
health care provider does not possess any of the requested 135  
records, the provider shall give the officer a written statement 136  
that indicates that the provider does not possess any of the 137  
requested records. 138

(b) If a health care provider possesses any records of the 139  
type described in division (B)(2)(a) of this section regarding the 140  
person in question at any time relevant to the criminal offense in 141  
question, in lieu of personally testifying as to the results of 142  
the test in question, the custodian of the records may submit a 143  
certified copy of the records, and, upon its submission, the 144  
certified copy is qualified as authentic evidence and may be 145

admitted as evidence in accordance with the Rules of Evidence. 146  
Division (A) of section 2317.422 of the Revised Code does not 147  
apply to any certified copy of records submitted in accordance 148  
with this division. Nothing in this division shall be construed to 149  
limit the right of any party to call as a witness the person who 150  
administered the test to which the records pertain, the person 151  
under whose supervision the test was administered, the custodian 152  
of the records, the person who made the records, or the person 153  
under whose supervision the records were made. 154

(3)(a) If the testimonial privilege described in division 155  
(B)(1) of this section does not apply as provided in division 156  
(B)(1)(a)(iii) of this section, a physician or dentist may be 157  
compelled to testify or to submit to discovery under the Rules of 158  
Civil Procedure only as to a communication made to the physician 159  
or dentist by the patient in question in that relation, or the 160  
physician's or dentist's advice to the patient in question, that 161  
related causally or historically to physical or mental injuries 162  
that are relevant to issues in the medical claim, dental claim, 163  
chiropractic claim, or optometric claim, action for wrongful 164  
death, other civil action, or claim under Chapter 4123. of the 165  
Revised Code. 166

(b) If the testimonial privilege described in division (B)(1) 167  
of this section does not apply to a physician or dentist as 168  
provided in division (B)(1)(c) of this section, the physician or 169  
dentist, in lieu of personally testifying as to the results of the 170  
test in question, may submit a certified copy of those results, 171  
and, upon its submission, the certified copy is qualified as 172  
authentic evidence and may be admitted as evidence in accordance 173  
with the Rules of Evidence. Division (A) of section 2317.422 of 174  
the Revised Code does not apply to any certified copy of results 175  
submitted in accordance with this division. Nothing in this 176  
division shall be construed to limit the right of any party to 177

call as a witness the person who administered the test in 178  
question, the person under whose supervision the test was 179  
administered, the custodian of the results of the test, the person 180  
who compiled the results, or the person under whose supervision 181  
the results were compiled. 182

(4) The testimonial privilege described in division (B)(1) of 183  
this section is not waived when a communication is made by a 184  
physician to a pharmacist or when there is communication between a 185  
patient and a pharmacist in furtherance of the physician-patient 186  
relation. 187

(5)(a) As used in divisions (B)(1) to (4) of this section, 188  
"communication" means acquiring, recording, or transmitting any 189  
information, in any manner, concerning any facts, opinions, or 190  
statements necessary to enable a physician or dentist to diagnose, 191  
treat, prescribe, or act for a patient. A "communication" may 192  
include, but is not limited to, any medical or dental, office, or 193  
hospital communication such as a record, chart, letter, 194  
memorandum, laboratory test and results, x-ray, photograph, 195  
financial statement, diagnosis, or prognosis. 196

(b) As used in division (B)(2) of this section, "health care 197  
provider" means a hospital, ambulatory care facility, long-term 198  
care facility, pharmacy, emergency facility, or health care 199  
practitioner. 200

(c) As used in division (B)(5)(b) of this section: 201

(i) "Ambulatory care facility" means a facility that provides 202  
medical, diagnostic, or surgical treatment to patients who do not 203  
require hospitalization, including a dialysis center, ambulatory 204  
surgical facility, cardiac catheterization facility, diagnostic 205  
imaging center, extracorporeal shock wave lithotripsy center, home 206  
health agency, inpatient hospice, birthing center, radiation 207  
therapy center, emergency facility, and an urgent care center. 208

"Ambulatory health care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.	209 210 211
(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	212 213 214
(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.	215 216
(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	217 218
(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section 3722.01 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.	219 220 221 222 223 224 225 226 227
(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.	228 229
(d) As used in divisions (B)(1) and <del>(B)</del> (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.	230 231 232
(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.	233 234 235
(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code	236 237 238



or the immunity from civil liability conferred by section 2305.33 239  
of the Revised Code upon physicians who report an employee's use 240  
of a drug of abuse, or a condition of an employee other than one 241  
involving the use of a drug of abuse, to the employer of the 242  
employee in accordance with division (B) of that section. As used 243  
in division (B)(7) of this section, "employee," "employer," and 244  
"physician" have the same meanings as in section 2305.33 of the 245  
Revised Code. 246

(C)(1) A cleric, when the cleric remains accountable to the 247  
authority of that cleric's church, denomination, or sect, 248  
concerning a confession made, or any information confidentially 249  
communicated, to the cleric for a religious counseling purpose in 250  
the cleric's professional character. The cleric may testify by 251  
express consent of the person making the communication, except 252  
when the disclosure of the information is in violation of a sacred 253  
trust and except that, if the person voluntarily testifies or is 254  
deemed by division (A)(4)(c) of section 2151.421 of the Revised 255  
Code to have waived any testimonial privilege under this division, 256  
the cleric may be compelled to testify on the same subject except 257  
when disclosure of the information is in violation of a sacred 258  
trust. 259

(2) As used in division (C) of this section: 260

(a) "Cleric" means a member of the clergy, rabbi, priest, 261  
Christian ~~science~~ Science practitioner, or regularly ordained, 262  
accredited, or licensed minister of an established and legally 263  
cognizable church, denomination, or sect. 264

(b) "Sacred trust" means a confession or confidential 265  
communication made to a cleric in the cleric's ecclesiastical 266  
capacity in the course of discipline enjoined by the church to 267  
which the cleric belongs, including, but not limited to, the 268  
Catholic Church, if both of the following apply: 269

(i) The confession or confidential communication was made	270
directly to the cleric.	271
(ii) The confession or confidential communication was made in	272
the manner and context that places the cleric specifically and	273
strictly under a level of confidentiality that is considered	274
inviolable by canon law or church doctrine.	275
(D) Husband or wife, concerning any communication made by one	276
to the other, or an act done by either in the presence of the	277
other, during coverture, unless the communication was made, or act	278
done, in the known presence or hearing of a third person competent	279
to be a witness; and such rule is the same if the marital relation	280
has ceased to exist;	281
(E) A person who assigns a claim or interest, concerning any	282
matter in respect to which the person would not, if a party, be	283
permitted to testify;	284
(F) A person who, if a party, would be restricted under	285
section 2317.03 of the Revised Code, when the property or thing is	286
sold or transferred by an executor, administrator, guardian,	287
trustee, heir, devisee, or legatee, shall be restricted in the	288
same manner in any action or proceeding concerning the property or	289
thing.	290
(G)(1) A school guidance counselor who holds a valid educator	291
license from the state board of education as provided for in	292
section 3319.22 of the Revised Code, a person licensed under	293
Chapter 4757. of the Revised Code as a professional clinical	294
counselor, professional counselor, social worker, independent	295
social worker, marriage and family therapist or independent	296
marriage and family therapist, or registered under Chapter 4757.	297
of the Revised Code as a social work assistant concerning a	298
confidential communication received from a client in that relation	299
or the person's advice to a client unless any of the following	300

applies:	301
(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.	302 303 304 305 306
(b) The client gives express consent to the testimony.	307
(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.	308 309 310
(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.	311 312 313 314
(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.	315 316 317 318
(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.	319 320 321 322
(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.	323 324 325 326 327 328 329
(2) Nothing in division (G)(1) of this section shall relieve	330

a school guidance counselor or a person licensed or registered 331  
under Chapter 4757. of the Revised Code from the requirement to 332  
report information concerning child abuse or neglect under section 333  
2151.421 of the Revised Code. 334

(H) A mediator acting under a mediation order issued under 335  
division (A) of section 3109.052 of the Revised Code or otherwise 336  
issued in any proceeding for divorce, dissolution, legal 337  
separation, annulment, or the allocation of parental rights and 338  
responsibilities for the care of children, in any action or 339  
proceeding, other than a criminal, delinquency, child abuse, child 340  
neglect, or dependent child action or proceeding, that is brought 341  
by or against either parent who takes part in mediation in 342  
accordance with the order and that pertains to the mediation 343  
process, to any information discussed or presented in the 344  
mediation process, to the allocation of parental rights and 345  
responsibilities for the care of the parents' children, or to the 346  
awarding of parenting time rights in relation to their children; 347

(I) A communications assistant, acting within the scope of 348  
the communication assistant's authority, when providing 349  
telecommunications relay service pursuant to section 4931.35 of 350  
the Revised Code or Title II of the "Communications Act of 1934," 351  
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 352  
made through a telecommunications relay service. Nothing in this 353  
section shall limit the obligation of a communications assistant 354  
to divulge information or testify when mandated by federal law or 355  
regulation or pursuant to subpoena in a criminal proceeding. 356

Nothing in this section shall limit any immunity or privilege 357  
granted under federal law or regulation. 358

(J)(1) A chiropractor in a civil proceeding concerning a 359  
communication made to the chiropractor by a patient in that 360  
relation or the chiropractor's advice to a patient, except as 361  
otherwise provided in this division. The testimonial privilege 362

established under this division does not apply, and a chiropractor 363  
may testify or may be compelled to testify, in any civil action, 364  
in accordance with the discovery provisions of the Rules of Civil 365  
Procedure in connection with a civil action, or in connection with 366  
a claim under Chapter 4123. of the Revised Code, under any of the 367  
following circumstances: 368

(a) If the patient or the guardian or other legal 369  
representative of the patient gives express consent. 370

(b) If the patient is deceased, the spouse of the patient or 371  
the executor or administrator of the patient's estate gives 372  
express consent. 373

(c) If a medical claim, dental claim, chiropractic claim, or 374  
optometric claim, as defined in section 2305.113 of the Revised 375  
Code, an action for wrongful death, any other type of civil 376  
action, or a claim under Chapter 4123. of the Revised Code is 377  
filed by the patient, the personal representative of the estate of 378  
the patient if deceased, or the patient's guardian or other legal 379  
representative. 380

(2) If the testimonial privilege described in division (J)(1) 381  
of this section does not apply as provided in division (J)(1)(c) 382  
of this section, a chiropractor may be compelled to testify or to 383  
submit to discovery under the Rules of Civil Procedure only as to 384  
a communication made to the chiropractor by the patient in 385  
question in that relation, or the chiropractor's advice to the 386  
patient in question, that related causally or historically to 387  
physical or mental injuries that are relevant to issues in the 388  
medical claim, dental claim, chiropractic claim, or optometric 389  
claim, action for wrongful death, other civil action, or claim 390  
under Chapter 4123. of the Revised Code. 391

(3) The testimonial privilege established under this division 392  
does not apply, and a chiropractor may testify or be compelled to 393

testify, in any criminal action or administrative proceeding. 394

(4) As used in this division, "communication" means 395  
acquiring, recording, or transmitting any information, in any 396  
manner, concerning any facts, opinions, or statements necessary to 397  
enable a chiropractor to diagnose, treat, or act for a patient. A 398  
communication may include, but is not limited to, any 399  
chiropractic, office, or hospital communication such as a record, 400  
chart, letter, memorandum, laboratory test and results, x-ray, 401  
photograph, financial statement, diagnosis, or prognosis. 402

(K)(1) Except as provided under division (K)(2) of this 403  
section, a critical incident stress management team member 404  
concerning a communication received from an individual who 405  
receives crisis response services from the team member, or the 406  
team member's advice to the individual, during a debriefing 407  
session. 408

(2) The testimonial privilege established under division 409  
(K)(1) of this section does not apply if any of the following are 410  
true: 411

(a) The communication or advice indicates clear and present 412  
danger to the individual who receives crisis response services or 413  
to other persons. For purposes of this division, cases in which 414  
there are indications of present or past child abuse or neglect of 415  
the individual constitute a clear and present danger. 416

(b) The individual who received crisis response services 417  
gives express consent to the testimony. 418

(c) If the individual who received crisis response services 419  
is deceased, the surviving spouse or the executor or administrator 420  
of the estate of the deceased individual gives express consent. 421

(d) The individual who received crisis response services 422  
voluntarily testifies, in which case the team member may be 423  
compelled to testify on the same subject. 424

(e) The court in camera determines that the information 425  
communicated by the individual who received crisis response 426  
services is not germane to the relationship between the individual 427  
and the team member. 428

(f) The communication or advice pertains or is related to any 429  
criminal act. 430

(3) As used in division (K) of this section: 431

(a) "Crisis response services" means consultation, risk 432  
assessment, referral, and on-site crisis intervention services 433  
provided by a critical incident stress management team to 434  
individuals affected by crisis or disaster. 435

(b) "Critical incident stress management team member" or 436  
"team member" means an individual specially trained to provide 437  
crisis response services as a member of an organized community or 438  
local crisis response team that holds membership in the Ohio 439  
critical incident stress management network. 440

(c) "Debriefing session" means a session at which crisis 441  
response services are rendered by a critical incident stress 442  
management team member during or after a crisis or disaster. 443

(L)(1) Subject to division (L)(2) of this section and except 444  
as provided in division (L)(3) of this section, an employee 445  
assistance professional, concerning a communication made to the 446  
employee assistance professional by a client in the employee 447  
assistance professional's official capacity as an employee 448  
assistance professional. 449

(2) Division (L)(1) of this section applies to an employee 450  
assistance professional who meets either or both of the following 451  
requirements: 452

(a) Is certified by the employee assistance certification 453  
commission to engage in the employee assistance profession; 454

(b) Has education, training, and experience in all of the following:	455 456
(i) Providing workplace-based services designed to address employer and employee productivity issues;	457 458
(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	459 460 461 462
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	463 464 465 466
(iv) Selecting and evaluating available community resources;	467
(v) Making appropriate referrals;	468
(vi) Local and national employee assistance agreements;	469
(vii) Client confidentiality.	470
(3) Division (L)(1) of this section does not apply to any of the following:	471 472
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	473 474 475 476
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	477 478 479
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;	480 481 482
(d) A civil proceeding to determine an individual's mental	483



competency or a criminal action in which a plea of not guilty by 484  
reason of insanity is entered; 485

(e) A civil or criminal malpractice action brought against 486  
the employee assistance professional; 487

(f) When the employee assistance professional has the express 488  
consent of the client or, if the client is deceased or disabled, 489  
the client's legal representative; 490

(g) When the testimonial privilege otherwise provided by 491  
division (L)(1) of this section is abrogated under law. 492

(M)(1) A representative of an employee organization, in any 493  
civil, criminal, or administrative action or proceeding concerning 494  
a communication between the representative and a bargaining unit 495  
member made while the representative was acting in a 496  
representative capacity on behalf of the employee organization. 497

(2) The testimonial privilege established under this division 498  
does not apply, and a representative of an employee organization 499  
may testify, under any of the following circumstances: 500

(a) If and to the extent the testimony appears necessary to 501  
prevent the commission of a crime that is likely to create a 502  
clear, imminent risk of serious physical harm to or death of 503  
another person; 504

(b) In a civil or criminal action against the representative 505  
in the representative's personal or representative capacity, 506  
against the employee organization or an affiliate of the employee 507  
organization, or against any representative of the employee 508  
organization in the representative's representative capacity; 509

(c) If required to do so by court order; 510

(d) With the express consent of the bargaining unit member, 511  
the guardian or other legal representative of the bargaining unit 512  
member, or, if the bargaining unit member is deceased, the spouse, 513

executor, or administrator of the bargaining unit member. 514

(3) If there is a conflict between this section and any 515  
federal or state labor law with regard to a specific situation, 516  
the provisions of the federal or state labor law shall control. 517

(4) As used in division (M) of this section, "employee 518  
organization" means any labor union or bona fide organization in 519  
which employees participate and that exists for the purpose, in 520  
whole or in part, of dealing with employers concerning grievances, 521  
labor disputes, wages, hours, terms, and other conditions of 522  
employment. 523

**Section 2.** That existing section 2317.02 of the Revised Code 524  
is hereby repealed. 525

**Section 3.** Section 2317.02 of the Revised Code is presented 526  
in this act as a composite of the section as amended by Sub. H.B. 527  
144, Sub. S.B. 8, and Am. Sub. S.B. 17 of the 126th General 528  
Assembly. The General Assembly, applying the principle stated in 529  
division (B) of section 1.52 of the Revised Code that amendments 530  
are to be harmonized if reasonably capable of simultaneous 531  
operation, finds that the composite is the resulting version of 532  
the section in effect prior to the effective date of the section 533  
as presented in this act. 534