

AN ACT

To amend sections 701.01, 711.23, 1775.31, 2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code to replace terms that refer to persons with certain conditions.

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

SECTION 1. That sections 701.01, 711.23, 1775.31, 2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code be amended to read as follows:

Sec. 701.01. In the interpretation of Title VII of the Revised Code, unless the context shows that another meaning was intended:

(A) "Person" includes a private corporation.

(B) "Writing" includes printing.

(C) "Oath" includes affirmation.

~~(D) "Insane" and "lunatic" include every species of mental derangement.~~

~~(E)~~ "Property" includes real, personal, and mixed estates and interests.

~~(F)~~(E) "Land" and "real estate" include rights and easements of an incorporeal nature.

~~(G)~~(F) "Plan of sewerage," "system of sewerage," "sewer," and "sewers" include sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor.

This enumeration does not require a strict construction of any other words in such title.

Sec. 711.23. ~~§~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse,

that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

If the court of common pleas is of the opinion that any person owning a lot in a plat, addition, or part thereof proposed to be vacated or altered, and not assenting to such vacation or alteration, will sustain damage thereby, it may proceed to hear proof in reference thereto, and may render judgment against the petitioners for such damages as it thinks proper and just, to be assessed ratably against the petitioners by the court, according to the value of the property owned by the petitioners as it stands taxed on the tax list of the county. When necessary, the court shall appoint a guardian ad litem for all minors; or incompetent persons ~~of insane mind~~, interested in the premises. The judgment of the court vacating such plat, addition, or parts thereof, shall be conditioned upon the payment of the damages thus assessed.

Sec. 1775.31. ~~(A)~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

(A) On application by or for a partner the court shall decree a dissolution whenever:

(1) A partner has been declared ~~a lunatic~~ an incompetent person in any judicial proceeding or is shown to be of unsound mind;

(2) A partner becomes in any other way incapable of performing ~~his~~ the partner's part of the partnership contract;

(3) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business;

(4) A partner willfully or persistently commits a breach of the partnership agreement, or otherwise so conducts ~~himself~~ the partner's self in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with ~~him~~ the partner;

(5) The business of the partnership can only be carried on at a loss;

(6) Other circumstances render a dissolution equitable.

(B) On the application of the purchaser of a partner's interest under section 1775.26 or 1775.27 of the Revised Code, the court shall decree a dissolution:

(1) After the termination of the specified term or particular undertaking;

(2) At any time if the partnership was a partnership at will when the

interest was assigned or when the charging order was issued.

Sec. 2111.37. When a nonresident minor, incompetent, ~~habitual drunkard, idiot, imbecile, lunatic,~~ or person confined in a state, charitable, or correctional institution has real estate, chattels, rights, credits, or moneys in this state, the probate court of the county in which the property or a part of it is situated may appoint a resident guardian of the ward to manage, collect, lease, and take care of ~~his~~ the ward's property. The appointment may be made whether or not a ward has a guardian, trustee, or other conservator in the state of ~~his~~ the ward's residence, and, if ~~he~~ the ward has a guardian, trustee, or other conservator in the state of ~~his~~ the ward's residence, the control and authority of the resident guardian appointed in Ohio shall be superior as to all property of the ward in Ohio.

The first appointment of a resident guardian of a nonresident ward shall extend to all the property and effects of the ward in this state and exclude the jurisdiction of the probate court of any other county.

Sec. 2111.47. Upon reasonable notice to the guardian, to the ward, and to the person on whose application the appointment was made, and upon satisfactory proof that the necessity for the guardianship no longer exists or that the letters of appointment were improperly issued, the probate court shall order that the guardianship of an incompetent terminate and shall make an appropriate entry upon the journal. Thereupon the guardianship shall cease, the accounts of the guardian shall be settled by the court, and the ward shall be restored to the full control of ~~his~~ the ward's property as before the appointment. Such entry terminating the guardianship of an ~~insane incompetent~~ person shall have the same effect as a determination by the court that such person is ~~restored to sanity~~ competent.

Sec. 2307.14. ~~The As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.~~

The court shall require a guardian ad litem, or a trustee appointed under section 2307.13 or 2307.131 of the Revised Code, faithfully to discharge ~~his~~ the guardian ad litem's or trustee's duty, and upon ~~his~~ failure to do so, may remove ~~him~~ the guardian ad litem or trustee, and appoint another. The court may fix a compensation for ~~his~~ the guardian ad litem's or trustee's services, which shall be taxed in the costs against the minor, the ~~insane incompetent~~ person, or the unborn persons.

Sec. 2317.021. (A) As used in division (A) of section 2317.02 of the

Revised Code:

"Client" means a person, firm, partnership, corporation, or other association that, directly or through any representative, consults an attorney for the purpose of retaining the attorney or securing legal service or advice from ~~him~~ the attorney in ~~his~~ the attorney's professional capacity, or consults an attorney employee for legal service or advice, and who communicates, either directly or through an agent, employee, or other representative, with such attorney; and includes an incompetent person whose guardian so consults the attorney in behalf of the incompetent person.

Where a corporation or association is a client having the privilege and it has been dissolved, the privilege shall extend to the last board of directors, their successors or assigns, or to the trustees, their successors or assigns.

This section shall be construed as in addition to, and not in limitation of, other laws affording protection to communications under the attorney-client privilege.

(B) As used in this section and in sections 2317.02 and 2317.03 of the Revised Code, "incompetent" or "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

Sec. 2317.03. A party shall not testify when the adverse party is the guardian or trustee of ~~either a deaf and dumb or an insane~~ an incompetent person, or of a child of a deceased person, or is an executor or administrator, or claims or defends as heir, grantee, assignee, devisee, or legatee of a deceased person except:

(A) As to facts which occurred after the appointment of the guardian or trustee of an ~~insane~~ incompetent person, and, in the other cases, after the time the decedent, grantor, assignor, or testator died;

(B) When the action or proceeding relates to a contract made through an agent by a person since deceased, and the agent is competent to testify as a witness, a party may testify on the same subject;

(C) If a party, or one having a direct interest, testifies to transactions or conversations with another party, the latter may testify as to the same transactions or conversations;

(D) If a party offers evidence of conversations or admissions of the opposite party, the latter may testify concerning the same conversations or admissions; and, if evidence of declarations against interest made by an ~~insane~~, incompetent; or deceased person has been admitted, then any oral or

written declaration made by such ~~insane~~, incompetent, or deceased person concerning the same subject to which any such admitted evidence relates, and which but for this provision would be excluded as self-serving, shall be admitted in evidence if it be proved to the satisfaction of the trial judge that the declaration was made at a time when the declarant was competent to testify, concerning a subject matter in issue, and, when no apparent motive to misrepresent appears;

(E) In an action or proceeding by or against a partner or joint contractor, the adverse party shall not testify to transactions with, or admissions by, a partner or joint contractor since deceased, unless they were made in the presence of the surviving partner or joint contractor, and this rule applies without regard to the character in which the parties sue or are sued;

(F) If the claim or defense is founded on a book account, a party may testify that the book is ~~his~~ the party's account book, that it is a book of original entries, that the entries therein were made in the regular course of business by ~~himself~~ the party personally, a person since deceased, or a disinterested person, and the book is then competent evidence in any case, without regard to the parties, upon like proof by any competent witness;

(G) If after testifying orally, a party dies, the evidence may be proved by either party on a further trial of the case, whereupon the opposite party may testify to the same matters;

(H) If a party dies and ~~his~~ the party's deposition is offered in evidence, the opposite party may testify as to all competent matters therein.

This section does not apply to actions for causing death, or actions or proceedings involving the validity of a deed, will or codicil. When a case is plainly within the reason and spirit of this section and sections 2317.01 and 2317.02 of the Revised Code, though not within the strict letter, their principles shall be applied.

Sec. 2317.06. (A) If a party or witness, after testifying orally, dies, is beyond the jurisdiction of the court, cannot be found after diligent search, is ~~insane~~, unable to testify because of any physical or mental infirmity ~~is unable to testify~~, or has been summoned but appears to have been kept away by the adverse party and if the evidence of the party or witness has been taken down by an official stenographer, the evidence so taken may be read in evidence by either party on the further trial of the case and shall be prima-facie evidence of what the deceased party or witness testified to orally on the former trial. If the evidence has not been taken by an official stenographer, it may be proved by witnesses who were present at the former trial, having knowledge of the testimony. All testimony so offered shall be open to all objections that might be taken if the witness was personally

present.

(B)(1) If it is necessary in a civil action before the court to procure the testimony of a person who is imprisoned in a workhouse, juvenile detention facility, jail, or state correctional institution within this state, or who is in the custody of the department of youth services, the court shall require that the person's testimony be taken by deposition pursuant to the Civil Rules at the place of the person's confinement, unless the court determines that the interests of justice demand that the person be brought before the court for the presentation of ~~his~~ the person's testimony.

(2) If the court determines that the interests of justice demand that a person specified in division (B)(1) of this section be brought before the court for the presentation of ~~his~~ the person's testimony, the court shall order the person to be brought before it under the procedures set forth in division (B) or (C) of section 2945.47 of the Revised Code.

(C) When a person's deposition is taken pursuant to division (B)(1) of this section, the person shall remain in the custody of the officer who is in charge of the person, and the officer shall provide reasonable facilities for the taking of the deposition.

(D) The person requesting the testimony of the person whose deposition is taken pursuant to division (B)(1) of this section shall pay the expense of taking the deposition, except that the court may tax the expense as court costs in appropriate cases.

Sec. 2721.05. ~~Any~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, ~~lunatic~~ an incompetent person, or an insolvent person, may have a declaration of rights or legal relations in respect thereto in any of the following cases:

(A) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;

(B) To direct the executors, administrators, trustees, or other fiduciaries to do or abstain from doing any particular act in their fiduciary capacity;

(C) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Sec. 3763.06. ~~The~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

The property, both real and personal, of a defendant against whom a judgment is rendered under sections 3763.01 to 3763.08, ~~inclusive,~~ of the Revised Code, for fines, costs, or to recover money or any other thing of value, lost or paid, shall be liable therefor without exemption, and such judgment shall be a lien thereon until paid. If the owner of the building in which the money was lost knowingly permits it to be used for gaming purposes, such building, and the real estate upon which it stands, shall be liable therefor in a like manner. The guardian or trustee of a minor, ~~insane person,~~ or ~~idiot~~ incompetent person, permitting property under ~~his~~ the guardian's or trustee's charge to be used for gaming purposes and to become liable on account thereof, shall be liable to ~~his~~ the guardian's or trustee's ward for such amount.

Sec. 4303.272. ~~Any~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

Any permit holder whose permit premises are destroyed or made unusable for any cause, or whose tenancy is terminated for any cause, shall deliver the permit holder's permit to the division of liquor control for safekeeping until such time as the original permit premises are made available for occupancy or new premises are secured by the permit holder or until new premises are secured by the permit holder outside the precinct affected by a local option election.

Unless the permit is to be cancelled as the result of a local option election held pursuant to section 4301.352 of the Revised Code, a permit holder whose permit is to be restricted or cancelled as the result of a local option election pursuant to sections 4301.32 to 4301.41 and 4305.14 of the Revised Code may, within the thirty-day period after the certification of the results of the election to the division, deliver the permit to the division for safekeeping subject to the renewal and transfer provision of this section. A permit holder whose permit is to be cancelled as the result of a local option election held pursuant to section 4301.352 of the Revised Code is not

entitled to deliver the permit to the division for safekeeping.

If, as the result of the election, the use of a permit is made wholly unlawful and the permit holder does not deliver or is not entitled to deliver the permit to the division for safekeeping as provided in this section, the division shall forthwith cancel and pick up the permit.

During the period of time that a permit is held in safekeeping by the division, the permit holder shall be allowed to transfer the permit to other premises, subject to the provisions of Chapters 4301. and 4303. of the Revised Code.

If the expiration date of a permit occurs during the time it is held in safekeeping, the permit shall be renewed by the division if the permit holder complies with the other provisions of Chapters 4301. and 4303. of the Revised Code, pertaining to the renewal of a permit. The division shall issue and then retain the renewed permit until the original permit premises become available for occupancy by the permit holder or until the permit holder secures other premises. The division shall return to the permit holder a permit renewed while in safekeeping when the original permit premises are made available for occupancy or new permit premises are secured by the permit holder, if the premises meet the requirements of Chapters 4301. and 4303. of the Revised Code.

A permit renewed while in safekeeping shall be considered in full force and effect and may be transferred by the division.

Should the permit holder be adjudged an incompetent person ~~or insane~~ or die while the permit holder's permit is in safekeeping, the permit shall be transferred, upon application, by the division to the guardian, administrator, executor, or other fiduciary of the permit holder who shall have the same rights to the transfer, return, and renewal of the permit as is provided in this section for the permit holder.

A permit held in safekeeping shall not be renewed more than once while so held, unless the building from which the permit was taken for safekeeping or the building to which the permit is to be transferred is under construction or reconstruction, in which event the permit shall be held in safekeeping and shall, upon the application of the permit holder, be renewed at each expiration date until the construction or reconstruction of the building is completed.

Sec. 4399.05. ~~If~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for

whom the person is charged by law to provide.

If a person rents or leases to another a building or premises to be used or occupied, in whole or in part, for the sale of intoxicating liquors, or permits such building or premises to be so used or occupied, such building or premises shall be liable for and may be sold to pay all fines, costs, and damages assessed against a person occupying them. Proceedings may be had to subject them to the payment of such fine and costs assessed or judgment recovered, or part remaining unpaid, either before or after execution issues against the property of the person against whom such fine and costs or judgment have been adjudged or assessed. When execution issues against the property leased or rented, the officer shall proceed to satisfy it out of the building or premises so leased or occupied.

If such building or premises belong to a minor, ~~insane~~ or incompetent person, ~~or idiot~~, his the guardian having control thereof shall be liable and account to ~~his~~ the guardian's ward for all damages on account of such use and occupation, and the liabilities for such fines, costs, and damages.

Sec. 4971.16. ~~Persons~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

Persons in interest who fail to become parties to the agreement within the four-month period referred to in section 4971.14 of the Revised Code are entitled to the same rights, interest, estate, remedy, liens, and action, and none other, which parties in interest of like class and amount who signed the agreement obtained by and under it. If a person in interest fails for six years after the publication of the notice mentioned in such section to apply at the principal office of the company, either in person or by proxy, to become a party in interest in the agreement, such person, unless an infant or ~~insane~~ incompetent person, shall be barred of all interest, claim, right, or action under the agreement or otherwise. In case of such disability such rights shall be extended for two years after the termination of the disability.

Sec. 5301.22. ~~No~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

No agreement described in section 5301.21 of the Revised Code shall be

executed by a minor, ~~idiot, lunatic, or insane~~ incompetent person, but it may be executed and delivered for record, on ~~his~~ such a person's behalf, by ~~his~~ the person's guardian. When executed, acknowledged, delivered for record, and recorded, such agreement shall be as effectual against such minor, ~~idiot, lunatic, or insane~~ incompetent person, as if ~~he~~ the person had been under no disability, and had performed such acts ~~himself~~ personally. An owner, not under any of such disabilities, may perform all such acts by an attorney in fact. The power of such attorney must be in writing and first recorded in the county recorder's office.

Sec. 5305.17. ~~The~~ As used in this section and sections 5305.18 to 5305.22 of the Revised Code, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

The guardian of a surviving spouse who has been adjudged ~~insane to be an incompetent person~~ may appear and answer for such ~~insane incompetent~~ person in an action under section 5305.15 of the Revised Code, subject to the approval of the court in which it is pending. Such answer has the same effect as if such spouse answered personally. The guardian shall be liable to such spouse, or the heirs, for all damage or loss sustained by ~~his~~ the guardian's fraud or collusion, notwithstanding the approval of the court.

Sec. 5305.18. A person owning real property in this state, encumbered by the contingent or vested right of dower of an ~~insane incompetent~~ person, may apply, by petition to the court of common pleas of the county in which the real estate, or any part thereof, is situated, making defendants thereto such ~~insane incompetent~~ person, and the spouse and guardian, if such ~~insane incompetent~~ person has either or both, for leave to sell any part of such real property, discharged and unencumbered of such contingent or vested right of dower. The petition must set forth the ~~insanity~~ grounds for the incompetency of the person, together with a description of the land proposed to be sold. Thereupon the court shall appoint a committee of six competent ~~men~~ individuals, of whom at least three are physicians, who, under oath, shall inquire into the ~~insanity~~ competence of such person, and hear testimony to be produced by the spouse or guardian, or, if there is no such guardian, by a guardian ad litem to be appointed in the action. The committee shall make a report, in writing, of the result of its investigation, signed by its members.

Sec. 5305.19. If the committee provided for in section 5305.18 of the

Revised Code unanimously reports that the person having a contingent or vested right of dower, in its opinion, is a permanently ~~insane~~ incompetent person, the court of common pleas shall appoint three judicious freeholders to appraise the real estate described in the petition mentioned in said section, whether or not such real estate is in one or several counties. Such freeholders shall report in writing the value of each tract.

Sec. 5305.20. When the report provided for in section 5305.19 of the Revised Code is filed, the court of common pleas may direct the petitioner, by a sufficient deed of conveyance, to convey to the ~~insane~~ incompetent person, to be held by such person in fee, such proportion of the real estate described in the petition as seems just, or the court may assign to such ~~insane~~ incompetent person, to be held by him the incompetent person during life, after the death of the spouse of such person, such proportion of the real estate described in the petition as seems just, for his the incompetent person's support, or the court may order the petitioner to invest an amount by it fixed, in the stock of a company, or stocks created by the laws of this state, as the court designates, the profits, and dividends or distributions, arising from such investment to be applied to the support and maintenance of the ~~insane~~ incompetent person after the death of the spouse of such person. The petitioner, upon his compliance with the order of the court, may sell all the real property he the petitioner is possessed of, described in the petition, free and unencumbered of the contingent or vested right of dower of such ~~insane~~ incompetent person.

Sec. 5305.21. When the spouse of an ~~insane~~ incompetent person conveys real estate in this state, in which such person has a contingent or vested right of dower, and the ~~insane~~ incompetent person does not join the spouse in the conveyance, the spouse may apply by petition to the court of common pleas of the county in which the ~~insane~~ incompetent person resides, or, if such ~~insane~~ incompetent person resides out of the state, then in the county in which the real estate is situated, for leave to have part or all of such real estate so conveyed, released of the dower right therein. Such petition shall set forth the insanity grounds for incompetency of the ~~insane~~ incompetent person, and a description of the land proposed to be affected. The ~~insane~~ incompetent person, guardian, if there is one, and all persons in interest, shall be made defendants, and the action shall be proceeded with as prescribed in sections 5305.18 to 5305.20, ~~inclusive~~, of the Revised Code, except that instead of ordering the petitioner to sell the real estate or to convey or assign to such ~~insane~~ incompetent person any part of it, the court shall direct the petitioner to make such investment as is provided in section 5305.20 of the Revised Code, or require him the petitioner to secure the

amount to the use of the ~~insane~~ incompetent person by mortgage of unencumbered real estate of at least double the value thereof. Upon compliance by the petitioner with the order made, the court shall enter a judgment releasing and discharging the real estate from the encumbrance of such right of dower, and adjudge the holder of the legal title, or other party liable, to pay to the petitioner any sum withheld or retained as indemnity against such dower right.

Sec. 5305.22. Any real estate or interest therein coming to a person by purchase, inheritance, or otherwise, after the spouse of such person is adjudged ~~insane~~, an incompetent person and is ~~an inmate of~~ admitted to either a hospital for ~~the insane persons with mental illness~~ in this state, ~~or confined in the insane department of any epileptic hospital of this state,~~ or any other state of the United States, ~~or is an inmate of a hospital for the insane,~~ or ~~confined in the insane psychiatric department of any hospital of the United States,~~ may be conveyed by such person while such ~~insane~~ spouse who is an incompetent person remains ~~an inmate a patient~~ thereof, free and clear from any dower right or expectancy of such ~~insane~~ spouse who is an incompetent person. Dower shall not attach to any real estate so acquired and conveyed during the time described in this section in favor of such ~~insane~~ spouse who is an incompetent person. The indorsement upon the instrument of conveyance, by the superintendent of the hospital, that such spouse is an ~~insane inmate~~ incompetent person thereof, stating when received therein and signed officially by ~~him~~ the superintendent, shall be sufficient evidence of the fact that such spouse is such ~~inmate~~ incompetent person. This indorsement shall be a part of the instrument of conveyance.

Sec. 5307.19. ~~The~~ As used in this section and section 5307.20 of the Revised Code, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

The guardian of a minor, idiot, imbecile, or insane incompetent person, on behalf of his the guardian's ward, may perform any act, matter, or thing respecting the partition of an estate which such ward could do under sections 5307.01 to 5307.25, inclusive, of the Revised Code, if he the ward were of age and of sound mind. On behalf of such ward, the guardian may elect to take the estate, when it cannot be divided without injury, and make payments therefor on the ward's behalf.

Sec. 5307.20. A person appointed according to the laws of any other

state or country; to take charge of the estate of an ~~idiot or insane~~ incompetent person not a resident of this state, upon being authorized in this state to take charge of such estate situated therein, may act in the partition of the estate the same as the guardian of an ~~idiot or insane~~ incompetent person is authorized to do by section 5307.19 of the Revised Code.

Sec. 5310.12. ~~No~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

No action or proceeding for compensation from the assurance fund provided for in section 5310.05 of the Revised Code for, or by reason of, any deprivation, loss, or damage shall be made, brought or taken, except within a period of six years from the time when the right to bring such action or proceeding first accrued. If at the time when such right of action first accrues the person entitled to bring such action or take such proceedings is within the age of eighteen years, ~~insane~~ an incompetent person, imprisoned, or absent from the United States in the service of the United States or of this state, such person or anyone claiming from, by, or under ~~him~~ the person, may bring the action at any time within two years after such disability is removed.

Sec. 5711.05. ~~Each~~ As used in this section and section 5711.07 of the Revised Code, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.

Each person shall return all the taxable property of which ~~he~~ the person is the owner, except property required by this section or the regulations of the tax commissioner to be returned for ~~him~~ the person by a fiduciary; but this section does not authorize any person to omit from ~~his~~ the person's return of taxable property ~~his~~ the person's interest in investments and other taxable intangible property yielding income owned or held for ~~his~~ the person's benefit by a fiduciary and not taxed at the source, or other taxable property so owned or held by a nonresident fiduciary. The return of all the taxable property of a corporation shall be made by the president, a vice-president, or the secretary and by the principal accounting officer, that of a partnership, by a partner, and that of an association, by the managing

agent in this state.

All taxable property belonging to the persons named or indicated shall be returned by the fiduciaries named, as follows:

(A) That of a ward, by ~~his~~ the ward's guardian;

(B) That of a minor, ~~an idiot,~~ or an ~~insane~~ incompetent person having no guardian, by ~~his~~ the minor's or incompetent person's father, if living, if not, by ~~his~~ the minor's or incompetent person's mother, if living, and if neither father nor mother is living, by the person having such property in charge;

(C) That of an estate of a deceased person, by ~~his~~ the deceased person's executor, administrator, or personal representative;

(D) That of persons whose assets are in the hands of receivers, assignees for the benefit of creditors, trustees in bankruptcy, or official custodians, by such receivers, assignees, trustees in bankruptcy, or official custodians.

Personal property used in business and taxable property of a nonresident used in and arising out of a business transacted for ~~him~~ the nonresident or on ~~his~~ the nonresident's behalf in any of the cases mentioned in section 5709.03 of the Revised Code, in the possession or custody of any agent, factor, bailee, or other similar fiduciary, shall be returned by such fiduciary, except as is provided by regulation of the commissioner; but as to such property in the possession, custody, or legal ownership of a trustee the next succeeding paragraph of this section shall be exclusive; provided that a ~~warehouseman~~ warehouseperson shall not be required to return for taxation personal property ~~assigned~~ consigned to ~~him~~ the warehouseperson for the sole purpose of being stored or forwarded, if such ~~warehouseman~~ warehouseperson has no interest in such property other than ~~his~~ warehouseman's warehouseperson's lien, or any profit to be derived from its sale.

All the taxable property, except investments and other taxable intangible property yielding income, of a person for whose benefit property is held in trust shall be returned by the trustee, and if any beneficiary of such a trust is a minor, ~~an idiot,~~ or an ~~insane~~ incompetent person residing in this state, and for whom there is no other fiduciary in this state, the commissioner may require such a trustee to return also the investments and other taxable intangible property yielding income held for the benefit of any such beneficiary and not taxed at the source.

All returns made as fiduciaries' returns shall be separate from the fiduciary's return as an individual, firm, association, or corporation and shall set forth the names of all persons toward whom the relation of fiduciary is borne or on whose behalf the returns are made, together with the capacity in which the fiduciary so acts for each of such persons.

The commissioner may adopt and promulgate regulations covering the making of returns not inconsistent with this section or sections 5711.01 to 5711.36, ~~inclusive~~, of the Revised Code, so that all property taxable in this state shall be returned for taxation.

Sec. 5711.07. Personal property used in business shall be listed and assessed in the taxing district in which such business is carried on. If such business is carried on in more than one taxing district in the same county, the return shall set forth the amount of the property used therein which is situated in each taxing district in such county, and the value of all the personal property used in business shall be apportioned to and assessed in each of such taxing districts in proportion to the value of the personal property situated therein. Domestic animals not used in business shall be listed and assessed in the taxing district where kept. Ships, vessels, boats, and aircraft, and shares and interests therein, shall be listed and assessed in the taxing district in which the owner resides. All other taxable property shall be listed and assessed in the municipal corporation in which the owner resides, or, if the owner resides outside a municipal corporation, then in the county in which ~~he~~ the owner resides except as provided in sections 5711.01 to 5711.36, inclusive, of the Revised Code. Whenever, under such sections, taxable property required by this section to be listed and assessed in the taxing district or county in which the owner resides is required to be listed by a fiduciary, such property shall be listed and assessed by such fiduciary in the taxing district or county in which such fiduciary resides, or, in the case of joint fiduciaries, in which either such fiduciary resides; but such property belonging to the estate of a deceased resident of this state shall be listed and assessed in the taxing district or county in which ~~he~~ the deceased resident resided at the time of ~~his~~ death, regardless of the residence of ~~his~~ the deceased resident's executors, administrators, or personal representatives, and such property belonging to a ward, minor, ~~insane incompetent~~ person, or beneficiary of a trust residing in this state, title, custody, or possession of which is vested in a nonresident fiduciary, shall be listed and assessed in the taxing district or county in which such ward, minor, ~~insane incompetent~~ person, or beneficiary resides.

Sec. 5907.06. ~~An insane person~~ A person with a mental illness that causes the person to be dangerous to the community shall not be admitted to a veterans' home. In case ~~an insane person~~ a person with such a mental illness, through misrepresentation as to the person's condition, is sent to a home, the person shall be returned to, and the expense of the return shall be borne by, the county from which the person came.

Sec. 5907.08. When a resident of a veterans' home becomes ~~insane~~

dangerous to the community due to a mental illness, the superintendent of the Ohio veterans' home agency shall file with the probate judge of the county in which the home is located substantially the following affidavit:

"The State of Ohio, county, ss., superintendent of the Ohio veterans' home agency, being duly sworn, says that the superintendent believes that, a resident of the veterans' home located in county, ~~is insane~~ has a mental illness; that, in consequence of the resident's ~~insanity~~ mental illness, the resident's being at large is dangerous to the community, and that the resident was received into the home from county, on the day of,

....."

Sec. 5907.09. When the affidavit referred to in section 5907.08 of the Revised Code is filed, the probate judge shall forthwith determine the sanity competence of the resident. Insofar as applicable, the laws governing in cases of admission to a state hospital for ~~the insane~~ persons with mental illness shall apply. The probate judge shall have the same authority, and may receive and order paid the same fees and costs, as the probate judge would have in the county in which the veteran was a resident at the time of entering the veterans' home.

SECTION 2. That existing sections 701.01, 711.23, 1775.31, 2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly declares its intent that the amendments made by this act to sections 701.01, 711.23, 1775.31, 2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code are not substantive in nature but are intended to replace certain outdated terms with current, synonymous terms.

These amendments shall not be construed to expand, impair, or otherwise affect any power, authority, duty, right, obligation, remedy, or liability contained in the foregoing sections prior to the effective date of this act.

Am. Sub. H. B. No. 53

SECTION 4. Section 4303.272 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 149 and Am. Sub. S.B. 162 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

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 _____