

**As Reported by the House Health Committee**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Sub. H. B. No. 53**

**Representatives Peterson, Yuko, Skindell, Ujvagi, Setzer, Dodd, Bacon,  
Collier, Fende, Chandler, Strahorn, White, Hagan, R., Wachtmann,  
Williams, B., Boyd, Brown, DeBose, Flowers, Goodwin, Hottinger, Huffman,  
Jones, Oelslager, Otterman, Raussen, Uecker, Webster**

—

**A B I L L**

To amend sections 701.01, 711.23, 1775.31, 2111.37, 1  
2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2  
2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 3  
5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 4  
5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5  
5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of 6  
the Revised Code to replace terms that refer to 7  
persons with certain conditions. 8

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

**Section 1.** That sections 701.01, 711.23, 1775.31, 2111.37, 9  
2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 10  
4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 11  
5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 12  
5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code be 13  
amended to read as follows: 14

**Sec. 701.01.** In the interpretation of Title VII of the 15  
Revised Code, unless the context shows that another meaning was 16  
intended: 17

(A) "Person" includes a private corporation.	18
(B) "Writing" includes printing.	19
(C) "Oath" includes affirmation.	20
(D) <del>"Insane" and "lunatic" include every species of mental derangement.</del>	21 22
<del>(E)</del> "Property" includes real, personal, and mixed estates and interests.	23 24
<del>(F)</del> (E) "Land" and "real estate" include rights and easements of an incorporeal nature.	25 26
<del>(G)</del> (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.	27 28 29 30
This enumeration does not require a strict construction of any other words in such title.	31 32
<b>Sec. 711.23.</b> <del>¶¶</del> <u>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.</u>	33 34 35 36 37 38 39
<u>If</u> 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	40 41 42 43 44 45 46 47

taxed on the tax list of the county. When necessary, the court 48  
shall appoint a guardian ad litem for all minors, or incompetent 49  
persons ~~of insane mind~~, interested in the premises. The judgment 50  
of the court vacating such plat, addition, or parts thereof, shall 51  
be conditioned upon the payment of the damages thus assessed. 52

**Sec. 1775.31.** ~~(A)~~ As used in this section, "incompetent 53  
person" means a person who is so mentally impaired as a result of 54  
a mental or physical illness or disability, or mental retardation, 55  
or as a result of chronic substance abuse, that the person is 56  
incapable of taking proper care of the person's self or property 57  
or fails to provide for the person's family or other persons for 58  
whom the person is charged by law to provide. 59

(A) On application by or for a partner the court shall decree 60  
a dissolution whenever: 61

(1) A partner has been declared ~~a lunatic~~ an incompetent 62  
person in any judicial proceeding or is shown to be of unsound 63  
mind; 64

(2) A partner becomes in any other way incapable of 65  
performing ~~his~~ the partner's part of the partnership contract; 66

(3) A partner has been guilty of such conduct as tends to 67  
affect prejudicially the carrying on of the business; 68

(4) A partner willfully or persistently commits a breach of 69  
the partnership agreement, or otherwise so conducts ~~himself~~ the 70  
partner's self in matters relating to the partnership business 71  
that it is not reasonably practicable to carry on the business in 72  
partnership with ~~him~~ the partner; 73

(5) The business of the partnership can only be carried on at 74  
a loss; 75

(6) Other circumstances render a dissolution equitable. 76

(B) On the application of the purchaser of a partner's 77

interest under section 1775.26 or 1775.27 of the Revised Code, the 78  
court shall decree a dissolution: 79

(1) After the termination of the specified term or particular 80  
undertaking; 81

(2) At any time if the partnership was a partnership at will 82  
when the interest was assigned or when the charging order was 83  
issued. 84

**Sec. 2111.37.** When a nonresident minor, incompetent, ~~habitual~~ 85  
~~drunkard, idiot, imbecile, lunatic,~~ or person confined in a state, 86  
charitable, or correctional institution has real estate, chattels, 87  
rights, credits, or moneys in this state, the probate court of the 88  
county in which the property or a part of it is situated may 89  
appoint a resident guardian of the ward to manage, collect, lease, 90  
and take care of ~~his~~ the ward's property. The appointment may be 91  
made whether or not a ward has a guardian, trustee, or other 92  
conservator in the state of ~~his~~ the ward's residence, and, if ~~he~~ 93  
the ward has a guardian, trustee, or other conservator in the 94  
state of ~~his~~ the ward's residence, the control and authority of 95  
the resident guardian appointed in Ohio shall be superior as to 96  
all property of the ward in Ohio. 97

The first appointment of a resident guardian of a nonresident 98  
ward shall extend to all the property and effects of the ward in 99  
this state and exclude the jurisdiction of the probate court of 100  
any other county. 101

**Sec. 2111.47.** Upon reasonable notice to the guardian, to the 102  
ward, and to the person on whose application the appointment was 103  
made, and upon satisfactory proof that the necessity for the 104  
guardianship no longer exists or that the letters of appointment 105  
were improperly issued, the probate court shall order that the 106  
guardianship of an incompetent terminate and shall make an 107

appropriate entry upon the journal. Thereupon the guardianship 108  
shall cease, the accounts of the guardian shall be settled by the 109  
court, and the ward shall be restored to the full control of ~~his~~ 110  
the ward's property as before the appointment. Such entry 111  
terminating the guardianship of an ~~insane incompetent~~ person shall 112  
have the same effect as a determination by the court that such 113  
person is ~~restored to sanity~~ competent. 114

**Sec. 2307.14.** ~~The~~ As used in this section, "incompetent 115  
person" means a person who is so mentally impaired as a result of 116  
a mental or physical illness or disability, or mental retardation, 117  
or as a result of chronic substance abuse, that the person is 118  
incapable of taking proper care of the person's self or property 119  
or fails to provide for the person's family or other persons for 120  
whom the person is charged by law to provide. 121

The court shall require a guardian ad litem, or a trustee 122  
appointed under section 2307.13 or 2307.131 of the Revised Code, 123  
faithfully to discharge ~~his~~ the guardian ad litem's or trustee's 124  
duty, and upon ~~his~~ failure to do so, may remove ~~him~~ the guardian 125  
ad litem or trustee, and appoint another. The court may fix a 126  
compensation for ~~his~~ the guardian ad litem's or trustee's 127  
services, which shall be taxed in the costs against the minor, the 128  
~~insane incompetent~~ person, or the unborn persons. 129

**Sec. 2317.021.** (A) As used in division (A) of section 2317.02 130  
of the Revised Code: 131

"Client" means a person, firm, partnership, corporation, or 132  
other association that, directly or through any representative, 133  
consults an attorney for the purpose of retaining the attorney or 134  
securing legal service or advice from ~~him~~ the attorney in ~~his~~ the 135  
attorney's professional capacity, or consults an attorney employee 136  
for legal service or advice, and who communicates, either directly 137

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 168  
subject; 169

(C) If a party, or one having a direct interest, testifies to 170  
transactions or conversations with another party, the latter may 171  
testify as to the same transactions or conversations; 172

(D) If a party offers evidence of conversations or admissions 173  
of the opposite party, the latter may testify concerning the same 174  
conversations or admissions; and, if evidence of declarations 175  
against interest made by an ~~insane~~, incompetent, or deceased 176  
person has been admitted, then any oral or written declaration 177  
made by such ~~insane~~, incompetent, or deceased person concerning 178  
the same subject to which any such admitted evidence relates, and 179  
which but for this provision would be excluded as self-serving, 180  
shall be admitted in evidence if it be proved to the satisfaction 181  
of the trial judge that the declaration was made at a time when 182  
the declarant was competent to testify, concerning a subject 183  
matter in issue, and, when no apparent motive to misrepresent 184  
appears; 185

(E) In an action or proceeding by or against a partner or 186  
joint contractor, the adverse party shall not testify to 187  
transactions with, or admissions by, a partner or joint contractor 188  
since deceased, unless they were made in the presence of the 189  
surviving partner or joint contractor, and this rule applies 190  
without regard to the character in which the parties sue or are 191  
sued; 192

(F) If the claim or defense is founded on a book account, a 193  
party may testify that the book is ~~his~~ the party's account book, 194  
that it is a book of original entries, that the entries therein 195  
were made in the regular course of business by ~~himself~~ the party 196  
personally, a person since deceased, or a disinterested person, 197  
and the book is then competent evidence in any case, without 198  
regard to the parties, upon like proof by any competent witness; 199

(G) If after testifying orally, a party dies, the evidence 200  
may be proved by either party on a further trial of the case, 201  
whereupon the opposite party may testify to the same matters; 202

(H) If a party dies and ~~his~~ the party's deposition is offered 203  
in evidence, the opposite party may testify as to all competent 204  
matters therein. 205

This section does not apply to actions for causing death, or 206  
actions or proceedings involving the validity of a deed, will or 207  
codicil. When a case is plainly within the reason and spirit of 208  
this section and sections 2317.01 and 2317.02 of the Revised Code, 209  
though not within the strict letter, their principles shall be 210  
applied. 211

**Sec. 2317.06.** (A) If a party or witness, after testifying 212  
orally, dies, is beyond the jurisdiction of the court, cannot be 213  
found after diligent search, is ~~insane,~~ unable to testify because 214  
of any physical or mental infirmity ~~is unable to testify,~~ or has 215  
been summoned but appears to have been kept away by the adverse 216  
party and if the evidence of the party or witness has been taken 217  
down by an official stenographer, the evidence so taken may be 218  
read in evidence by either party on the further trial of the case 219  
and shall be prima-facie evidence of what the deceased party or 220  
witness testified to orally on the former trial. If the evidence 221  
has not been taken by an official stenographer, it may be proved 222  
by witnesses who were present at the former trial, having 223  
knowledge of the testimony. All testimony so offered shall be open 224  
to all objections that might be taken if the witness was 225  
personally present. 226

(B)(1) If it is necessary in a civil action before the court 227  
to procure the testimony of a person who is imprisoned in a 228  
workhouse, juvenile detention facility, jail, or state 229  
correctional institution within this state, or who is in the 230



custody of the department of youth services, the court shall 231  
require that the person's testimony be taken by deposition 232  
pursuant to the Civil Rules at the place of the person's 233  
confinement, unless the court determines that the interests of 234  
justice demand that the person be brought before the court for the 235  
presentation of ~~his~~ the person's testimony. 236

(2) If the court determines that the interests of justice 237  
demand that a person specified in division (B)(1) of this section 238  
be brought before the court for the presentation of ~~his~~ the 239  
person's testimony, the court shall order the person to be brought 240  
before it under the procedures set forth in division (B) or (C) of 241  
section 2945.47 of the Revised Code. 242

(C) When a person's deposition is taken pursuant to division 243  
(B)(1) of this section, the person shall remain in the custody of 244  
the officer who is in charge of the person, and the officer shall 245  
provide reasonable facilities for the taking of the deposition. 246

(D) The person requesting the testimony of the person whose 247  
deposition is taken pursuant to division (B)(1) of this section 248  
shall pay the expense of taking the deposition, except that the 249  
court may tax the expense as court costs in appropriate cases. 250

**Sec. 2721.05.** ~~Any~~ As used in this section, "incompetent 251  
person" means a person who is so mentally impaired as a result of 252  
a mental or physical illness or disability, or mental retardation, 253  
or as a result of chronic substance abuse, that the person is 254  
incapable of taking proper care of the person's self or property 255  
or fails to provide for the person's family or other persons for 256  
whom the person is charged by law to provide. 257

Any person interested as or through an executor, 258  
administrator, trustee, guardian, or other fiduciary, creditor, 259  
devisee, legatee, heir, next of kin, or cestui que trust, in the 260  
administration of a trust, or of the estate of a decedent, an 261

infant, ~~lunatic~~ an incompetent person, or an insolvent person, may 262  
have a declaration of rights or legal relations in respect thereto 263  
in any of the following cases: 264

(A) To ascertain any class of creditors, devisees, legatees, 265  
heirs, next of kin, or others; 266

(B) To direct the executors, administrators, trustees, or 267  
other fiduciaries to do or abstain from doing any particular act 268  
in their fiduciary capacity; 269

(C) To determine any question arising in the administration 270  
of the estate or trust, including questions of construction of 271  
wills and other writings. 272

**Sec. 3763.06.** The As used in this section, "incompetent 273  
person" means a person who is so mentally impaired as a result of 274  
a mental or physical illness or disability, or mental retardation, 275  
or as a result of chronic substance abuse, that the person is 276  
incapable of taking proper care of the person's self or property 277  
or fails to provide for the person's family or other persons for 278  
whom the person is charged by law to provide. 279

The property, both real and personal, of a defendant against 280  
whom a judgment is rendered under sections 3763.01 to 3763.08~~7~~ 281  
~~inclusive~~, of the Revised Code, for fines, costs, or to recover 282  
money or any other thing of value, lost or paid, shall be liable 283  
therefor without exemption, and such judgment shall be a lien 284  
thereon until paid. If the owner of the building in which the 285  
money was lost knowingly permits it to be used for gaming 286  
purposes, such building, and the real estate upon which it stands, 287  
shall be liable therefor in a like manner. The guardian or trustee 288  
of a minor, ~~insane person~~, or ~~idiot~~ incompetent person, permitting 289  
property under ~~his~~ the guardian's or trustee's charge to be used 290  
for gaming purposes and to become liable on account thereof, shall 291  
be liable to ~~his~~ the guardian's or trustee's ward for such amount. 292

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. 324

During the period of time that a permit is held in 325  
safekeeping by the division, the permit holder shall be allowed to 326  
transfer the permit to other premises, subject to the provisions 327  
of Chapters 4301. and 4303. of the Revised Code. 328

If the expiration date of a permit occurs during the time it 329  
is held in safekeeping, the permit shall be renewed by the 330  
division if the permit holder complies with the other provisions 331  
of Chapters 4301. and 4303. of the Revised Code, pertaining to the 332  
renewal of a permit. The division shall issue and then retain the 333  
renewed permit until the original permit premises become available 334  
for occupancy by the permit holder or until the permit holder 335  
secures other premises. The division shall return to the permit 336  
holder a permit renewed while in safekeeping when the original 337  
permit premises are made available for occupancy or new permit 338  
premises are secured by the permit holder, if the premises meet 339  
the requirements of Chapters 4301. and 4303. of the Revised Code. 340

A permit renewed while in safekeeping shall be considered in 341  
full force and effect and may be transferred by the division. 342

Should the permit holder be adjudged an incompetent person ~~or~~ 343  
~~insane~~ or die while the permit holder's permit is in safekeeping, 344  
the permit shall be transferred, upon application, by the division 345  
to the guardian, administrator, executor, or other fiduciary of 346  
the permit holder who shall have the same rights to the transfer, 347  
return, and renewal of the permit as is provided in this section 348  
for the permit holder. 349

A permit held in safekeeping shall not be renewed more than 350  
once while so held, unless the building from which the permit was 351  
taken for safekeeping or the building to which the permit is to be 352  
transferred is under construction or reconstruction, in which 353  
event the permit shall be held in safekeeping and shall, upon the 354

application of the permit holder, be renewed at each expiration 355  
date until the construction or reconstruction of the building is 356  
completed. 357

**Sec. 4399.05.** ~~If~~ As used in this section, "incompetent 358  
person" means a person who is so mentally impaired as a result of 359  
a mental or physical illness or disability, or mental retardation, 360  
or as a result of chronic substance abuse, that the person is 361  
incapable of taking proper care of the person's self or property 362  
or fails to provide for the person's family or other persons for 363  
whom the person is charged by law to provide. 364

If a person rents or leases to another a building or premises 365  
to be used or occupied, in whole or in part, for the sale of 366  
intoxicating liquors, or permits such building or premises to be 367  
so used or occupied, such building or premises shall be liable for 368  
and may be sold to pay all fines, costs, and damages assessed 369  
against a person occupying them. Proceedings may be had to subject 370  
them to the payment of such fine and costs assessed or judgment 371  
recovered, or part remaining unpaid, either before or after 372  
execution issues against the property of the person against whom 373  
such fine and costs or judgment have been adjudged or assessed. 374  
When execution issues against the property leased or rented, the 375  
officer shall proceed to satisfy it out of the building or 376  
premises so leased or occupied. 377

If such building or premises belong to a minor, ~~insane or 378~~  
~~incompetent~~ person, or idiot, his the guardian having control 379  
thereof shall be liable and account to ~~his~~ the guardian's ward for 380  
all damages on account of such use and occupation, and the 381  
liabilities for such fines, costs, and damages. 382

**Sec. 4971.16.** ~~Persons~~ As used in this section, "incompetent 383  
person" means a person who is so mentally impaired as a result of 384

a mental or physical illness or disability, or mental retardation, 385  
or as a result of chronic substance abuse, that the person is 386  
incapable of taking proper care of the person's self or property 387  
or fails to provide for the person's family or other persons for 388  
whom the person is charged by law to provide. 389

Persons in interest who fail to become parties to the 390  
agreement within the four-month period referred to in section 391  
4971.14 of the Revised Code are entitled to the same rights, 392  
interest, estate, remedy, liens, and action, and none other, which 393  
parties in interest of like class and amount who signed the 394  
agreement obtained by and under it. If a person in interest fails 395  
for six years after the publication of the notice mentioned in 396  
such section to apply at the principal office of the company, 397  
either in person or by proxy, to become a party in interest in the 398  
agreement, such person, unless an infant or ~~insane~~ incompetent 399  
person, shall be barred of all interest, claim, right, or action 400  
under the agreement or otherwise. In case of such disability such 401  
rights shall be extended for two years after the termination of 402  
the disability. 403

**Sec. 5301.22.** ~~No~~ As used in this section, "incompetent 404  
person" means a person who is so mentally impaired as a result of 405  
a mental or physical illness or disability, or mental retardation, 406  
or as a result of chronic substance abuse, that the person is 407  
incapable of taking proper care of the person's self or property 408  
or fails to provide for the person's family or other persons for 409  
whom the person is charged by law to provide. 410

No agreement described in section 5301.21 of the Revised Code 411  
shall be executed by a minor, ~~idiot, lunatic,~~ or ~~insane~~ 412  
incompetent person, but it may be executed and delivered for 413  
record, on ~~his~~ such a person's behalf, by ~~his~~ the person's 414  
guardian. When executed, acknowledged, delivered for record, and 415

recorded, such agreement shall be as effectual against such minor- 416  
~~idiot, lunatic, or insane~~ incompetent person, as if he the person 417  
had been under no disability, and had performed such acts ~~himself~~ 418  
personally. An owner, not under any of such disabilities, may 419  
perform all such acts by an attorney in fact. The power of such 420  
attorney must be in writing and first recorded in the county 421  
recorder's office. 422

**Sec. 5305.17.** ~~The~~ As used in this section and sections 423  
5305.18 to 5305.22 of the Revised Code, "incompetent person" means 424  
a person who is so mentally impaired as a result of a mental or 425  
physical illness or disability, or mental retardation, or as a 426  
result of chronic substance abuse, that the person is incapable of 427  
taking proper care of the person's self or property or fails to 428  
provide for the person's family or other persons for whom the 429  
person is charged by law to provide. 430

The guardian of a surviving spouse who has been adjudged 431  
~~insane~~ to be an incompetent person may appear and answer for such 432  
~~insane~~ incompetent person in an action under section 5305.15 of 433  
the Revised Code, subject to the approval of the court in which it 434  
is pending. Such answer has the same effect as if such spouse 435  
answered personally. The guardian shall be liable to such spouse, 436  
or the heirs, for all damage or loss sustained by ~~his~~ the 437  
guardian's fraud or collusion, notwithstanding the approval of the 438  
court. 439

**Sec. 5305.18.** A person owning real property in this state, 440  
encumbered by the contingent or vested right of dower of an ~~insane~~ 441  
incompetent person, may apply, by petition to the court of common 442  
pleas of the county in which the real estate, or any part thereof, 443  
is situated, making defendants thereto such ~~insane~~ incompetent 444  
person, and the spouse and guardian, if such ~~insane~~ incompetent 445  
person has either or both, for leave to sell any part of such real 446

property, discharged and unencumbered of such contingent or vested 447  
right of dower. The petition must set forth the ~~insanity~~ grounds 448  
for the incompetency of the person, together with a description of 449  
the land proposed to be sold. Thereupon the court shall appoint a 450  
committee of six competent ~~men~~ individuals, of whom at least three 451  
are physicians, who, under oath, shall inquire into the ~~insanity~~ 452  
competence of such person, and hear testimony to be produced by 453  
the spouse or guardian, or, if there is no such guardian, by a 454  
guardian ad litem to be appointed in the action. The committee 455  
shall make a report, in writing, of the result of its 456  
investigation, signed by its members. 457

**Sec. 5305.19.** If the committee provided for in section 458  
5305.18 of the Revised Code unanimously reports that the person 459  
having a contingent or vested right of dower, in its opinion, is a 460  
permanently ~~insane~~ incompetent person, the court of common pleas 461  
shall appoint three judicious freeholders to appraise the real 462  
estate described in the petition mentioned in said section, 463  
whether or not such real estate is in one or several counties. 464  
Such freeholders shall report in writing the value of each tract. 465

**Sec. 5305.20.** When the report provided for in section 5305.19 466  
of the Revised Code is filed, the court of common pleas may direct 467  
the petitioner, by a sufficient deed of conveyance, to convey to 468  
the ~~insane~~ incompetent person, to be held by such person in fee, 469  
such proportion of the real estate described in the petition as 470  
seems just, or the court may assign to such ~~insane~~ incompetent 471  
person, to be held by ~~him~~ the incompetent person during life, 472  
after the death of the spouse of such person, such proportion of 473  
the real estate described in the petition as seems just, for ~~his~~ 474  
the incompetent person's support, or the court may order the 475  
petitioner to invest an amount by it fixed, in the stock of a 476  
company, or stocks created by the laws of this state, as the court 477



designates, the profits, and dividends or distributions, arising 478  
from such investment to be applied to the support and maintenance 479  
of the ~~insane~~ incompetent person after the death of the spouse of 480  
such person. The petitioner, upon ~~his~~ compliance with the order of 481  
the court, may sell all the real property ~~he~~ the petitioner is 482  
possessed of, described in the petition, free and unencumbered of 483  
the contingent or vested right of dower of such ~~insane~~ incompetent 484  
person. 485

**Sec. 5305.21.** When the spouse of an ~~insane~~ incompetent person 486  
conveys real estate in this state, in which such person has a 487  
contingent or vested right of dower, and the ~~insane~~ incompetent 488  
person does not join the spouse in the conveyance, the spouse may 489  
apply by petition to the court of common pleas of the county in 490  
which the ~~insane~~ incompetent person resides, or, if such ~~insane~~ 491  
incompetent person resides out of the state, then in the county in 492  
which the real estate is situated, for leave to have part or all 493  
of such real estate so conveyed, released of the dower right 494  
therein. Such petition shall set forth the ~~insanity~~ grounds for 495  
incompetency of the ~~insane~~ incompetent person, and a description 496  
of the land proposed to be affected. The ~~insane~~ incompetent 497  
person, guardian, if there is one, and all persons in interest, 498  
shall be made defendants, and the action shall be proceeded with 499  
as prescribed in sections 5305.18 to 5305.20, ~~inclusive~~, of the 500  
Revised Code, except that instead of ordering the petitioner to 501  
sell the real estate or to convey or assign to such ~~insane~~ 502  
incompetent person any part of it, the court shall direct the 503  
petitioner to make such investment as is provided in section 504  
5305.20 of the Revised Code, or require ~~him~~ the petitioner to 505  
secure the amount to the use of the ~~insane~~ incompetent person by 506  
mortgage of unencumbered real estate of at least double the value 507  
thereof. Upon compliance by the petitioner with the order made, 508  
the court shall enter a judgment releasing and discharging the 509

real estate from the encumbrance of such right of dower, and 510  
adjudge the holder of the legal title, or other party liable, to 511  
pay to the petitioner any sum withheld or retained as indemnity 512  
against such dower right. 513

**Sec. 5305.22.** Any real estate or interest therein coming to a 514  
person by purchase, inheritance, or otherwise, after the spouse of 515  
such person is adjudged ~~insane~~, an incompetent person and ~~is an~~ 516  
~~inmate of~~ admitted to either a hospital for ~~the insane persons~~ 517  
with mental illness in this state, ~~or confined in the insane~~ 518  
~~department of any epileptic hospital of this state, or any other~~ 519  
state of the United States, ~~or is an inmate of a hospital for the~~ 520  
~~insane, or confined in the insane psychiatric~~ department of any 521  
hospital of the United States, may be conveyed by such person 522  
while such ~~insane~~ spouse who is an incompetent person remains ~~an~~ 523  
~~inmate a patient~~ thereof, free and clear from any dower right or 524  
expectancy of such ~~insane~~ spouse who is an incompetent person. 525  
Dower shall not attach to any real estate so acquired and conveyed 526  
during the time described in this section in favor of such ~~insane~~ 527  
spouse who is an incompetent person. The indorsement upon the 528  
instrument of conveyance, by the superintendent of the hospital, 529  
that such spouse is an ~~insane inmate~~ incompetent person thereof, 530  
stating when received therein and signed officially by ~~him~~ the 531  
superintendent, shall be sufficient evidence of the fact that such 532  
spouse is such ~~inmate~~ incompetent person. This indorsement shall 533  
be a part of the instrument of conveyance. 534

**Sec. 5307.19.** ~~The~~ As used in this section and section 5307.20 535  
of the Revised Code, "incompetent person" means a person who is so 536  
mentally impaired as a result of a mental or physical illness or 537  
disability, or mental retardation, or as a result of chronic 538  
substance abuse, that the person is incapable of taking proper 539  
care of the person's self or property or fails to provide for the 540

person's family or other persons for whom the person is charged by 541  
law to provide. 542

The guardian of a minor, ~~idiot, imbecile,~~ or ~~insane~~ 543  
~~incompetent~~ person, on behalf of ~~his~~ the guardian's ward, may 544  
perform any act, matter, or thing respecting the partition of an 545  
estate which such ward could do under sections 5307.01 to 5307.25, 546  
~~inclusive,~~ of the Revised Code, if ~~he~~ the ward were of age and of 547  
sound mind. On behalf of such ward, the guardian may elect to take 548  
the estate, when it cannot be divided without injury, and make 549  
payments therefor on the ward's behalf. 550

**Sec. 5307.20.** A person appointed according to the laws of any 551  
other state or country, ~~to~~ take charge of the estate of an ~~idiot~~ 552  
~~or insane~~ incompetent person not a resident of this state, upon 553  
being authorized in this state to take charge of such estate 554  
situated therein, may act in the partition of the estate the same 555  
as the guardian of an ~~idiot or insane~~ incompetent person is 556  
authorized to do by section 5307.19 of the Revised Code. 557

**Sec. 5310.12.** ~~No~~ As used in this section, "incompetent 558  
person" means a person who is so mentally impaired as a result of 559  
a mental or physical illness or disability, or mental retardation, 560  
or as a result of chronic substance abuse, that the person is 561  
incapable of taking proper care of the person's self or property 562  
or fails to provide for the person's family or other persons for 563  
whom the person is charged by law to provide. 564

No action or proceeding for compensation from the assurance 565  
fund provided for in section 5310.05 of the Revised Code for, or 566  
by reason of, any deprivation, loss, or damage shall be made, 567  
brought or taken, except within a period of six years from the 568  
time when the right to bring such action or proceeding first 569  
accrued. If at the time when such right of action first accrues 570

the person entitled to bring such action or take such proceedings 571  
is within the age of eighteen years, ~~insane~~ an incompetent person, 572  
imprisoned, or absent from the United States in the service of the 573  
United States or of this state, such person or anyone claiming 574  
from, by, or under ~~him~~ the person, may bring the action at any 575  
time within two years after such disability is removed. 576

**Sec. 5711.05.** ~~Each~~ As used in this section and section 577  
5711.07 of the Revised Code, "incompetent person" means a person 578  
who is so mentally impaired as a result of a mental or physical 579  
illness or disability, or mental retardation, or as a result of 580  
chronic substance abuse, that the person is incapable of taking 581  
proper care of the person's self or property or fails to provide 582  
for the person's family or other persons for whom the person is 583  
charged by law to provide. 584

Each person shall return all the taxable property of which ~~he~~ 585  
the person is the owner, except property required by this section 586  
or the regulations of the tax commissioner to be returned for ~~him~~ 587  
the person by a fiduciary; but this section does not authorize any 588  
person to omit from ~~his~~ the person's return of taxable property 589  
~~his~~ the person's interest in investments and other taxable 590  
intangible property yielding income owned or held for ~~his~~ the 591  
person's benefit by a fiduciary and not taxed at the source, or 592  
other taxable property so owned or held by a nonresident 593  
fiduciary. The return of all the taxable property of a corporation 594  
shall be made by the president, a vice-president, or the secretary 595  
and by the principal accounting officer, that of a partnership, by 596  
a partner, and that of an association, by the managing agent in 597  
this state. 598

All taxable property belonging to the persons named or 599  
indicated shall be returned by the fiduciaries named, as follows: 600

(A) That of a ward, by ~~his~~ the ward's guardian; 601

(B) That of a minor, ~~an idiot~~, or an insane incompetent 602  
person having no guardian, by ~~his~~ the minor's or incompetent 603  
person's father, if living, if not, by ~~his~~ the minor's or 604  
incompetent person's mother, if living, and if neither father nor 605  
mother is living, by the person having such property in charge; 606

(C) That of an estate of a deceased person, by ~~his~~ the 607  
deceased person's executor, administrator, or personal 608  
representative; 609

(D) That of persons whose assets are in the hands of 610  
receivers, assignees for the benefit of creditors, trustees in 611  
bankruptcy, or official custodians, by such receivers, assignees, 612  
trustees in bankruptcy, or official custodians. 613

Personal property used in business and taxable property of a 614  
nonresident used in and arising out of a business transacted for 615  
~~him~~ the nonresident or on ~~his~~ the nonresident's behalf in any of 616  
the cases mentioned in section 5709.03 of the Revised Code, in the 617  
possession or custody of any agent, factor, bailee, or other 618  
similar fiduciary, shall be returned by such fiduciary, except as 619  
is provided by regulation of the commissioner; but as to such 620  
property in the possession, custody, or legal ownership of a 621  
trustee the next succeeding paragraph of this section shall be 622  
exclusive; provided that a ~~warehouseman~~ warehouseperson shall not 623  
be required to return for taxation personal property ~~assigned~~ 624  
consigned to ~~him~~ the warehouseperson for the sole purpose of being 625  
stored or forwarded, if such ~~warehouseman~~ warehouseperson has no 626  
interest in such property other than ~~his warehouseman's a~~ 627  
warehouseperson's lien, or any profit to be derived from its sale. 628

All the taxable property, except investments and other 629  
taxable intangible property yielding income, of a person for whose 630  
benefit property is held in trust shall be returned by the 631  
trustee, and if any beneficiary of such a trust is a minor, ~~an~~ 632  
~~idiot~~, or an insane incompetent person residing in this state, and 633

for whom there is no other fiduciary in this state, the 634  
commissioner may require such a trustee to return also the 635  
investments and other taxable intangible property yielding income 636  
held for the benefit of any such beneficiary and not taxed at the 637  
source. 638

All returns made as fiduciaries' returns shall be separate 639  
from the fiduciary's return as an individual, firm, association, 640  
or corporation and shall set forth the names of all persons toward 641  
whom the relation of fiduciary is borne or on whose behalf the 642  
returns are made, together with the capacity in which the 643  
fiduciary so acts for each of such persons. 644

The commissioner may adopt and promulgate regulations 645  
covering the making of returns not inconsistent with this section 646  
or sections 5711.01 to 5711.36, ~~inclusive~~, of the Revised Code, so 647  
that all property taxable in this state shall be returned for 648  
taxation. 649

**Sec. 5711.07.** Personal property used in business shall be 650  
listed and assessed in the taxing district in which such business 651  
is carried on. If such business is carried on in more than one 652  
taxing district in the same county, the return shall set forth the 653  
amount of the property used therein which is situated in each 654  
taxing district in such county, and the value of all the personal 655  
property used in business shall be apportioned to and assessed in 656  
each of such taxing districts in proportion to the value of the 657  
personal property situated therein. Domestic animals not used in 658  
business shall be listed and assessed in the taxing district where 659  
kept. Ships, vessels, boats, and aircraft, and shares and 660  
interests therein, shall be listed and assessed in the taxing 661  
district in which the owner resides. All other taxable property 662  
shall be listed and assessed in the municipal corporation in which 663  
the owner resides, or, if the owner resides outside a municipal 664

corporation, then in the county in which ~~he~~ the owner resides 665  
except as provided in sections 5711.01 to 5711.36, inclusive, of 666  
the Revised Code. Whenever, under such sections, taxable property 667  
required by this section to be listed and assessed in the taxing 668  
district or county in which the owner resides is required to be 669  
listed by a fiduciary, such property shall be listed and assessed 670  
by such fiduciary in the taxing district or county in which such 671  
fiduciary resides, or, in the case of joint fiduciaries, in which 672  
either such fiduciary resides; but such property belonging to the 673  
estate of a deceased resident of this state shall be listed and 674  
assessed in the taxing district or county in which ~~he~~ the deceased 675  
resident resided at the time of ~~his~~ death, regardless of the 676  
residence of ~~his~~ the deceased resident's executors, 677  
administrators, or personal representatives, and such property 678  
belonging to a ward, minor, ~~insane~~ incompetent person, or 679  
beneficiary of a trust residing in this state, title, custody, or 680  
possession of which is vested in a nonresident fiduciary, shall be 681  
listed and assessed in the taxing district or county in which such 682  
ward, minor, ~~insane~~ incompetent person, or beneficiary resides. 683

**Sec. 5907.06.** ~~An insane person~~ A person with a mental illness 684  
that causes the person to be dangerous to the community shall not 685  
be admitted to a veterans' home. In case ~~an insane person~~ a person 686  
with such a mental illness, through misrepresentation as to the 687  
person's condition, is sent to a home, the person shall be 688  
returned to, and the expense of the return shall be borne by, the 689  
county from which the person came. 690

**Sec. 5907.08.** When a resident of a veterans' home becomes 691  
~~insane~~ dangerous to the community due to a mental illness, the 692  
superintendent of the Ohio veterans' home agency shall file with 693  
the probate judge of the county in which the home is located 694  
substantially the following affidavit: 695

"The State of Ohio, ..... county, ss. ...., 696  
superintendent of the Ohio veterans' home agency, being duly 697  
sworn, says that the superintendent believes that ....., a 698  
resident of the veterans' home located in ..... county, ~~is~~ 699  
~~insane~~ has a mental illness; that, in consequence of the 700  
resident's ~~insanity~~ mental illness, the resident's being at large 701  
is dangerous to the community, and that the resident was received 702  
into the home from ..... county, on the ..... day of 703  
....., ..... 704  
....."

**Sec. 5907.09.** When the affidavit referred to in section 706  
5907.08 of the Revised Code is filed, the probate judge shall 707  
forthwith determine the ~~sanity~~ competence of the resident. Insofar 708  
as applicable, the laws governing in cases of admission to a state 709  
hospital for ~~the insane~~ persons with mental illness shall apply. 710  
The probate judge shall have the same authority, and may receive 711  
and order paid the same fees and costs, as the probate judge would 712  
have in the county in which the veteran was a resident at the time 713  
of entering the veterans' home. 714

**Section 2.** That existing sections 701.01, 711.23, 1775.31, 715  
2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 716  
3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 717  
5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 718  
5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised 719  
Code are hereby repealed. 720

**Section 3.** Section 4303.272 of the Revised Code is presented 721  
in this act as a composite of the section as amended by both Am. 722  
Sub. S.B. 149 and Am. Sub. S.B. 162 of the 121st General Assembly. 723  
The General Assembly, applying the principle stated in division 724  
(B) of section 1.52 of the Revised Code that amendments are to be 725  
harmonized if reasonably capable of simultaneous operation, finds 726



that the composite is the resulting version of the section in 727  
effect prior to the effective date of the section as presented in 728  
this act. 729